

2004



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<Commission>{LIBE}Committee on Civil Liberties, Justice and Home Affairs</Commission>

Brussels, 30 March 2006

**Report by the LIBE Committee delegation  
on its visit to the administrative detention centres in Malta**

**Rapporteur: Giusto CATANIA**

**1. Conduct of the visit**

A delegation of seven MEPs (see attached list) travelled to Malta, where they were joined by two Maltese MEPs who were already there (see the same list).

The purpose of the visit was to gather information and ascertain directly the situation regarding the reception of asylum seekers and migrants on the island of Malta, an exchange of views with civil society and talks with government authorities.

Before visiting the centres, the delegation met for about one hour and a half with a series of representatives of various organisations:

- Mr Paul Portelli, Maltese Red Cross.
- Mr Charles Buttigieg, Commission for Refugees (independent body within the Ministry for Justice and Home Affairs).
- Monsignor Philippe Calleja, Immigrants' Commission.
- Dr Katrine Camilleri, Jesuit Refugee Service (NGO).
- Father Alfred Vella of the Good Shepherd House. (NGO)

The delegation then went to the Ministry of Justice and Home Affairs to meet the Deputy Prime Minister and Minister for the Interior, Tonio BORG, together with other Maltese authorities: Mr Carmelo Mifsud BONNICI, Secretary of State, Dr Charles DEGUARA, Permanent Secretary, Dr John RIZZO, Police Commissioner, Lt Colonel Brian GATT, Commander of the Detention Service, Dr Joseph SCERRI, Head of the Secretariat, Dr Martin SCICLUNA, Adviser on Irregular Immigration and Dr Mario CARUANA, Director of the Policy Development Department.

The delegation then went to the Ministry for the Family and Solidarity to meet the Minister Dolores CRISTINA, and her assistants, Dr Bryan Magro, policy coordinator, Alexander Tortell, adviser, and Marija Schranz, communications coordinator.

The delegation then visited three detention centres for immigrants and asylum seekers: the delegation carried out a detailed inspection of the detention centres of Safi, Hal Far and Lyster Barracks lasting more than four hours, and finally held a press conference.

The delegation was accompanied on its visit to the centres by two journalists.

The visit received wide media coverage, with articles on the front page of several Maltese newspapers.

## **2. The Maltese legislative framework**

From the meeting with the authorities and non-governmental organisations the following picture emerged:

- To enter Malta illegally is not a criminal offence, but illegal entry is an administrative offence for which the punishment is detention pending repatriation. Until 2005 administrative detention in Malta was for an indefinite period. The Minister Mr Borg told the delegation of his surprise, when he arrived at the Ministry, at finding that some migrants had been locked up in centres for more than five years. The average length of time was 22-24 months. In 2005 the maximum duration of detention was set at 18 months. For asylum seekers awaiting the results of an appeal the limit is 12 months. The authorities and the NGOs admitted that, because of limited resources, it can take between seven and nine months for an asylum seeker to be called for interview at the Maltese Commission for Refugees, even in the case of particularly sensitive groups, (such as people from war-stricken countries).

- At the end of the 18 months' detention, the immigrants and asylum seekers are transferred to 'open' centres. More than 800 asylum seekers who have been refused refugee status live in the open centres. They are not entitled to a work permit.

- In Malta there are four 'open' centres, run by the government, and six closed centres, the three larger ones run by the army and the three smaller ones by the police. The person responsible for all the closed centres is an army colonel. There are 14 open centres, which are run by the church and a number of NGOs on behalf of the Ministry for Solidarity and the Family.

