“NOT CRIMINALS”

MÉDECINS SANS FRONTIÈRES EXPOSES CONDITIONS FOR UNDOCUMENTED MIGRANTS AND ASYLUM SEEKERS IN MALTESE DETENTION CENTRES

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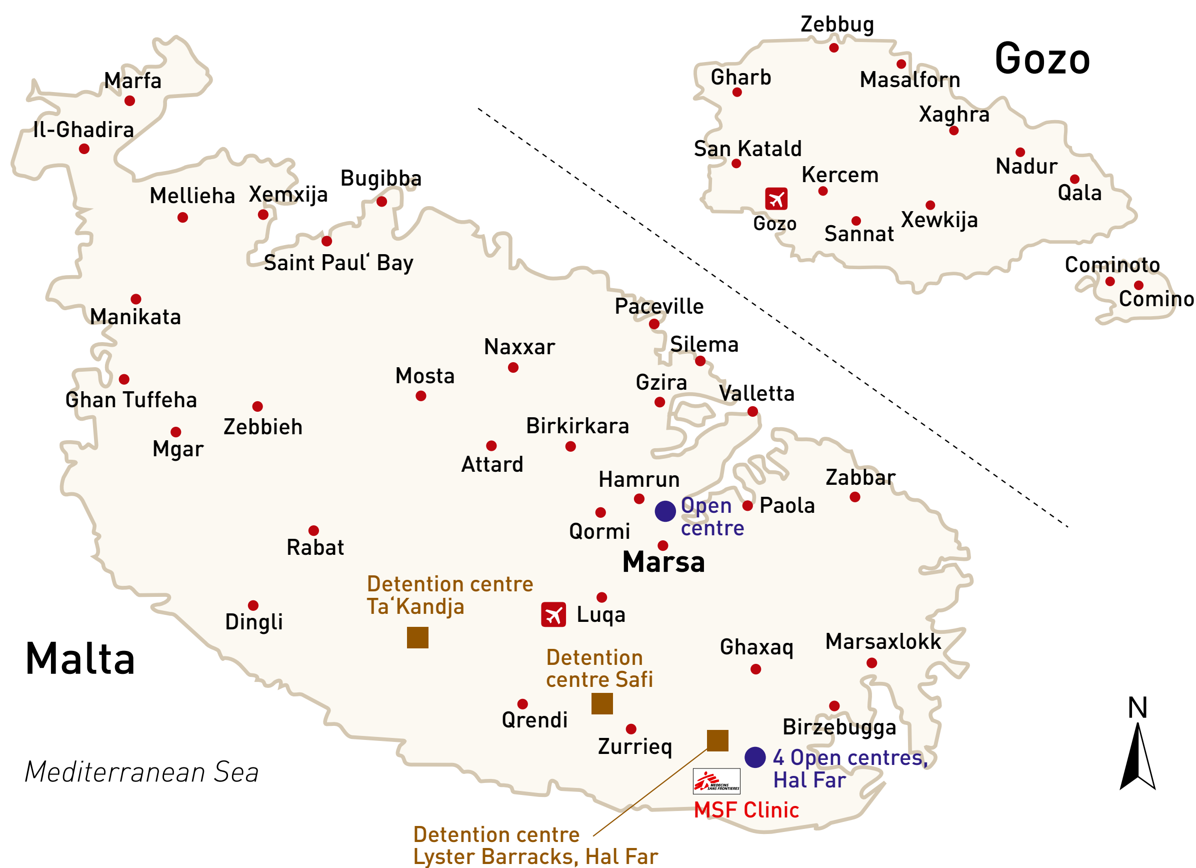


List of Acronyms

CPT	European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment
DOTS	Directly Observed Treatment, Short-Course
EC	European Commission
ECRI	European Commission against Racism and Intolerance
LIBE	Committee on Civil Liberties, Justice and Home Affairs (European Parliament)
MDM	Médecins du Monde
MFSS	Ministry for the Family and Social Solidarity
MJHA	Ministry for Justice and Home Affairs
MSF	Médecins Sans Frontières
MSP	Ministry for Social Policy
OIWAS	Organisation for the Integration and Welfare of Asylum Seekers
UN	United Nations

UNACCEPTABLE CONDITIONS IN MALTESE DETENTION CENTRES: UNJUSTIFIED AND INHUMAN TREATMENT

In August 2008 Médecins Sans Frontières (MSF) started providing health care in Maltese detention centres for undocumented migrants and asylum seekers[i]. Consultations with detainees quickly revealed how appalling living conditions and serious barriers to access health care – including mental health care – endanger the physical and mental health of the detainees[ii]. Poor hygiene standards and inadequate shelter lead to skin and respiratory infections. Men, women and children are accommodated together in overcrowded cells. Dysfunctional isolation policies cause healthy people to be detained in the same areas as people suffering from infectious diseases leading to the spread of epidemics inside the centres. The poor quality of health care available in detention has a significant and potentially long-term impact on detainees' health.

In addition, almost fifty per cent of the people residing in the centres originate from Somalia. They have escaped a context of conflict and generalised violence and need protection but find themselves facing poor and precarious living conditions once again.

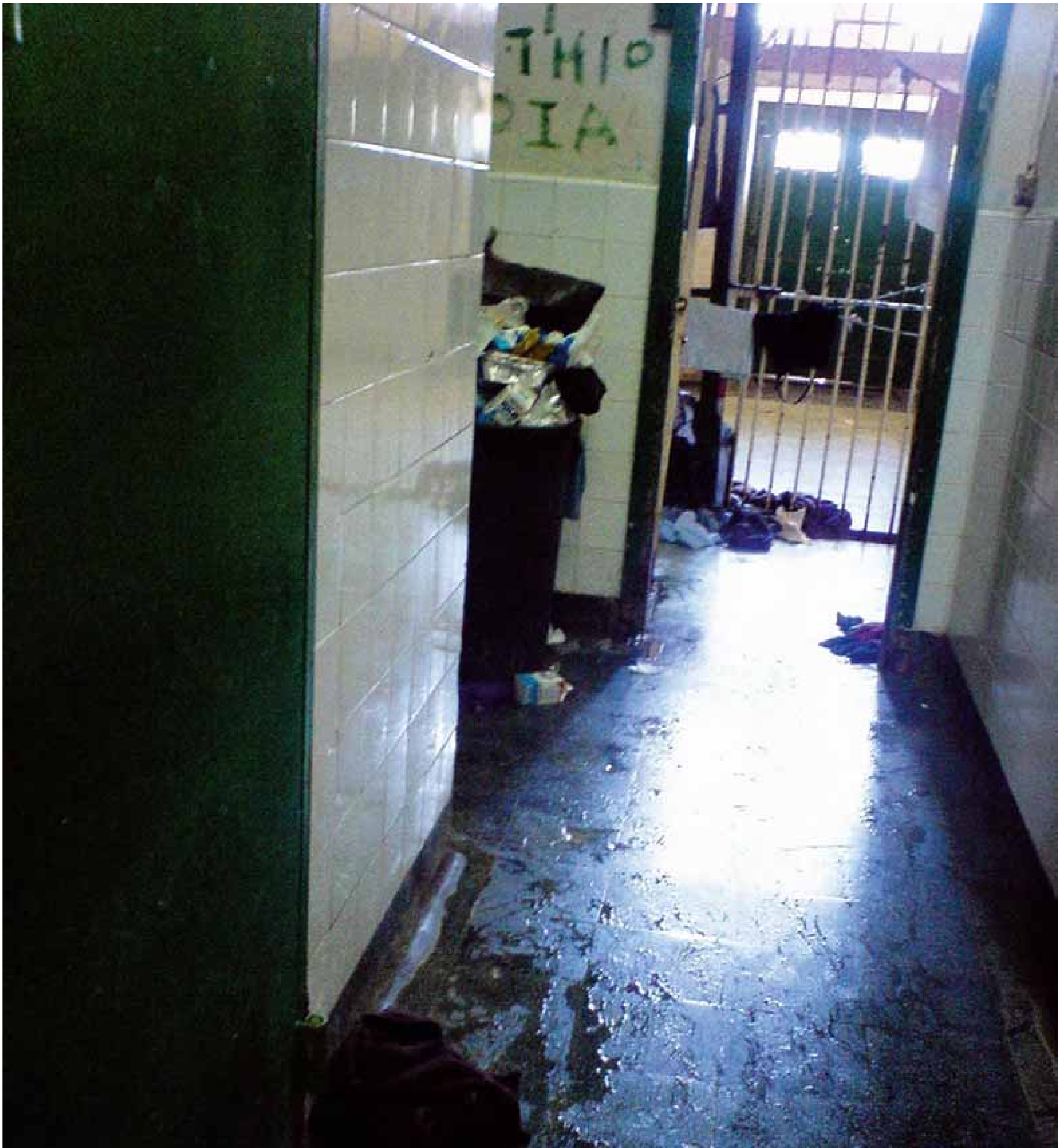
MSF provided medical consultations and psychological support in these detention centres. We have drawn the attention of the Maltese authorities to the sub-human living conditions in the centres and pressured them to instigate change. However, despite late efforts taken by the Maltese authorities to improve the conditions for receiving asylum seekers and undocumented migrants, structural problems remain. The centres are still overcrowded and unhygienic, and the systematic detention of vulnerable people continues.

Without structural changes, and given the increasing number of new arrivals in 2009, the situation is likely to deteriorate further. Such inhuman treatment is unacceptable – especially in a member state of the European Union[iii]. Urgent and fundamental change to treatment of migrants and asylum seekers in Maltese detention centres is required.

Médecins Sans Frontières' work in the Maltese detention centres.

MSF's medical activities in the Maltese detention centres included: medical assessments for new arrivals; medical triage in accommodation areas; medical consultations in the centres including referrals for further care; psychological support; identification of vulnerable people and their referral to the Maltese authorities to obtain release from detention; health and hygiene promotion.

Between August 2008 and February 2009, MSF provided 3,192 medical consultations to almost 2,000 patients in three detention centres: Safi, Lyster Barracks and Ta'kandja. In addition between December 2008 and February 2009 MSF organised 266 individual psychological sessions for 116 patients and held 30 group sessions on health promotion.



Hermes Block in Lyster Barracks.

Migrants, while distinct from refugees and asylum seekers, may have to leave their country of origin because they do not have access to adequate food, water, health care or shelter, or in order to ensure the safety and security of themselves and their families. Many migrants leave for a combination of reasons.