## **3. Meeting with NGOs**

The meeting with the NGOs included the Commission for Refugees, which is not the UNHCR but a Maltese body under the aegis of the Ministry for Justice, responsible for determining the status of asylum seekers, and the Red Cross representative. The two representatives of the NGO *Jesuit Refugee Service* referred to 'primitive' conditions in the centres, where people are obliged to live for many months with limited resources. The same organisation called for alternatives to be found to ensure greater respect for these people. The representative of the *Jesuit Refugee Service* also explained - and the delegation heard the same from the migrants themselves - that some people remain in detention for more than 18 months, even though this is against Maltese law. Release after 18 months is thus not automatic and may take a few more months. In particular, detention continues for more than 18 months if a migrant does not cooperate and refuses to see his or her country's consul.

The situation of vulnerable groups is particularly serious: the NGOs stated that minors, people with disabilities and pregnant women are released, but the bureaucratic procedure is lengthy and they often stay in the closed centres with the other detainees for months. There is no written procedure explaining how vulnerable people are identified.

The delegation was also told that no appeals can be made against the length of the detention period.

As regards the detention centres, the representatives of the Immigrants' Commission said that many of the centres had been created to accommodate equipment, and not people. Most of those present said that human rights are not respected in the centres.

The Commissioner for Refugees explained that when asylum seekers arrive in the centres they are not interviewed but receive a form to fill out in English. No NGO or government representatives help migrants at this preliminary stage. The second stage, the interview, normally takes place many months after arrival in the centre. When there is a massive influx, they often do not manage to guarantee the services of interpreters at this stage either.

None of the NGOs present was able to provide a clear picture of the figures involved, but all deplored the limited reception capacity of such a small country as Malta.

The NGOs also emphasized that the official statistics do not take account of migrants turned away at the border, especially at the airport.

#### **4. Meeting with the Maltese authorities**

The Minister Tonio Borg focused on how difficult it is for a country such as Malta, with a surface area of 316 km<sup>2</sup> and a population of 400 000 people, to cope with the influx of migrants and asylum seekers arriving on the island.

1822 people arrived in 2005, 1388 in 2004, 502 in 2003, 1686 in 2002 and 57 in 2001, most of them from the Horn of Africa.

The average annual number of arrivals is equivalent to 45% of Malta's annual birth-rate. One person arriving illegally in Malta is equivalent, in terms of population, to 140 in Italy, 150 in France or 205 in Germany. On the basis of the country's size, the numbers are even larger: one immigrant would be equivalent to 953 in Italy and 1129 in Germany.

Because of the scale of the phenomenon, the Maltese government says that it is forced to implement a detention policy, on the basis of the right of the Maltese to protect themselves.

The Minister said that at least 400, but probably between 600 and 700 migrants died at sea last summer.

The Minister asked the European Union to implement a policy of '*burden sharing*', in order to help Malta. Many hopes are also pinned on the future 'emergency fund', promised by Commissioner Franco Frattini, in order to tackle the massive influx of migrants. The Minister also asked for more cooperation on the part of the other EU Member States in accommodating some of the refugees on their territory ('*resettlement*'), as the Netherlands and Germany have already done, although to a limited extent (30 in Holland and 20 in Germany, and probably 10 in Ireland in the future).

The Minister hoped for a derogation from the Dublin II regulation, which establishes the criteria and the mechanism for determining the state responsible for examining an asylum application submitted in one of the Member States of the EU by a third-country national, in order to relieve Malta of the burden of the large number of asylum seekers on such a small and densely populated island.

The Minister also hoped that the channels for legal immigration in Europe would be extended and that people who receive protection in Malta but do not find work there, would be able to move to somewhere else in the EU.

As regards repatriation policy, the Minister called on the European Union to devise new agreements for readmission, preferably to be incorporated in the development cooperation agreements with third countries, and to continue the policy of joint flights for the repatriation of illegal immigrants and persons whose asylum applications are rejected.

The Maltese government has established dialogue with the Libyan authorities in order to coordinate measures to combat clandestine immigration.

In reply to a question from a member of the delegation about voluntary repatriations, the Minister replied that there were very few, mainly because the migrants and asylum seekers come from disaster-stricken areas such as Eritrea, Sudan and Somalia, to which they do not want to return.

As regards detention, the Minister spoke of emergency conditions. In the document distributed to the delegation the Maltese government says that it is committed to fulfilling its obligations with regard to tackling the humanitarian problem, ensuring that asylum seekers are received in accordance with international standards, within the limits of its financial resources.

The Minister informed the delegation that the first group visit to the closed centres had been organised for journalists only the day before.

He said that 55% of asylum applications receive a positive response, even though most do not result in the granting of refugee status but only temporary humanitarian protection.

The delegation then met Dolores Cristina, Minister for Social Affairs and the Family. This ministry has existed for 20 months and its responsibilities start above all at the moment when immigrants are released and move from 'closed' centres to 'open' ones. The Minister said that accommodating these people is a serious problem. She spoke of the reception conditions for minors and vulnerable persons, who are released within a short time and taken to the open centres. She expressed regret that these people are not integrated in the open centres but live in 'ghettos', in extreme isolation in villages where there are only 3000 inhabitants and a centre housing 400 people. It is said that many of the migrants do not want to be integrated because Malta is not their final destination. The running of the open centres is contracted out to private organisations. The following categories of peoples are found in the open centres:

- refugees
- persons receiving humanitarian protection
- asylum seekers who have been denied refugee status and have appealed

- asylum seekers who have been refused asylum and are released after the 18 months' detention
- illegal economic immigrants.

A work permit is given only to refugees, none of the others obtain a permit and they are often caught up in a spiral of crime and prostitution.

The greatest problem is the availability of social services in the closed centres, which are run by the police and army. The Minister said she had visited the centres and had made suggestions for improving the situation, but she described life in the centres as 'difficult for the migrants and also for the guards'.

The Minister admitted that lack of information was a problem in the 'closed' centres. The right to request asylum should be explained more clearly to the migrants. The migrants themselves were sometimes unwilling to admit their nationality, language or origin.

She also said that the consular authorities have access to the centres but that asylum seekers often refused to meet them.

She deplored the regrettable increase in racist attitudes among the Maltese population. The crisis had increased feelings of intolerance.

Finally, Dolores Cristina spoke of the bipartisan nature of the policy on immigration conducted by the government.

## **5. Visit to the administrative detention centres**

The Detention Service Commander, Lt Colonel Brian GATT, gave the delegation an outline of the situation in Malta's detention centres. Since 2002 an estimated 5583 people had passed through the four centres. On the day of the visit there were 1017 people in them, including 66 women and 6 children, distributed as follows:

- 374 in the Safi and Hal Far Centre
- 452 in the Lyster Barracks Centre
- 116 in the Floriana Centre
- 75 in the Ta'Kandja Centre.

The figures quoted by the Lt Colonel did not include the centre at the airport.

The migrants and asylum seekers come mainly from Sudan, Eritrea, Côte d'Ivoire, Ethiopia, Nigeria and Somalia. Many of them are suffering from scabies, TB or are HIV positive. They are not released for fear that they may infect the Maltese population. The Commander said that a doctor came to examine the migrants three times a week.

### ***A. The SAFI Centre***

#### ***Conditions in the centre***

The SAFI Centre is located inside a barracks and is run by military personnel. It is for men only. There are various buildings inside the compound. The detention centre has an official capacity of 270 beds. The concrete building has two floors and is like a cage. The perimeter of the centre

includes an external area of a few square metres, surrounded by barbed wire. The centre is dilapidated, many window-panes are missing and there is no heating.

The two floors are divided up into large dormitories in each of which up to 20 people sleep in close proximity, and a narrow outside corridor surrounded by a net. On every floor there is a gate. There are no sheets on the beds and the mattresses are broken and dirty.

The detainees are let out for one hour a day, unless there are problems in the centre, in which case the hour is cancelled.

The hygiene conditions are intolerable. The showers are broken and there is no hot water. The toilets have no doors and are in a state of total disrepair. There is dirt everywhere.