The term '**Asylum seeker**' refers to specific categories of persons as recognised under international law which provides protection to persons fleeing persecution, conflict or human rights abuses. Asylum seekers benefit from additional protection standards to those provided for in human rights law.

The Maltese context

Over the past several years migrants and asylum seekers, primarily from African countries, have left Libya for Europe in search of refuge and/or better living conditions. Despite increased policies to contain arrivals and stricter border controls at the European Union's southern frontier, the number of people landing in Malta increased in 2008, with 2,704 new arrivals reported. In previous years the total number of new arrivals was lower with 502 in 2003; 1,388 in 2004; 1,822 in 2005; 1,780 in 2006; 1,694 in 2007. This trend continues in 2009. In the first two months of this year, 758 people arrived in Malta.

Month	Landings	Total Persons	Male	Female	Children	Babies
March	1	24	17	4	3	0
April	5	108	96	12	0	0
May	8	188	152	29	6	1
June	17	490	438	46	3	3
July	22	809	721	84	4	0
August	17	504	420	76	7	1
September	7	328	272	48	5	3
October	2	46	30	14	2	0
November	1	68	49	16	2	1
December	1	139	103	36	0	0
Total	**81**	**2,704**	**2,298**	**365**	**32**	**9**

Graph 1: Overview of the landings per month (March – December) in 2008[iv]

To enter Malta irregularly is not a criminal offence in itself, but it is an administrative one for which the punishment is detention pending repatriation. Since 2005 the maximum duration of detention has been set at 18 months[v]. The policy of systematic detention by the Maltese authorities is aimed in particular at deterring others from seeking to enter irregularly[vi].

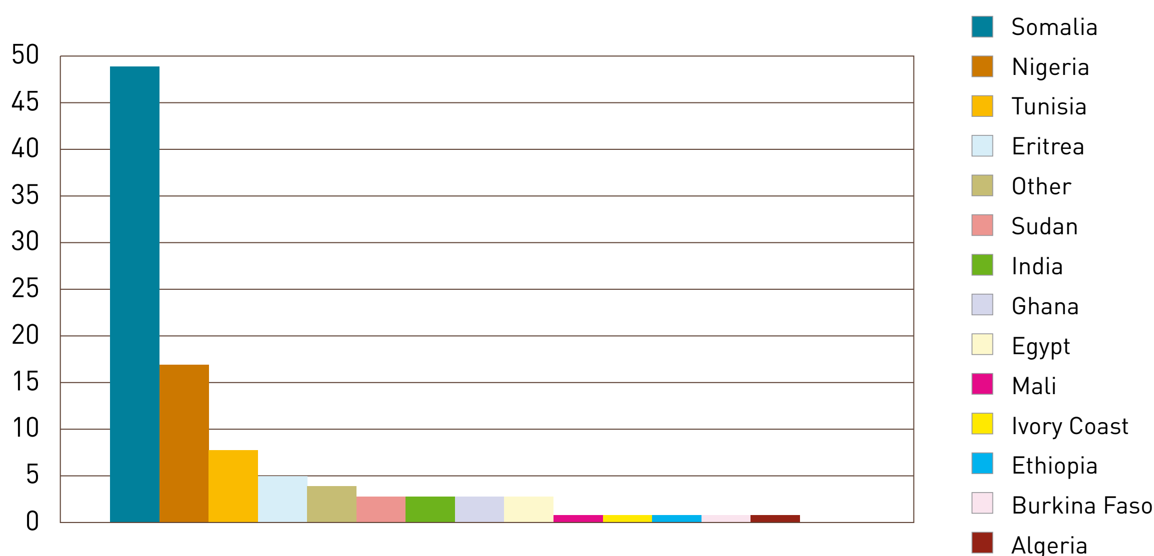
However while this policy does not result in a decrease of new arrivals, it has damaging and potentially long-term effects on the physical and psychological health of the foreign nationals concerned. Serious factors motivate individuals to leave their homes for other countries. They include civil war, human rights violations and persecution, and economic or environmental problems. These factors are more decisive than any deterrent effect of detention at destination.

The detention of asylum seekers can be contrary to European Community law[vii] and international law. Directive 2003/9/EC states: detention is an exception to the general rule of free movement, which might be used only when "it proves necessary." The 1951 Refugee Convention also states in Art. 31:1. "The contracting states shall not impose penalties, on account of their illegal entry or presence, on refugees who, coming directly from a territory where their life or freedom was threatened in the sense of Art.1 of the Convention, enter or are present in their territory without authorisation, provided they present themselves without delay to the authorities and show good cause for their illegal entry or presence."

Testimony of a Somali man

"I used to be a maths teacher. Three of my colleagues were killed, my school was closed - so I lost my job. I escaped from Somalia because our house was no longer safe. Otherwise we would have stayed, we would not have come here. There are pieces of a mine that exploded next to my house in my body."

In Malta, almost 60% of undocumented migrants and asylum seekers arriving in the last six months come from countries affected by conflict or widespread human rights violations. Nearly half of them come from Somalia[viii]. Others are from Sudan, Eritrea, Nigeria and other African countries. The majority of them are granted humanitarian protection (53.84 % in 2008) while an extremely small percentage are granted refugee status (0.52 %) by the Maltese authorities[ix]. However, they are all forced to spend months in detention centres while waiting for the Maltese authorities to deal with their applications.



Graph 2: Percentage of primary nationalities of undocumented migrants and asylum seekers arriving in Malta between August 2008 and February 2009

Testimony of a Somali woman

"I crossed the desert to escape the violence in Somalia and I reached Tripoli when my pregnancy was almost at the end. The day of my departure I bought a pair of brand new scissors, and I kept them carefully. I wanted to keep them clean.

My daughter was born the first day on the boat, the first day of November 2008. A man and a woman helped me to deliver: he grasped my arms, she cut the cord with the brand new scissors. We were 77 people on that boat, we could not even move as we were very squashed. The following days the sea was rough. The man and the woman held on to me, and I held on to my daughter tightly, I was afraid she would fall in the sea. For the next four days we suffered from a lack of food and water, my daughter too because my breast was dry from fear and hunger.

On the fifth day a military ship came close to our boat and started to escort us towards Malta. The first things they asked me after the landing were my name and my country of origin, then for my fingerprints. In the hospital the nurses told me that it would be difficult for my daughter to get a birth certificate because she was not born in Malta, but in the sea ..."

From prison to prison to prison: Testimony of an Eritrean woman

"I escaped from Eritrea because I wanted to avoid being recruited by the National Army and being sent to fight in the endless war against Ethiopia. My brothers and sister were in the army. They never came back home.

In Libya I was put in a detention centre, where I was harassed, beaten, abused and raped several times. I was treated like a slave by the guards and soldiers. I was a slave for two years, with no chance to escape.

When I arrived in Malta I thought that I would finally be free forever. As soon as I realised that I was going to be kept in a detention centre again I lost hope and became severely depressed. I had difficulty sleeping and had gastric and heart problems. Memories of the rapes and my fear of guards and soldiers resurfaced and it was difficult to be in the same place with so many other people."

One day she was found while collapsed in the toilet area in one of the detention centres and referred to Mater Dei Hospital and then to the psychiatric hospital. After a few days in hospital she tried to hang herself. Both the detention centre and the psychiatric hospital reminded her of Libya. She was discharged after spending more than a month in the psychiatric hospital. But since her vulnerability assessment procedure was not yet finished she was sent back to the detention centre. After 20 days in the centre she tried to hang herself again. Two and a half months after her arrival, she was finally recognised as a vulnerable person, released from the detention centre and given accommodation in an open centre.

OVERVIEW: MEDICAL AND HUMANITARIAN CONDITIONS IN THE MALTESE DETENTION CENTRES

The failure to ensure basic minimum standards in the Maltese detention centres is partly linked to the increase of new arrivals to the island. However this factor alone does not justify the sub-standard conditions and the barriers to access health care in the detention centres[x].

1. Unacceptable living conditions in Maltese detention centres: Lyster Barracks[xi], Safi[xii] and Ta'kandja

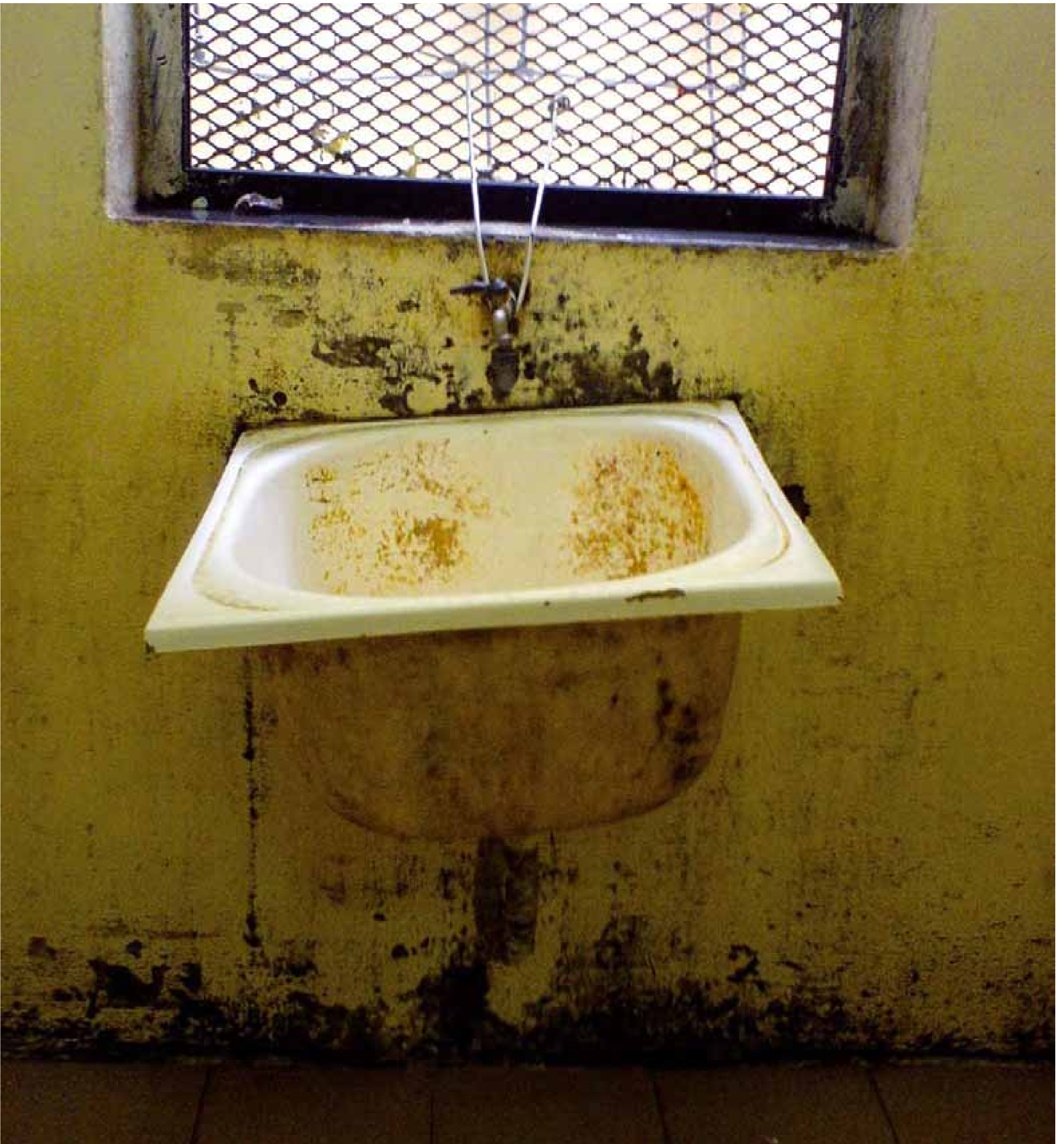
The number of asylum seekers and migrants arriving in Malta is steadily increasing. The detention centres, where new arrivals are sent, are overcrowded, have poor hygiene and inappropriate shelter (such as tents or containers). The influx of new arrivals is causing further deterioration of these difficult living conditions. Ever since MSF started working in Lyster Barracks, Safi and Ta'kandja we have witnessed these sub-standard living conditions that fall far below the EC Directive laying down minimum standards for the reception of asylum seekers[xiii], Maltese Prison Regulations[xiv] and UN Standard Minimum Rules for the Treatment of Prisoners[xv]. MSF has brought these conditions to the attention of the Maltese authorities on several occasions[xvi]; however, as yet there have been no structural improvements to conditions in the detention centres.

Lack of adequate shelter, hygiene and sanitation

"13. Closed accommodation. You are entitled to adequate accommodation and living conditions. Living accommodation will not exceed the laid down occupation level except under exceptional circumstances"[xvii]

(Excerpt of the Ministry for Justice and Home Affairs' note on the entitlements, responsibilities and obligations of persons while in detention).

The Maltese detention centres are extremely overcrowded[xviii]. The maximum density for a refugee camp during an emergency is 3,5m^2 per person[xix]. The chart below shows that 12 out of the 18 detention areas fall above this ratio[xx], in particular all the zones in Hermes Block where there is less than 3m^2 per person but also in all the areas of Ta'kandja which only opened last February. In addition, there are not enough beds for all detainees; some have to sleep on mattresses on the floor or even share a mattress.



Hermes Block in Lyster Barracks.

Name of Centre	M/F/ Families	m²	Popu-lation	m² per person	N° of func-tioning toilets	Persons/ functio-ning toilet	N° of func-tioning showers	Persons/ functio-ning shower
Safi: Warehouse1	Men	1013	287	3,5	14	21	11	26
Safi: Warehouse 2	Men	1350	325	4,2	7	46	8	41
Safi: Block B UP	Men	356	103	3,5	4	26	5	21
Safi: Block B LOW	Men	300	98	3,1	4	25	5	20
Safi: Block C1	Men	354	92	3,8	4	23	4	23
Safi: Block C2	Men	354	89	4,0	8	11	7	13
Safi: Block C3	Men	354	93	3,8	8	12	8	12
Hermes - A	Families	300	100	3,0	3	33	4	25
Hermes - B	Men	300	120	2,5	3	40	4	30
Hermes - C	Families	300	110	2,7	3	37	4	28
Hermes - D	Families	300	110	2,7	3	37	4	28
Hermes - E	Men	300	110	2,7	2	55	1	110
Lyster: Tents	Men	1339	350	3,8	22	16	26	13
Lyster: Containers	Men	465	141	3,3	22	17	26	15
Ta`Kandja - A	Men	285	99	2,9	8	12	8	12
Ta`Kandja - B	Women	285	103	2,8	8	13	8	13
Ta`Kandja - C	Men	285	96	3,0	8	12	8	12
Ta`Kandja - D	Men	285	86	3,3	8	11	8	11

Graph 3: Data in this graph refer to the situation in September 2008, except for data for Lyster Containers and Ta'kandja which reflect the situation in February 2009.

"Prisoners not engaged in outdoor work shall be given exercise in the open air for not less than a total of one hour, each day, if weather permits (28.1)."

Maltese Prison Regulations

Even in these overcrowded conditions access to outdoor courtyards is limited and irregular and at the discretion of the guards[xxi]. Most shelters are not only overcrowded but also have broken windows, have no heating and lack ventilation, leaving the migrants exposed to the rain and cold in winter and extreme heat in summer[xxiii].

"24. Hygiene. You are entitled to living conditions that are hygienic and are provided with basic toiletry requirements. You are entitled to regular bath or shower facilities."[xxiv]

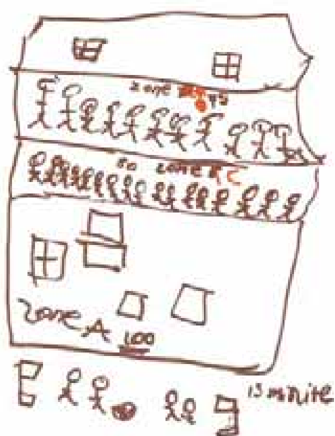
(Excerpt of the Ministry for Justice and Home Affairs' note on the entitlements, responsibilities and obligations of persons while in detention).

Shower and toilet facilities are insufficient and often not functional. There is no hot water in most of the facilities. In some areas in Safi detention centre, there is an average of more than 40 persons per toilet. Until February 2009, in Hermes Block zone E, there was only one fonctioning shower for more than one hundred people. In most areas, living quarters are permanently flooded with water leaking from broken sinks and toilets. In some cases, wastewater escapes from damaged pipes situated on the upper floors leaving residents exposed to excrement and urine, especially those who have to sleep in the floor.

Testimony of a boy from Ethiopia

This boy of nine spent two months and a half in detention:

"In October it started getting cold. My mother, my aunt and I were sleeping on two mattresses, but in our room it was too cold because of the broken windows. Then I decided to go and sleep with the other two people from Ethiopia: their room was very small and had no windows, so it was not too cold. But this room was inside the toilets area, and to get there I had to walk across the floor which was always covered in water. And it was all the time stinky. At the end of October I became very sick, I had a serious infection in my lungs. They brought me to the hospital where they kept me for more than ten days. When I recovered, I cried because I did not want to go back to prison."



"The centre was full of people. Too many. In our area we were one hundred. Only twice a week could we go out and play football. On Mondays and Wednesdays. Each time for 15 minutes only".
[Ethiopian boy, 9 years old]

In the isolation areas for patients with infectious diseases in Hermes Block, the conditions are even worse. The two small cells of 5 by 5 metres contain a total of ten beds and feature barred doors which open onto an area with toilets, showers and sinks, all of them not usable and in need of repair. In these cells, the windows are broken and rain enters freely. Water pours into this area from broken pipes above and the toilets overflow. The floors of the rooms are usually wet due to rain and/or grey water from the nearby toilets and washing area, often including urine and excrements. When the isolation areas are overcrowded, some migrants sleep on mattresses on these floors. Access to the washing facilities and toilets is only at the discretion of the guards whose room is more than 10 metres away and separated from the detainees by two doors. Patients frequently report being unable to shower for days at a time and having to urinate or defecate in empty food containers inside their room if unable to contact the guards. At other times guards have taken the patients through to other living areas to use the facilities there, thereby exposing the population in these areas to diseases being quarantined.

In October in Safi, sick patients were being isolated outside the warehouses under a tarpaulin, regardless of the rain and cold. These conditions are not fit for humans and certainly not for sick patients. The isolation area in Hermes Block is also used for punitive reasons mixing healthy people with patients suffering from infectious diseases. This is in complete contradiction with Rule 39 of the Ministry for Justice and Home Affairs' note on entitlements:

Rule 39 states that: ***"Temporary confinement of violent or undisciplined irregular migrants [is] in accommodation specifically identified for this purpose.... This will achieve a correct balance between the requirements to maintain order and discipline, while having due regard to the individual and, in particular, the need to prevent self-harm."*** [xxvi]

Dire conditions in the isolation areas mean that many individuals conceal symptoms of infectious diseases to avoid being put in isolation. As a result, the population inside the centres, including pregnant women and children, is exposed to these diseases.

MSF has drawn the attention of the Maltese authorities[xxvii] to the inhumane conditions in the isolation areas. MSF also offered to support the Detention Service in setting up a space with correct isolation procedures. However, despite this offer and repeated assurances that these rooms would not longer be used, MSF continued to find people detained in these isolation areas.

Last Autumn an MSF doctor found six people inside the two cells – all suffering from chicken pox at various stages. Two patients had fever and extensive skin diseases. Two patients out of the six had not seen a medical doctor and had been sent to the isolation rooms by soldiers. None of the patients had received medication. They had not been able to wash themselves. Some of their blisters were infected. The floors were wet and although it was winter and cold at night, the six detainees were not provided with sufficient blankets and clothes. No soap or other hygiene items had been distributed.

"22. Female Detainees. As a female detainee, you are entitled to be provided with a safe and secure environment which meets the needs of women."[xxv]

(Excerpt of the Ministry for Justice and Home Affairs' note on the entitlements, responsibilities and obligations while in detention).

In Hermes Block women and children are held in close confinement with men in settings where violence among inmates is an ongoing threat and increases the risk of sexual abuse. The Detention Service has only three female staff.

Food and non-food items

Rule 26 (1) UN Minimum Rules for the Treatment of Prisoners:

"The medical officer shall regularly inspect and advise the director upon:

The quantity, quality, preparation and service of food

The hygiene and cleanliness of the institution and the prisoners

The sanitation, heating, lighting and ventilation of the institution"

Food is distributed three times a day but does not include sufficient vegetables and fruit required for a healthy diet[xxviii]. In addition there is no special food available for children and babies. Special diets for medical reasons (e.g. for patients with diabetes) are not always correctly provided.

A **non-food item** distribution – mainly providing items for personal hygiene – is planned for the beginning of each month. However this is not implemented regularly. Items for distribution are not standardised and are often missing[1]. Detainees who arrive one day after a distribution has taken place have to wait for one month to receive basic non-food items.