The detainees receive their meals in the dormitories, in large containers out of which they all have to eat together, without cutlery or plates.

The detainees are responsible for cleaning the centre and washing their clothes. Each person is given a bar of soap, some shampoo and a tube of toothpaste every month, as well as soap for clothes. Every two months they receive a telephone card worth 2 Maltese pounds, equivalent to less than 5 Euros.

The delegation also visited the new centre, which should soon replace the current one.

### ***Information from migrants themselves***

The migrants seemed exhausted by the living conditions in the centre, the length of time they had been detained, boredom and idleness. The delegation was greeted by cries of joy and protest, placards calling for freedom, denouncing the inhuman conditions and expressing hopes that Europe will do something about their plight, and the injustice of their detention. For months they have been organising protests, hunger strikes and escape attempts.

The delegation was able to interview a number of people. The recurring criticisms, shared by detainees in the other two centres visited by the delegation, concerned:

- the period of detention: too long 'for somebody who has not committed any crime', for some even longer than the 18 months allowed,
- having to wait too long before obtaining an interview with the Commission for Refugees – up to 9 months,
- a lack of information on their legal position,
- the absence of NGOs,
- the living conditions: the food is monotonous (rice, potatoes and spaghetti) and of poor quality, the unacceptable state of the toilets, which are inadequate and totally lack privacy, the dirt, the shortage of clothes, the cold and the lack of hot water,
- the fact that migrants have to clean the centre themselves,

- the boredom and tedium of spending whole days without doing anything, without any recreation (according to the migrants they are allowed to go out and play football only very rarely) and without the possibility of obtaining books or paper and pens,
- the lack of adequate medical care, with inadequate and very brief examinations by doctors, medicines past their sell-by date (the delegation was given boxes of out-of-date drugs) and the complaint that all illnesses are treated with 'Panadol'.

A boy from the Côte d'Ivoire said he had been in the centre for 20 months, another from the Congo for 19 months. Another boy, who came from Darfur, said he had been waiting for an interview for 8 months, whilst another boy from Darfur had been refused asylum 'because the situation in Darfur is slowly improving'. Someone else claimed to have been beaten. Some of the migrants said that some of the residents in the centre had been taken away because they were considered to have gone mad.

The delegation also received a letter from 10 people detained in the 'Floriana' centre, run by the police. They complained that they had been detained for more than 18 months. Their statement was supported by the relevant registration number, which was dated 2004.

## ***B. The HAL FAR Centre***

### ***Conditions in the centre***

The Hal Far centre is divided into two large cages and is for men only. Each of the two parts has an external courtyard, the 'cage' and an internal area, divided into dormitories housing about 20 people each. This centre too is dilapidated. Outside the drains are broken, water is leaking and clouds of mosquitoes hover over the courtyard. The bathrooms are in an appalling condition, there are dead rats and live rats which serve as 'pets'.

### ***Information from migrants themselves***

The delegation was welcomed to cries of 'freedom, freedom!'. There were also placards with slogans such as 'Genocide in Darfur, detention in Malta', 'God will judge Malta for what it is doing to migrants', 'We are not criminals, we are not animals', 'The EU should free us from our chains' and many others. This centre seems to be the one in which the migrants have organised their protests most efficiently.

The immigrants appointed a spokesman to talk about the living conditions. He was from Sierra Leone, where he had been a human rights activist. What he said coincided with what migrants in the Safi centre had said. Many of the detainees in Hal Far are ill but live in the dormitories with the others: one with gout, and a Sudanese suffering from asthma, who was given an out-of-date drug, which was an Italian free sample. Those seriously ill are kept in bed in the centre with the others. In particular there was a diabetic who, since he is not being treated properly, is at risk of going blind.

The migrants and Lt Colonel Gatt confirmed that there were no NGOs in the centre.