"The Minister may direct that sentenced prisoners be provided with an outfit of clothing that may be of a uniform type or of a civilian type, suitable for the climate and adequate to keep them in good health (22.1.a)."

Maltese Prison Regulations

Additional **clothing** is not provided by the Detention Service. A volunteer collects clothing for the detainees: one single person, not a member of any organisation, is in charge of providing clothes to 2,000 migrants. The distribution system itself is questionable: plastic bags full of clothes are sometimes thrown by the soldiers inside the living areas, sometimes the clothes are passed through the iron bars in the doors of the detention centres, and people – including women and minors – have to fight among themselves for clothes.

Despite the fact that migrants are entitled to maintain reasonable **contact through telephone and/or by written correspondence** with family, friends or others without hindrance[xxix], migrants receive only a 5-euro telephone card per person every two months. Pens and paper are not provided.

Testimony of a man from Ghana

"Today they released me after seven days locked in that cell for punishment. The smell of latrines was unbearable and I stayed by the broken windows the whole time to get some fresh air. The smell was so strong because the cell is in the toilets area, but none of the toilets was working; grey water leaked from the first floor and there was dirty water all over the floor. Even though the cell is in the toilets area, you must ask the soldiers permission to use the toilet because the cell gate is locked all the time. I shouted and begged for the first three days but they didn't open the gate.

The other unbearable thing for me was the food distribution; the soldiers used to put the food on the floor, even the bread. After ten minutes it soaked up all the dirty water.

I asked the soldiers the reason for my punishment; they said they could not find me when they counted us, and this meant that I had escaped. But I was only sleeping! It is true, it was six in the afternoon, but we have nothing to do here, and when you sleep time goes faster..."

Summary of urgent measures to be taken regarding the living conditions and access to food and non-food items in the detention centres:

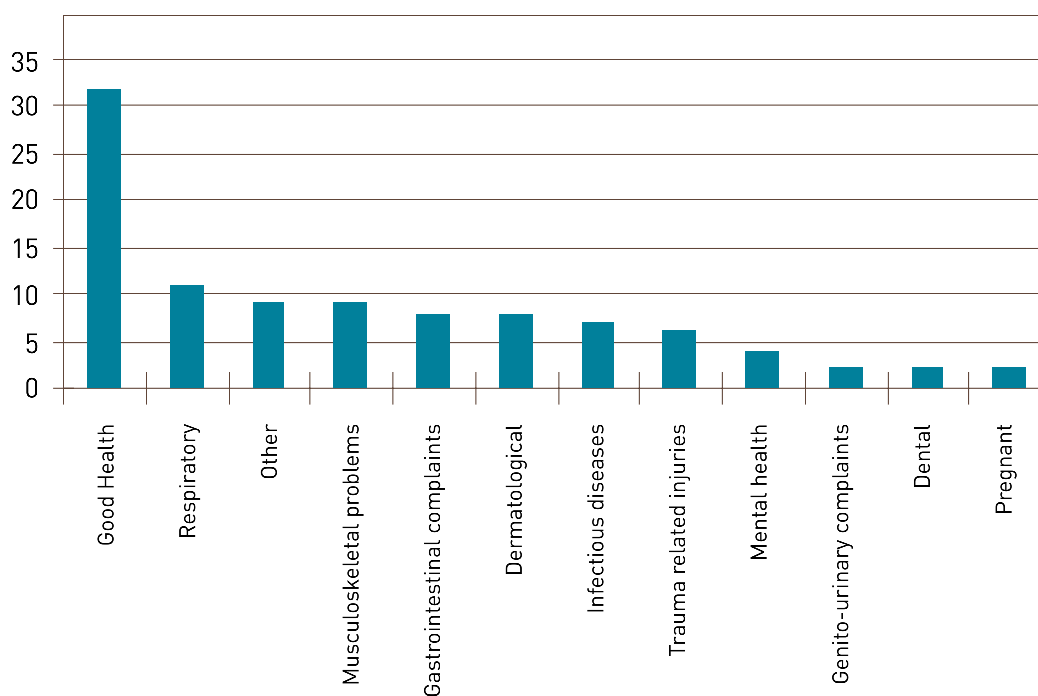
- A board of health professionals should be appointed to monitor the living conditions in the detention centres and ensure that they have no negative impact on the residents' well being.
- Men, women and children should be housed in separate living quarters and have access to separate water and sanitation facilities. Female migrants and asylum seekers should be attended by female Detention Service personnel.
- All detainees must have regular access to outdoor space.
- Every person must have his or her own bed.

[1] Distribution upon arrival is supposed to include the following items: 2 bed sheets; 2 t-shirts; 1 towel; 1 pair of flip flops; 1 pillow; 2 pairs boxer shorts. Every month the migrants are supposed to receive: 1 soap; 1 shampoo; 1 laundry soap; 1 tooth brush; 1 tooth paste; 4 toilet papers rolls; 4 razors; 1 shaving soap; 1 body cream.

- Maintenance of sanitation facilities should be done on a regular basis.
- Food should be monitored regularly by the Maltese Department of Health Promotion and Disease Prevention.
- A more varied diet is required, including the provision of special diets for residents with particular needs.
- The first package of non-food items (including basic hygiene material) should be distributed to each detainee upon his or her arrival.
- Clothes should be provided by the Detention Service using an efficient and fair distribution system.
- Everyone should be able to use a public telephone upon arrival and have regular access to a public telephone throughout the detention period.

2. Negative impact of detention conditions on health

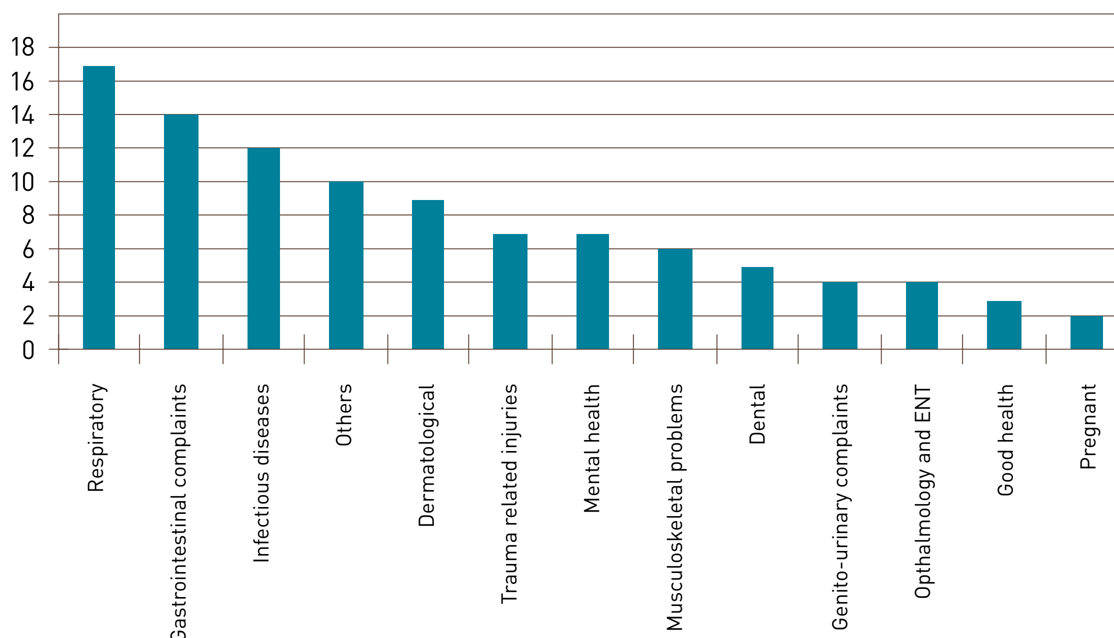
Between August 2008 and February 2009, MSF saw 1,121 newly arrived migrants and asylum seekers. Of those, **32 per cent was in good health**.



Graph 4: Percentage of pathologies seen in MSF assessments of new arrivals

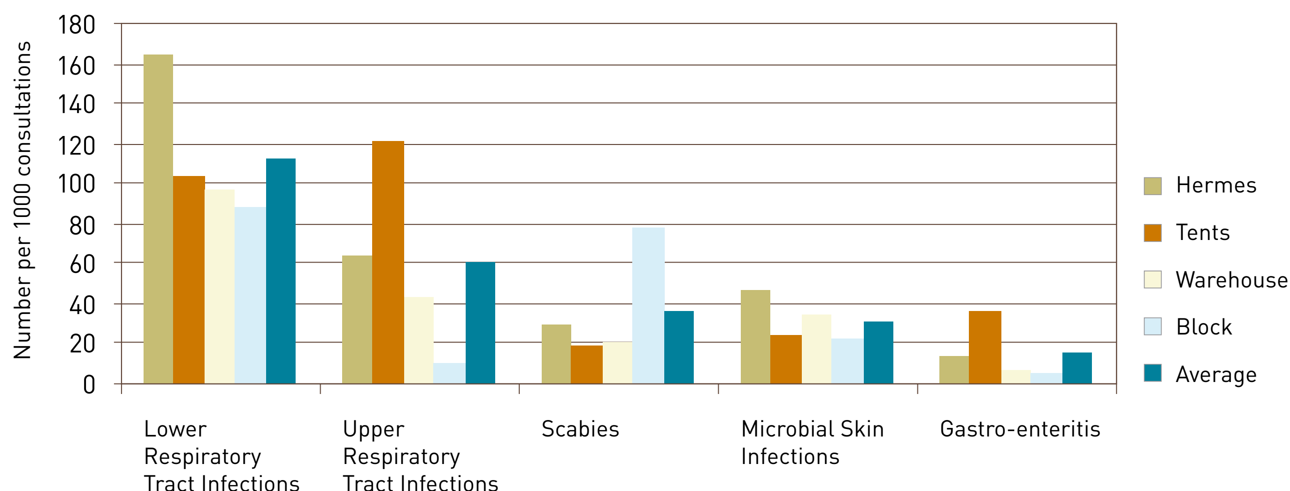
Hermes Block

The most frequent health problems (38 per cent) were related to the conditions of the journey. Most people had spent up to seven days on boats where they had extremely limited food and water and were unable to move. The main problems were minor trauma, burns, dermatitis and urinary and gastrointestinal problems. Seven per cent of new arrivals suffered from infectious diseases including scabies and gastroenteritis.