The migrants ask to be allowed to do something and not remain idle. One Eritrean has been waiting for his interview with the Commissioner for Refugees for nine months. An Ethiopian who said that he belongs to the opposition party and is a wanted person in Ethiopia has been

waiting for a reply to his asylum application for more than a year. Many people showed us documents refusing their asylum applications.

A number of migrants showed us eucalyptus leaves used to treat headaches. Here too there were out-of-date medicines.

Some of the boys in the centre said they were minors.

In the second complex the residents lined up to show the delegation the papers refusing them asylum. One of these is attached to the report (see Annex II). Some people from Darfur had their applications turned down because 'they could have moved to safer areas of the country'. A young Sudanese man gave the delegation a copy of his degree certificate in 'animal production science'. He has been waiting for a reply to his asylum application for months. Another Congolese boy said he had been in the centre for 24 months. The migrants' spokesman also handed over a letter describing the conditions in Darfur.

The MEPs were also given a number of letters in which the migrants tell of their experiences.

### ***C. The Lyster Barracks Centre***

#### ***Conditions in the centre***

The centre is run by military personnel and accommodates up to 230 people. A large number of tents have also been erected to house migrants outside. In each tent there are about 20 beds and only one small heater. Some beds are used as cupboards because there is very little space.

In the actual centre itself the living conditions are appalling. Men and women live together in extremely tight spaces. In one room there are two married couples living together, each couple sleeping in a single bed, as well as two single girls. The delegation met women who were four-months pregnant and an old woman. At the entrance to the centre there is a prison for migrants guilty of some misdemeanour. One of them, a deaf-mute, is accused of hitting his wife. There are only two functioning toilets for more than 100 people. The migrants have organised shifts for cleaning. The hygiene conditions and the overcrowding are intolerable. The women are not given any sanitary towels.

Here too people are given out-of-date drugs and poor quality food, and they are not allowed to go out. There is not even an outside area at this centre.

#### ***Information from migrants themselves***

The members of the delegation were urged by both the military authorities and by the migrants themselves to carry out a full inspection of the centre, although the delegation had not originally envisaged doing so. The migrants complained of the conditions outlined above and in particular the conditions experienced by the women, some of whom were four months pregnant. Others said they had been taken to hospital in handcuffs. In response to this Lt Colonel Gatt said that migrants had often tried to escape whilst being taken to hospital.

## 6. Observations by the rapporteur Giusto Catania

The situation in Malta's administrative detention centres is unacceptable for a civilised country and untenable in Europe, which claims to be the home of human rights.

The condition in the Maltese centres is worse than others visited by the various delegations of the Committee on Civil Liberties, Justice and Home Affairs, but the terrible thing is the very nature of temporary administrative detention, which itself causes human rights violations.

The temporary accommodation centres are legally unacceptable places. An administrative infringement (illegal entry into a country or the expiry of a residence permit) is punished by a prison sentence which sometimes, as in the case of Malta, is much worse than the normal prison regime.

For this reason and also because such instruments have proved ineffective in combating illegal immigration and in obtaining recognition for migrants, the temporary detention centres have to be considered as unacceptable places.

For these reasons they should be closed, as a first step towards devising a practical alternative for the reception of migrants.

The visit confirmed that immigration policies as a whole should be tackled by the Community as soon as possible.

## 7. Conclusions

The delegation was particularly struck by the hardship in the detention centres visited and the *de facto* denial of the right of asylum.

The delegation also realised the difficulties encountered by the Maltese Government in managing the influx of migrants and asylum seekers, which is substantial considering the surface area and population of Malta.

The delegation is also aware that Malta is the EU's southern border and that the European Union should help Malta to tackle this humanitarian emergency, as the Maltese authorities themselves request.