Graph 5: Percentage of pathologies seen in MSF consultations in detention, excluding first medical assessments of new arrivals

Detention conditions in Malta can be directly linked with the most frequent morbidities seen in MSF's consultations with detainees. 17 per cent of morbidities seen are respiratory problems linked to exposure to cold and lack of treatment for infections. Patients often require repeated consultations since symptoms persist in the cold environment in which they live. Dermatological diseases including scabies, bacterial and fungal skin infections account for nine per cent of the consultations, reflecting overcrowding and poor hygiene. Fourteen per cent of the consultations deal with gastrointestinal problems including gastritis, constipation and haemorrhoids which can be a result of a low fibre diet, lack of activity and high stress. Musculo-skeletal complaints such as arthromyalgia can be linked to limited exercise and a cold uncomfortable environment. Cases of accidental trauma were seen in seven per cent of the consultations. These were mainly caused by frequent falling due to wet floors in the washing areas, combined with poor lighting and broken tiles which lie all over the floor.



Graph 6: Total infectious disease cases seen by MSF per 1000 consultations in different living areas over six months

In a group of 60 people who were healthy on arrival, MSF diagnosed 65 cases of illnesses transmitted inside the centres over the course of five months, such as scabies, chicken pox and respiratory tract infections.

The above chart further illustrates the link between the living conditions in the centres and main morbidities. Hermes Block - where the frequency of lower respiratory tract infections is highest – has the main density of people and only limited access to the outside. The high level of upper respiratory tract infections in the tents area may be related to lack of adequate shelter and prolonged exposure to wind and dust. The incidence of skin infections in the Hermes Blocks and in the two Warehouses reflects the pervasive lack of hygiene and the high density of detainees in these buildings.

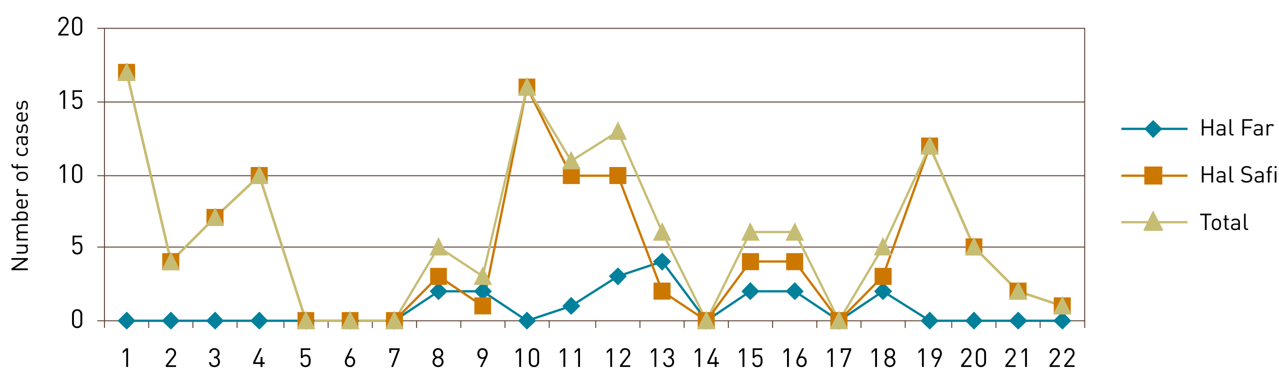
Overall, **communicable** diseases such as chicken pox, skin infections and gastro-enteritis were seen in 35 per cent of consultations.

As mentioned above there is no appropriate system for isolation and follow-up of patients with infectious diseases in the detention centres. Procedures for isolation are unclear and guards may isolate a person at their discretion. As a result, on several occasions, MSF doctors found people inside the isolation area with no sign of disease – they were incarcerated with sick people.

Isolation protocols which were introduced by the Maltese Disease Prevention Department are not being implemented consistently.

Chicken Pox

In August 2008 MSF encountered 13 people suffering from **chicken pox**[xxx] who were «isolated» in a room in Safi Block C together with 80 non-infected people. Since that date there has been an uninterrupted chicken pox epidemic with over 120 cases reported in five months. One pregnant woman was also infected. The authorities took no effective measures to stop this outbreak. **The squalid and punitive nature of the isolation area deterred detainees with symptoms of chicken pox from identifying themselves.** As a result, the total number of actual cases is higher than that recorded. Fresh scars related to chicken pox on a number of patients who had never been registered for treatment confirm this[xxxi].



Graph 7: Cases of Chiken Pox in detention, July - December 2008, by week

Tuberculosis

Up to February 2009, 13 new cases of active pulmonary tuberculosis (TB) have been diagnosed among the irregular migrants and asylum seekers who arrived in 2008. The TB prevalence in this group is 481 per 100,000[xxxii]. In the same period 19 migrants have been treated for latent TB (700 per 100,000). All patients identified as having active TB are screened for HIV. Of the above 13 cases, 15 per cent were positive.

The average length of time between arrival and diagnosis is 1.6 months. During this time patients reside in the general detainee community, possibly infecting others. No contact tracing or testing is carried out.

More than half of the patients are diagnosed within the first month due to a combination of the initial screening X-ray and medical referral related to symptoms. The screening process for TB consists of the initial triage examination on the day of arrival and the chest X-ray for all detainees. Positive TB patients should be admitted to the isolation rooms in the hospital to start treatment[xxxiii]. However, due to the high occupancy rate, admission is not always immediately possible. Consequently infectious patients are started on treatment for active TB and sent to the detention centres where they remain in contact with other non-infected people.

Current practices in Malta identify and treat many cases of active TB, yet the presence of infectious patients with active TB in closed detention centres puts the health of other detainees and Detention Service staff at risk.

Significant time and resources are invested in the identification and treatment of TB among the migrant population arriving in Malta, but inconsistencies in its implementation can lead to poor results.

When MSF first started to work in the detention centres the Directly Observed Treatment, Short-Course (DOTS) system was not in place[xxxiv]. Drugs were dispensed by soldiers and patients frequently missed treatment, often for days at a time; also because of the frequent unavailability of medications in the centres. After numerous meeting between MSF and health authorities the DOTS system and its monitoring are now being implemented. However, medical staff still requires constant supervision to ensure the protocols are adhered to.

Mental Health

Rule 22(1) UN Minimum Rules for the Treatment of Prisoners:
*"**At every institution there shall be available the services of at least one qualified medical officer who should have some knowledge of psychiatry[xxxv].**"*

The Maltese government denies that **mental health problems** exist within the detention centres: *"There are no reports of immigrants suffering from mental health problems, except those cases that would be expected to be found within a community of 1,400 immigrants."*[xxxvi]

Many detainees – especially Somalis and Eritreans – have suffered from conflict and/or torture and other abuses, raising particular concerns that the **anxiety, fear, and frustration provoked by detention may prolong and exacerbate underlying traumatic stress reactions and thereby create long-term psychosocial disability.** These people have escaped war and other traumatic events and expect to receive humanitarian protection. In these circumstances, detention may be experienced as particularly cruel and unjust and can become the trigger of psychological suffering.

MSF's psychological support, provided through individual consultations[xxxvii] with the detainees, revealed **the mental health impact on detainees of the harsh journey to Malta and their subsequent confinement in detention centres[xxxviii]**. 33 per cent of MSF patients reported the death of a family member as the most relevant event in their past and 21 per cent reported having been direct victims of physical violence prior to arriving in Malta. Many migrants have witnessed people dying while crossing the desert, or drowning during the sea crossing.

The difficult living conditions, overcrowding, constant noise, lack of activities, dependence on other people's decisions[2], as well as the length and uncertainty of the period of detention and the ever present threat of forced repatriation, all contributed to feelings of defeat and hopelessness. This is aggravated for people who were already incarcerated in Libya, where many experienced torture and/or sexual abuse.

[2] For instance there is no clear information given on the date of the interview with the Refugee Commission, the dates of medical appointments etc.

Isolation area, Hermes Block.

Testimony of a Somali man

"I could not remain in Somalia if I wanted to stay alive. When we crossed the Sahara two people travelling with me died of thirst. While I was trying to enter Libya, I was arrested and taken to a detention centre. They took everything I had with me, then they started treating me like an animal. I used to eat once a day. At night they used to beat me. I wanted to kill myself when I was there. I was lucky, I was only in prison in Libya for one year. Two other Somalis were there for two years. They went crazy, they used to cry and shout all day long, naked. In the end, one of them committed suicide by drinking ammonium. I never thought I would be imprisoned in Europe too."

Psychological distress among inmates is reflected in the high number of somatic complaints reported in medical consultations; suicide attempts; group breakouts; rioting and sporadic hunger strikes.

The patients seen by MSF were suffering from: symptoms of depression (30%), anxiety (25%), Post Traumatic Stress Disorder (PTSD) (9%) and psychosomatic disturbances (5%). There is a direct link between the length of stay in detention and the level of desperation reported. Sixteen out of seventeen patients who revealed suicidal tendencies had been in the centres for more than four months.

Instead of providing special care for the most traumatised individuals fleeing persecution, the Maltese detention regime is subjecting them to the very conditions that are likely to either hinder psychosocial recovery or create new pathologies that can evolve into chronic mental health disorders, personality and identity disequilibrium.

Summary of urgent measures to be taken regarding isolation policies and mental health care:

- The detention centres must have adequate medical isolation facilities, adapted to the needs of vulnerable people requiring isolation for medical reasons.
- Admitting or discharging patients from the isolation areas should be the exclusive responsibility of health professionals.
- Health professionals should have unrestricted access to all persons held in the isolation areas.
- Isolation for correctional and disciplinary reasons must not be combined with isolation for infectious diseases. Different areas should be used for these different purposes.
- Men and women must be isolated in separate areas.
- Migrants and asylum seekers with infectious diseases residing in the hospital should have confirmatory test results showing that they are no longer infectious before returning to the detention centre.
- **Regarding tuberculosis:** written recognised guidelines for all screening, treatment, investigations and diagnostic situations including latent TB, contact prophylaxis and second line treatment should be implemented. There is a need for increased isolation capacity both in the hospital and in the detention centres.
- **Mental health care** should be part of the services offered by the health personnel to detainees in the detention centres.

3. Barriers to access health care

Medical care for new arrivals

"Principle 24. A proper medical examination shall be offered to a detained or imprisoned person as promptly as possible after his admission to the place of detention or imprisonment, and thereafter medical care and treatment shall be provided when necessary."

UN Body of Principles for the Protection of All Persons Under Any Form of Detention or Imprisonment, 1998.

Upon arrival, all asylum seekers and migrants pass through a superficial medical triage conducted by a public health doctor in a police station[xxxix]. This happens without any interpretation or translation facilities. People who are deemed severely sick, unstable or with suspected active pulmonary tuberculosis are directly referred to a hospital. All other patients are sent straight to detention centres. In the detention centres, these patients interact with other detainees. No further precautions are taken to treat these patients or protect the wider detainee population.

Once in the centre, no routine medical assessment of new arrivals is conducted by the Maltese authorities. Hence, if a disease is diagnosed at a later date, the whole population has already been exposed to it, as well as all persons travelling with the affected person and the Detention Service staff.

Based on its experience in Lampedusa, Italy, MSF offered its services to the Maltese authorities to support the initial screening of new arrivals. However, this offer was rejected. From August to the end of February MSF started examining all migrants and asylum seekers soon after their transfer to the detention centres. An MSF doctor, together with a cultural mediator, conducted this first medical assessment in the detention centres' consultation rooms. The patient's medical history was taken, a file opened, the current problems treated, and the referrals arranged for further care.

Barriers to access health care in the centres

"25. Health care. You are entitled to the same range of medical services as the Maltese citizens receive from the Public Health Service. You are entitled to have access to qualified medical and nursing personnel. You are entitled to expect that matters relating to your health care will be treated in confidence and in a sensitive manner."

Excerpt of the Ministry for Justice and Home Affairs' note on the entitlements, responsibilities and obligations of persons while in detention.[xl]

Medical care in the detention centres is provided by two private companies funded by the State. Despite the sharp increase of migrants and asylum seekers arriving in Malta over the last two years the provision of medical services has remained the same. As a consequence, the availability of doctors and nurses is limited and insufficient to meet the needs of all detainees. Only two doctors and two nurses provide care during a daily five hour period for a detainee population of approximately 2,000. During weekends no primary health care is available. In the new detention centre of Ta'kandja, which currently houses 400 people including women and minors, no medical care has been provided for or planned.

Medical personnel working in the centres have hardly any medical equipment[xli]. Furthermore, there are no official written treatment protocols[xlii] and there is no supervision of medical activities. In the absence of translation services, other patients are called on to help with translation during consultations, which compromises patient confidentiality.

Prior to MSF's arrival, no medical personnel used to go into the living areas in the centres and access to medical consultation facilities was at the discretion of soldiers guarding the detainees. To attract the attention of the guards, detainees must shout and bang on the gates of their rooms. Intermediaries within the detainee population are also used to identify people in need of medical care. The most vulnerable and sick detainees are therefore often ignored.

MSF established a system of triage inside every living area on a weekly basis, ensuring sick people have access to medical consultation. When implementing a decent medical triage system, MSF doctors detected inmates who had been unable to see a doctor for over two months.

Unacceptable barriers to access medicines and treatment for sick detainees

Legislation in Malta dictates that only pharmacists can dispense medication according to a doctor's prescription[xliii]. The detention centres have no pharmacy[xliv] and therefore all medicines, prescribed by a doctor, have to be purchased in pharmacies outside the centre and collected by the Detention Service personnel. This results in delays in the delivery of drugs to sick patients, ranging from several days to two weeks.

Sometimes the drugs are not delivered at all and many diagnosed diseases go untreated. Failing to provide drugs may contribute to the deterioration of the patient's condition, lead to repeated medical consultations and cause unnecessary suffering due to untreated pain.

MSF offered to set up a pharmacy in the detention centres and provide human resources for an initial period of six months, but the proposal was rejected by the Maltese authorities.

Referral to secondary care: Mater Dei Hospital and Mount Carmel Psychiatric Hospital

All detained migrants and asylum seekers are entitled to free secondary care. In the absence of medical personnel in the centres, the decision to refer someone is taken by the Detention Service personnel. This happens without accompanying translators, unless another detainee is capable, available and given permission by the soldiers on shift to act as translator.

Many patients are discharged from hospital without discharge papers or a clear treatment plan which makes the follow-up treatment in the detention centres difficult.

A patient was given a hospital appointment date eight months after referral by health service providers in the detention centres. He developed severe loin pain and was referred to the emergency care department in the Mater Dei hospital for investigation and treatment of possible renal stones. One week later he was discharged from the hospital without documentation. It was not clear to him what treatment he had received and what the diagnosis was. No information was given to the patient and his medical file could not be traced in the hospital. He continues to be treated symptomatically in the detention centre.

This results in poor quality care with health risks for the patients, low levels of patient satisfaction and reassurance, and wasted resources.

Detained patients who require in-patient psychiatric care are admitted to Mount Carmel Psychiatric hospital. All detainee patients are admitted to a special ward which has ten individual cells intended only for detained migrants and asylum seekers and which is permanently guarded by a policeman. The ward is staffed by one nurse per shift from an agency and not by regular hospital staff. The ward is in an unused section of the hospital and the two neighbouring wards are abandoned. It offers no possibilities for social interaction between patients and has no provision for any activities. Patients spend long periods in solitary confinement in their cells and have one hour of respite per day - usually spent alone in the corridor of the ward. No external visitors are allowed without official permission from police headquarters – yet there are no written procedures readily available on how to obtain permission for such a visit.

Translation is not available. As a result, the medical team often has a limited understanding of the patients' history, symptoms and experience. The patients have little or no understanding of the received treatment – even regarding psychiatric medication with possible severe side effects. Consultant supervision is limited to a weekly visit.

Summary of urgent measures to be taken regarding access to health care:

- A reception centre should be set up where all new arrivals are assessed, screened and treated before they are moved to the detention areas.
- The number of doctors and nurses available inside the detention centres, as well as the hours worked, should be sufficient to provide adequate care to the detainees present in the centres at any given time.
- All medical activities should be performed exclusively by health care professionals and supervised by the National Health system through medical protocols and official guidelines.
- Medical services should be provided with a cultural mediator.
- Medical personnel must have regular access inside the living quarters to guarantee that the most sick and vulnerable have access to medical consultation.
- Every patient should have a medical file which is updated at every consultation.
- Detained persons who are admitted to external health care facilities should, at all times, be treated equally to other patients in terms of space, movement, possibility of receiving visitors etc.
- A pharmacy, staffed by a pharmacist, should be set up in the centers to guarantee that prescriptions are dispensed directly and without delays to the patients.

4. Systematic detention of all undocumented migrants and asylum seekers including vulnerable cases

"Irregular migrants who, by virtue of their age and/or physical condition, are considered to be vulnerable are exempt from detention and are accommodated in alternative centres."

MJHA, MFSS, Irregular Migrants, Refugees and Integration.

According to Maltese policies vulnerable groups, such as: minors (under eighteen) – unaccompanied or with their family members –, elderly (over sixty-one), pregnant women, individuals with a mental and/or physical disability, or suffering from serious diseases, should not be kept in detention.

Nevertheless, upon the arrival, even the potential vulnerable cases are sent to the detention centres; only after their supposed **vulnerability** has been confirmed through particular **assessment procedures**, they are released and transferred to the open centres[xlv]. This process is slow and people must wait in detention until a decision is taken with regards to their individual case.

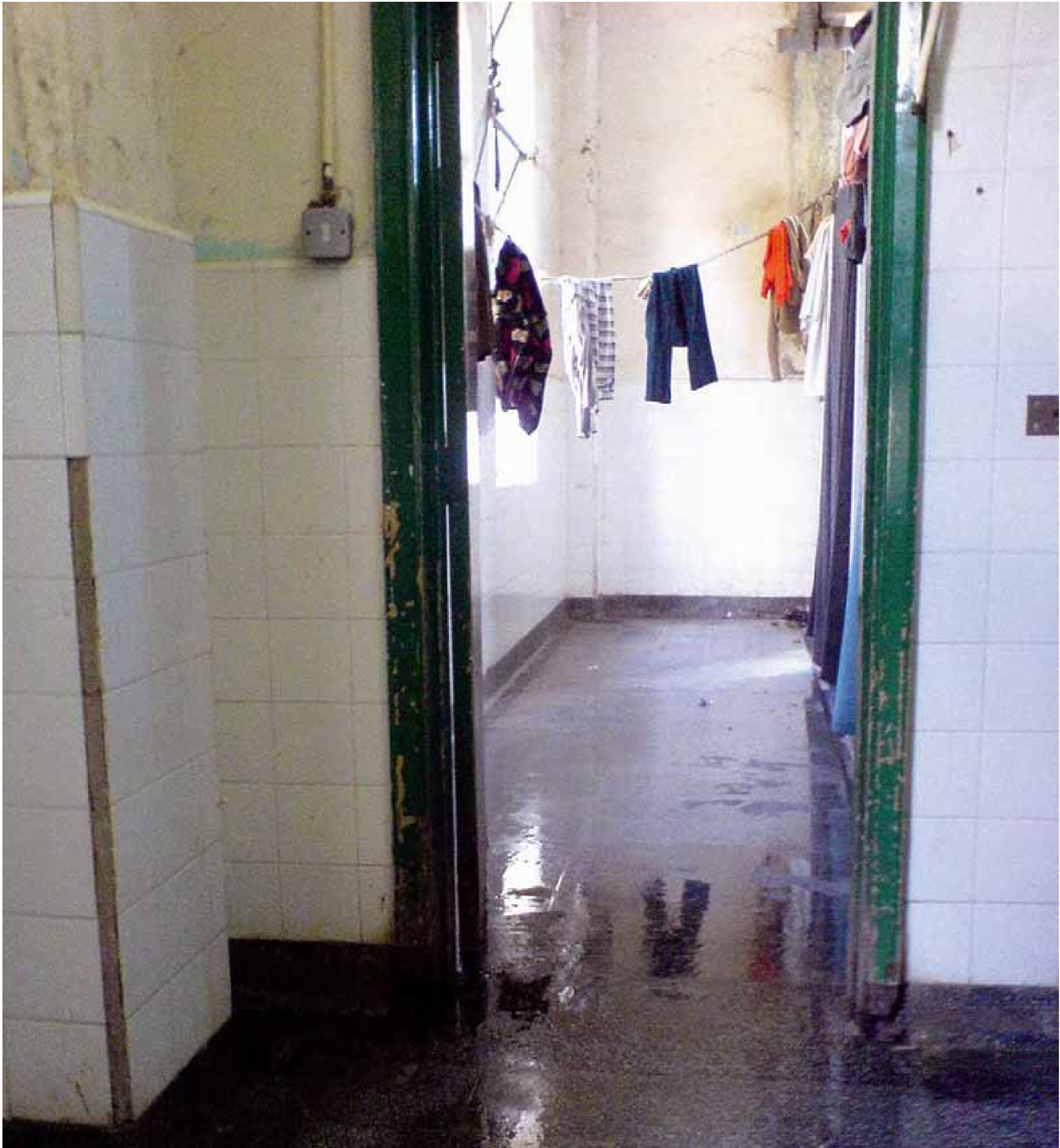
The vulnerability has to be assessed by the Organisation for the Integration and Welfare of Asylum Seekers (OIWAS). There are three kinds of assessment procedures: 1) the age assessment procedure for persons claiming to be minors (particularly unaccompanied minors); 2) the vulnerability procedure for elderly or adults claiming physical or mental health problems; 3) a simplified assessment for pregnant women and families with children. If this assessment is positive, final authorisation must be obtained from the Principal Immigration Office. Health clearance must then be obtained, and a place for accommodation in one of the open reception centres must be identified.