1. The delegation therefore calls on the Maltese Government:

- to accommodate asylum seekers in open, rather than closed, centres;
  - to assess any measures restricting freedom case by case, as required according to Directive 2003/9;
  - to significantly reduce the periods of detention;
  - to apply Directive 2003/9 laying down minimum standards for the reception of asylum seekers more strictly, in particular Articles 5, 6, 7, 11, 12 and 13 thereof.
- The following articles in particular appear to have been infringed:

- Article 7, paragraph 1, which reads '*the assigned area shall not affect the unalienable sphere of private life and shall allow sufficient scope for guaranteeing access to all benefits under this Directive*';
  - Article 14, paragraph 1b which says that asylum seekers should be housed '*in accommodation centres which guarantee an adequate standard of living*';
  - to step up administrative efforts to reduce the excessive delays in examining asylum applications, since the right of asylum is unalienable and cannot be made subordinate to financial considerations.
2. The delegation calls on the governments of the Member States to receive, on a voluntary basis in the short term, and with common rules at European level in the medium term, a certain number of refugees in order to relieve Malta of some of the heavy burden it currently has to bear.
  3. The delegation calls on the European Commission to consider revising the Dublin Convention in order to take account of the specific nature of small countries such as Malta, which have to tackle massive influxes of asylum seekers, taking into consideration the possibility of introducing mechanisms for '*burden-sharing*' between the Member States.

**Brussels, 22 March 2006**

**Programme  
Visit to Malta**

**Thursday 23 March**

**18.40 h:** Departure by bus from EP  
**20.10 h:** Flight from Brussels to Malta (Flight Air Malta )  
**22.50 h:** Arrival in Malta

Night in the Hotel Le Meridien Phoenicia (Valletta)

**Friday 24 March**

**09.30 h:** Meeting with NGOs - Hotel Phoenicia, Valletta  
**11.00 h:** Departure Hotel  
**11.15 h:** Meeting with the Deputy Prime Minister and Minister of the Interior Mr Tonio BORG and other Maltese authorities  
-Auberge d'Aragon Valletta  
**12.30 h:** Minister Dolores Cristina, Minister for the Family and Solidarity - Palazzo Ferreria Valletta  
**14.00 h:** Lunch in Valletta  
**15.00 h:** Departure from Valletta  
**15.45 h:** Visit to the SAFI BARRACKS close centre in Safi  
**17.30 h:** Visit to the HAL FAR close centre  
**19.00 h:** Visit to the LYSTER BARRACKS close centre  
**20.00h:** Departure to Valletta  
**20.15 h:** Press conference in the Hotel Le Meridien Phoenicia  
**21.30 h:** Dinner hosted by the Secretary of State

Night in the Hotel Le Meridien Phoenicia (Valletta)

**Saturday 25 March**

Free flights !

**or**

**15.50 h:** Flight from Malta to Brussels  
**19.00 h:** Arrival in Brussels

## **PARTICIPANTS:**

### **Members**

- 1) Stefano ZAPPALA (PPE), Italy, Vice-President of the Committee and Head of the delegation**
- 2) Patrick GAUBERT (PPE), France, Vice-President of the Committee**
- 3) Martine ROURE (PSE), France**
- 4) David CASA, (PPE), Malta
- 5) Giusto CATANIA (GUE), Italy
- 6) Romano LA RUSSA (UEN), Italy
- 7) Kyriacos TRIANTAPHYLLOIDES (GUE), Cyprus

### **MEP present in MALTA**

- 1) Simon BUSUTTIL (PPE)
- 2) Louis GRECH (PSE)

### **LIBE political advisors**

- 1) Adam ISAACS (PPE)
- 2) Annie LEMARCHAL (PSE)
- 3) Chiara TAMBURINI (GUE)

### **LIBE Secretariat**

- 1) Cristina CASTAGNOLI

### **EP Office in Malta**

- 1) Saviour GRECH

### **Interpreters**

Covering EN - FR - IT

- 1) ) Mme Agnes BERNARD (Team leader)
- 2) Mme Annalisa VENTURI
- 3) Mme Fabienne GIULIANI
- 4) Mme Manuela PAEFFGEN CERRE

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