The system for the vulnerability assessment –in terms of its duration and method– has been criticised on several occasions in the past[xlvi]. According to MSF the main deficiencies are: the lack of written procedures and insufficient information - on the modalities, duration and possibilities for appeal - shared with detainees; the lack of separation of possible vulnerable cases from other detainees in the detention centres; the duration of the procedure[xlvii] and lack of prioritisation for urgent cases (especially for self-evident cases like young children or pregnant women[xlviii]); and the absence of the presence of medical staff during the assessment.

Over the past several months, MSF referred 63 pregnant women to OIWAS. 19 of the women spent an average of 22 days in the detention centres[xlix]. At least three pregnant women were detained until the moment of delivery. In two cases, women arrived in Malta almost at full term (8 and 8½ months). They were sent back to the detention centres after giving birth in the hospital, and one was forced to spend more than one month in the centre with her newborn baby.

Testimony of a Somali woman

"It was March 2008, and I was four months pregnant. After a short stay in Sudan, we started crossing the desert. We took 26 days to cross the desert and reach Libya.



Hermes Block in Lyster Barracks.

After landing in Malta, in August, they took my fingerprints and they sent me to a big hospital where I remained for two days. Because I didn't have any complications with my pregnancy, despite the long journey, they discharged me from the hospital and they sent me to the detention centre. Here I met my 20-year old daughter who arrived in Malta with another boat.

After 23 days of detention, I gave birth to my son. My son's first home was the detention centre, where they sent us soon after the delivery in hospital. I never expected this kind of treatment in Europe. I have nothing a mother needs to take care of her baby. I tore one of my dresses into six or seven pieces to make small nappies. My breasts did not have enough milk for him.

My baby was kept in detention for the first thirty-seven days of his life. When a social worker told me that my baby and I could leave but that my oldest daughter was not allowed to come with us because she is an adult, at the beginning I refused. But after some days I was obliged to change my mind. In a sense these social workers forced me to choose between my two children. And I chose the one more in need of help and protection.

In the middle of October they released us and gave us accommodation in another centre. My eldest daughter was not released until December."

During the course of its work in the detention centres MSF referred 156 **unaccompanied minors**[l] to OIWAS and requested them to be released. Assessment procedures have been concluded for at least 91 cases.

Five individuals were released (three after having spent at least five months in detention) after a bone test confirmed that they were minors; 25 individuals were repatriated before any assessment took place; four escaped; 57 individuals had their cases rejected based solely on the OIWAS panel's arguably subjective opinion about the credibility and coherence of their statements during the assessment interview. Out of the remaining 65 open cases, at least 25 had spent an average of 218 days in detention up to 20 February[li].

One unaccompanied minor, a 14-year-old from Somalia, spent five months in detention waiting for assessment procedures to be carried out. While waiting, he tried to hang himself. He could no longer endure the harsh living conditions and maltreatment received from other inmates.

Children with families

MSF referred 15 minors (younger than 12 years old) to OIWAS. The conditions in the detention centres are particularly harmful for them: an unsafe environment with unfamiliar adults, unhygienic areas, inappropriate meals, insufficient and inappropriate space, no toys or playing equipment, no access to school etc. To be a child of such a young age is an «objective condition» which should not require further assessment.

Persons suffering from severe illnesses[lii]

MSF referred 25 medical cases and 19 cases of vulnerability due to mental health problems[liii] to OIWAS. Thirteen individuals were assessed only after having spent an average of 140 days in detention where there is inadequate care and a risk that their conditions will deteriorate further with possible serious or

fatal consequences. These individuals require high standards of daily care, including in some cases daily drug-intake and frequent medical check-ups in both primary health facilities (medical consultations in the detention centres) and secondary care facilities (Mater Dei Hospital, Mount Carmel Hospital), with extra workload for the already overstretched Detention Service staff.

HIV/AIDS

In the last six months, four cases of HIV/AIDS - known to MSF – were diagnosed in the newly arrived. The patients diagnosed are followed up and monitored in secondary care where they receive counselling and treatment. Patients with HIV/AIDS in detention are vulnerable. The complex therapy, requiring multiple doses of drugs, makes it impossible to maintain confidentiality in such close and overcrowded living quarters. The unhygienic and overcrowded living conditions are not suitable for anyone who is immuno-compromised. The medical care they receive in detention is often inadequate: they experience breaks in drug supply which can be dangerous as well as distressing. Access to doctors is restricted as the provision of health care services is insufficient for the demand.

One patient was diagnosed with HIV and TB. However, he did not receive his treatment on a number of days. The other migrants acted aggressively towards him, and he became a social outcast. Two months later, he was admitted to hospital in a very serious condition: his medical consultant attributed his deterioration as a result of the inadequate care received in detention.

Another patient was discharged from the hospital's infectious disease unit with a diagnosis of active TB and AIDS. The patient was put on multiple drug therapy. However he did not receive his medication for the first three days since there is no routine medical care in detention centres at the weekend other than for pre-arranged DOTS distribution. The patient started to experience hostility and social isolation from the other detainees shortly after his arrival in the detention centre. The distribution of his many medicines drew attention to his condition. He was moved to another living area where the same thing happened, then to the isolation area in Hermes Block. He remained in this area for a week while procedures were carried out to formalise his release from detention. He was released one day after the UN Working Group on Arbitrary Detention publicly raised his case.

Summary of urgent measures to be taken regarding the detention of vulnerable individuals:

- Systematic detention of asylum seekers should be avoided.
- The policy of assessment and release from detention of vulnerable cases should be reviewed (in particular for minors, pregnant women and severely sick people).
- While in detention, vulnerable individuals should be kept in protected spaces, with sufficient medical and psycho-social support.
- Health professionals should be involved in the vulnerability assessment procedure.
- OIWAS personnel should be present at landings to identify vulnerable cases and start the assessment procedure immediately, or the release procedure for clearly vulnerable cases (e.g. minors younger than 12, women in the advanced stages of pregnancy).

CONCLUSION AND A CALL FOR ACTION

Based on first-hand experience inside the detention centres, MSF has on several occasions expressed its concerns to the Maltese authorities about the unacceptable conditions in these centres, as well as the delays or failure in the dispensation of medicines and inadequate follow-up of patients with infectious diseases.

Despite efforts made by authorities to rehabilitate one of the centres, the response is slow and totally inadequate to ensure that the basic needs of migrants and asylum seekers are met. Large-scale arrivals and the necessity to control influxes of migrants and asylum seekers does not justify a policy that keeps thousands of people in detention centres where conditions fall well below international and national standards and are detrimental to the physical and mental health of people.

MSF continues to voice concerns about the situation. MSF urges the Maltese authorities to take necessary action to improve the reception of people arriving in Malta. International minimum standards for the reception of asylum seekers and for treatment of prisoners and Maltese national standards require that all detainees are ensured both the coverage of their basic needs and the respect for their fundamental human dignity.

The undignified conditions in the Maltese detention centres and the risk they pose to the health of migrants and asylum seekers compound the suffering of people who have already fled danger and hardship in their countries of origin and who have survived long and risky journeys overseas.

[i] MSF signed a Memorandum of Understanding with the Ministry for Justice and Home Affairs and the Ministry for Social Policy on 29 July 2008 with the objective of collaborating on medical assistance to migrants and asylum seekers on the island.

[ii] The systematic detention of irregular migrants and asylum seekers and the living conditions within the closed centres have since 2003 been the subject of criticism by several local and international actors, both governmental and non governmental. See in particular: *Report by Mr. Alvaro Gil-Robles, Commissioner for Human Rights, on his visit to Malta, 20-21 October 2003*, 12 February 2004; *Report to the Maltese Government on the visit to Malta carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), from 15 to 21 June*, 30 November 2005 [**CPT**]; *Report by the LIBE Committee delegation on its visit to the administrative detention centres in Malta*, 30 March 2006 [**LIBE**]; *Third report on Malta*, European Commission against Racism and Intolerance, 14 December 2007 [**ECRI**]; various reports by local and international NGOs, Jesuit Refugee Service, Médecins du Monde.

[iii] Mr Catania, member of the European Parliament, stated in 2006: *"The situation in Malta's administrative detention centres is unacceptable for a civilized country and untenable in Europe, which claims to be the home of human rights."*

[iv] See www.crimemalta.com/frontexwatch.htm

[v] The maximum duration of detention for asylum seekers is twelve months: asylum seekers are granted access to the labour market if the examination of their asylum application is not finalised within one year.

[vi] "Irregular Immigrants, Refugees and Integration", Policy Document, Ministry for Justice and Home Affairs and Ministry for the Family and Social Solidarity.

[vii] See EC Directive 2003/9/EC of 27 January 2003. See also: Report from the Commission to the Council and to the European Parliament on the application of Directive 2003/9/EC. Ratified from Malta with the legal notice 320/2005, Reception of asylum seekers regulations provide that "the material reception conditions shall be such as to ensure a standard of living adequate for the health of applicants."

[viii] For more information on MSF's activities in Somalia see: http://www.msf.org/msfinternational/countries/africa/somalia/index.cfm

[ix] Source: Maltese Refugee Commission – for the aggregated period (2002-2008) 2.83% received refugee status while 52.19 % received temporary humanitarian protection.

[x] See also: http://ec.europa.eu/malta/news/commissioner_jacques_barrot,_malta_+_illegal_immigration_en.htm

Following visits to the open and closed centres, European Commissioner Barrot admitted that Malta was indeed faced with an unprecedented and disproportionate burden of undocumented migrants and asylum seekers and promised to increase financial aid to help ease this situation. However, he also expected the Government to improve living conditions at the open and closed centres.

[xi] The centre of **Lyster Barracks in Hal Far** is located inside a military area and comprises two distinct zones: the tents' compound and Hermes Block. The centre accommodates single men and women and families with minors. In February 2009 refurbishment works started in Hermes Block and they started replacing the tents with containers.

[xii] **Safi** detention centre is also located inside a military area, and comprises three distinct zones: C Block (1, 2, 3), B Block (Upper and Lower floor) and two Warehouses (1 and 2). Only single men are detained in this centre.

[xiii] http://eur-lex.europa.eu/LexUriServ/site/en/oj/2003/l_031/l_03120030206en00180025.pdf

[xiv] Subsidiary Legislation 260.03, Prisons regulations, Legal Notice 118 of 1995, as amended by Legal Notices 127 of 1997, 14 and 225 of 2000, 58 of 2001, and 265, 341 and 423 of 2007.

[xv] UN Standard Minimum rules for the Treatment of Prisoners, 1977: http://www2.ohchr.org/english/law/treatmentprisoners.htm

[xvi] MSF has brought these conditions to the attention of the Maltese authorities: particularly during two meetings with the Steering Committee – composed of staff from the Primary Health Care Department, the Immigration Police, the Detention Service, the Health Promotion and Disease Prevention Department, OIWAS – on the 14th October 2008 and the 7th of January 2009; two meetings with the Permanent Secretaries of the Ministry for Justice and Home Affairs on the 9th of January 2009 and of the Ministry for Social Policy on the 27th of January 2009. MSF submitted several reports to the Board of Visitors for Detained Persons – a governmental body in charge of monitoring the conditions of the centres – which is directly reporting to the Minister for Justice.

[xvii] Reponses of the Maltese Government to the CPT report, Strasbourg, 10 September 2007, page 12, paragraph 13. This annex should be distributed to all the detainees upon arrival.

[xviii] See also: "The sub-standard closed centres of Safi and Lyster Barracks are overcrowded. At Lyster Barracks families are not separated from men, women, including pregnant and nursing mothers, and children, including unaccompanied minors [...] These conditions are in stark contrast to the cells at Corradino correctional facility..." [UN, Working Group on Arbitrary Detention, 2009].

[xix] The quantified norms for site planning in refugee settings are: area available per person 30m^2; shelter space per person 3.5 m^2; number of people per water point: 250; number of people per latrine 20; distance to latrine 30 m; firebreaks 75 m every 300 m; etc. For more information see: "Refugee Health: an Approach to Emergency Situations," MSF, MacMillan, 1997 page 118, Table 5.2. See also: UNHCR, Handbook for Emergencies, Geneva: UNHCR, 1982.

[xx] Density variable: μ=3.25 m^2/person σ=0.49 m^2/person

[xxi] This has also been addressed in the CPT report: "The CPT recommends that efforts be made to increase the daily outdoor exercise period for foreign nationals held in Lyster Barracks." [CPT, 2005, par. 30].

[xxiii] *Prisons Regulations:* "The accommodation provided for prisoners, and in particular all sleeping accommodation, shall meet the requirements of health and hygiene, due regard being had to climatic conditions and especially the cubic content of air, a reasonable amount of space, lighting and ventilation. Such accommodation shall also allow the prisoner to communicate at any time with a prison officer (19.4). Adequate bathing and showering installations shall be provided so that every prisoner may be enabled and, unless otherwise directed by the medical officer, required to have a bath or shower, at a temperature suitable to the climate (23.2)."

[xxiv] Reponses of the Maltese Government to the CPT report, page 14 paragraph 24.

[xxv] Reponses of the Maltese Government to the CPT report, page 13 paragraph 22 and *Prisons Regulations*: "Male and female prisoners shall, as far as possible, be kept in separate prisons staffed, except for the Director, the Assistant Director and the Chaplain, by prison officers of the same sex as the prisoners (12.3). Prisoners under twenty-one years of age shall be kept under conditions which take account of the needs of their age and protect them from harmful influences (12.4). If the prison receives both male and female prisoners the whole of the premises allocated to either sex shall be kept entirely separate and have a separate entrance and exit (12.7)."

[xxvi] Excerpt of the Ministry for Justice and Home Affairs' note on the entitlements, responsibilities and obligations while in detention, Paragraph 39.

[xxvii] Prior to this, in 2007, when a Constitutional court case was brought against the Maltese authorities, one of the doctors working with a private health care provider denounced the deplorable conditions of the isolation area in Hermes Block.

[xxviii] "Dietary fibre, vegetables and fresh fruit were generally in short supply. As a result, numerous detainees had gastro-intestinal problems, frequently associated with constipation and haemorrhoids." [CPT 2005, 42].

[xxix] Ministry for Justice and Home Affairs: "Your entitlements, responsibilities and obligations while in detention," par. 19.

[xxx] Given the low immunity level for chicken pox in African adults, they are more likely to get the disease. Severe diseases, complications and death are much more common in this age group than in children. Chicken Pox in pregnancy can put the life and health of the mother and child at significant risk.

[xxxi] The number of cases only dropped when a reduced rate of new arrivals appeared to allow the development of "herd immunity."

[xxxii] TB prevalence in Eritrea is 218/100,000, in Nigeria 615/100,000, in Somalia 293/100,000 (WHO 2006).

[xxxiii] Patients on treatment for TB or latent TB are reviewed in the chest clinic. Notes regarding their investigations, treatment and progress – other than their prescription cards – are not always available in the detention centres.

[xxxiv] The Maltese policy mentions that TB medication should be dispensed using the DOTS system.

[xxxv] UN Standard Minimum rules for the Treatment of Prisoners, 1977.

[xxxvi] Government of Malta's response to the ECRI report, March 2008.

[xxxvii] Distribution per nationality: Somalia 53%, Nigeria 15%, Eritrea 9%, Ethiopia 4%. 31% of the individuals consulted were women. This is particularly high considering that only 12% of the total detainee population consists of women. The percentage of patients coming from Somalia is significantly higher than the percentage of Somali detainees in the centres in the same period (53% vs. 40%). Both Eritreans (14% of the consultations) and Ethiopians (7%) require more consultations per patient due to the severity of the individual cases. This is also confirmed by the high percentage of Eritreans undergoing psychotropic pharmacological support: seven out of 11 (64%), whilst within all other patient groups the percentage is quite low, 21 out of 116 (18%).

[xxxviii] The detention centres are run by the Detention Service, under the direct supervision of the Army. The staff comprises soldiers, policemen and civilians. This in itself has an intimidating effect on the people residing in the detention centres.

[xxxix] Provided for by the Department of Public Health and Environmental Health, Port Services authority.

[xl] Responses of the Maltese Government to the CPT report, page 14.

[xli] If the doctors do not bring their own medical instruments they are unable to check blood pressure, blood glucose, urine analysis or perform full examinations. The Detention Service should be responsible for providing medical equipment and replacing it when necessary.

[xlii] Prior to MSF's activities there were no written protocols in use – including for the implementation of DOTS and the isolation of patients with infectious diseases. MSF started to collaborate with Primary Health Care and Disease Prevention Department on the implementation of the medical protocols.

[xliii] The Medicines Act (L.N. 292 of 2006, CAP. 458, Prescription and Dispensing Requirements Rules) states that: "It shall not be lawful for any person, not being a pharmacist duly licensed to practice in Malta, to dispense a prescribed product against a prescription."

[xliv] This contradicts Prison regulations which state: "The Director shall engage the services of a pharmacist and of the required qualified nursing and paramedical personnel. Such services shall be attached to the infirmary, under the direction of the Medical Officer (31.5)." A Maltese prison housing **450** inmates has a pharmacy.

[xlv] According to the EC Directive 2003/9/EC of 27 January 2003 identification of vulnerable asylum seekers is a core element as the Directive aims at special treatment for asylum seekers with special needs. Given their particular situation, detention of vulnerable asylum seekers should be considered only as a last resort, in duly justified cases.

[xlvi] "The situation of vulnerable groups is particularly serious: 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" [LIBE, 2006]; moreover: "Malta applies a fast-track procedure for release of [vulnerable groups], but according to the Government it may take up to three months to free them into open centres and those who are considered a health risk for the community must stay in detention" [UN, 2009].

[xlvii] MSF referred 301 potentially vulnerable cases to OIWAS. Of these cases, only 159 assessment procedures have been finalised as of 20 February 2009.

[xlviii] In the assessment procedure there is no difference made between the different stages of pregnancy: while it is understandable to confirm through a blood test an early pregnancy (up to three months), it is less understandable if this procedure (and the related time required to complete the test) is applied to an advanced pregnancy, which can be clinically confirmed by palpation of the baby and auscultation of the foetal heart beat or simply by sight.

[xlix] MSF has only complete data for 19 of the pregnant women. We do not know the exact date of release for the remaining women.

[l] The unaccompanied minors are referred to OIWAS for the assessment; referrals are usually made by the Immigration Police on arrival, or by the Refugee Commission if the migrant declares the minor age in the Preliminary Questionnaire for the asylum application (PQ). In case the individual makes conflicting statements regarding the date of birth (arrival/PQ), a preliminary interview is conducted by a social worker of OIWAS. Those who pass this preliminary stage, are interviewed by a panel of three members of OIWAS who may take a decision on the claim, or, in case of doubt, refer the individual for Further Age Verification (FAV), consisting of an X-ray of the bones of the wrist. If the individual is found to be a minor, he is released from the detention centre; if s/he is deemed to be an adult, s/he is given a letter communicating the decision, without any explanation on the reasons of the decision.

[li] 164 days since MSF referred their case.

[lii] Referral to OIWAS can be done by the Immigration Police on arrival, by the Detention Service officers, by the medical staff or by the members of the NGOs working in the centres (Jesuit Refugee Service). The migrants are first assessed by a social worker, then through another interview by the VAAT (Vulnerable Adults Assessment Team), who takes the final decision. In case the individual is considered as vulnerable, the case is referred to the Principal Immigration Officer (PIO) who gives the final authorization for the release (but OIWAS decision is always confirmed).

[liii] Among them: 2 cases of HIV (1 AIDS)/TB; 7 cases of different disabilities; 1 case of asthma; 1 case of Crohn's disease; 5 cases of diabetes; 4 cases of epilepsy; 5 cases of severe depression; 3 women victims of violence before their arrival in Malta; 4 PTSD.

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Médecins Sans Frontières is a humanitarian medical aid organisation that brings emergency medical assistance to populations in distress in over 60 countries.