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INTERNATIONAL COMMISSION OF JURISTS (ICJ) SUBMISSION TO THE UNIVERSAL PERIODIC REVIEW OF MALTA

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ICJ SUBMISSION TO THE UNIVERSAL PERIODIC REVIEW OF MALTA

1. The International Commission of Jurists (ICJ) welcomes the opportunity to contribute to the Human Rights Council's Universal Periodic Review (UPR) of Malta. In this submission, the ICJ brings to the attention of the Human Rights Council's Working Group on the UPR (Working Group) and to the Human Rights Council (Council) issues concerning: (1) migration and asylum; (2) legal access to reproductive health services; (3) recognition of gender identity and marriage; and (4) Malta's engagement with international human rights instruments and mechanisms.

Migration and asylum

Legislation and migration in Malta

2. Malta faces regular large-scale arrivals of migrants on its shores, due to its geographical position at the centre of the Mediterranean Sea and because it constitutes a point of entry to the European Union. Reportedly, the average number of arrivals is equivalent to 45% of Malta's annual birth rate.[1] In 2012, 1,890 persons arrived by boat in Malta after perilous journeys crossing the Mediterranean, one of the highest rates of arrivals since 2002, but still within the ordinary levels of the last ten years.[2] Maltese legislation and policy on migration and asylum has not substantially changed since the first cycle UPR in 2008, in line with the refusal of the Government to accept recommendations at that time on asylum and migration.

3. While recognising Malta's authority to decide generally its immigration policy, the ICJ recalls that such a policy must respect the international obligations of Malta, and in particular those arising from international human rights law. Of particular concern are the legislation and policies of Malta on administrative detention of "prohibited immigrants" and asylum-seekers, some aspects of which are or risk to be in breach of Malta's international human rights obligations. In Maltese law, the term "prohibited immigrants"[3] refers to migrants entering the territory irregularly. Since most asylum-seekers enter the country as "prohibited immigrants", they are generally subject to the same measures, in particular administrative detention.

Administrative detention of migrants

4. As a general policy, "prohibited immigrants" and asylum-seekers are still automatically subject to administrative detention on their arrival on Maltese territory. Under immigration legislation, executive authorities have the power to order their deportation and removal and to arrest and detain them.[4]

Automatic nature and length of administrative detention

5. The ICJ is concerned with Malta's automatic resort to administrative detention of immigrants, and at the excessive length of such detention. Maltese legislation does not provide for a maximum term of administrative detention for "prohibited immigrants" and asylum-seekers. Nevertheless, Government policy states that such detention should be no longer than eighteen months,[5] and the maximum length of detention of "prohibited immigrants" is for up to twelve months, while asylum procedures are pending.[6] In 2011, Subsidiary Legislation 217.12 introduced the guarantees included in the EU Return Directive 2008/115/EC,[7] but their application is excluded for all those arriving irregularly to Malta by sea. This includes almost all "prohibited immigrants" and asylum seekers[8] who have therefore not benefited from this reform.[9]

6. The use of administrative detention for "prohibited immigrants" and asylum-seekers is automatic, apart from certain categories of "vulnerable people", *inter alia*, elderly people, children, people having been subjected to torture and ill-treatment.[10] Although under Maltese law, a period of voluntary departure must be offered to "prohibited immigrants" before detention forced expulsion are imposed (Subsidiary Legislation 217.12*)*, in practice this is not available to most migrants. Typically, migrants are presented with a document that both informs them of their right to voluntary departure, and refuses it in their case, for stereotyped reasons. The same document also orders the migrant's detention and expulsion.[11]

7. The ICJ recalls that administrative detention to prevent unauthorised entry on the territory or to facilitate deportation should not be automatic, but may be provided for only if no less intrusive measures are available, according to the principle of proportionality,[12] as a measure of last resort.[13] It may be imposed only where other less restrictive alternatives, such as reporting requirements or restrictions on residence, are not feasible in the individual case. Moreover, administrative detention must not be indefinite, its length must be provided for in primary legislation,[14] be proportional to the purposes of the individual case,[15] and subject to periodic review of its grounds by independent and impartial courts.[16]

8. The European Court of Human Rights, in *Louled Massoud v Malta*, ruled that the mandatory detention policy was inconsistent with Malta's obligations under the right to liberty, as it found it "hard to conceive that in a small island like Malta, where escape by sea without endangering one's life is unlikely and fleeing by air is subject to strict control, the authorities could not have had at their disposal measures other than the applicant's protracted detention to secure an eventual removal in the absence of any immediate prospect of his expulsion."[17] These concerns have also been expressed by the former Commissioner for Human Rights of the Council of Europe, Thomas Hammarberg.[18] The ICJ likewise considers the immigration detention policy of Malta to be incompatible with its obligations under international human rights law. The ICJ considers that by stipulating a maximum length of detention only in policy documents rather than in primary legislation, Malta is acting contrary to the principle of legality under international law, since in law there is no defined limit to the period for which a migrant may be detained.[19] Furthermore, it considers that the period 18 months of administrative detention is *per se* contrary to the requirement of proportionality in detention under article 9 of the International Covenant on Civil and Political Rights (ICCPR), as no deportation procedure lasting so long can be said to have been undertaken with due diligence. In addition, the ICJ believes that the policy of mandatory detention for up to 18 months may lead to situations of degrading treatment, contrary to Malta's obligations under article 16 of the Convention against Torture (CAT) as well as articles 7 and 10 of the ICCPR.

Shortcomings in judicial review of administrative detention

9. Maltese immigration law allows the detainee to apply for judicial review of a removal, deportation or detention order to the Immigration Appeals Board, whose decision is final, unless the same Board decides to grant an appeal on points of law to the ordinary Court of Appeal.[20] The Board may grant release on grounds of unreasonableness of the order concerning duration of detention and lack of real prospect of deportation[21] but in a considerable number of cases, including many cases where the identity of the detainee cannot be ascertained, it cannot release the person even when the detention is unreasonable.[22] Serious doubts arise as to the independence and impartiality of the Immigration Appeals Board, in particular since its members are appointed by the President on advice of a Minister and serve for three-year terms, renewable.[23] Moreover, the legislation provides for cases when the Executive authorities can re-apply administrative detention on the "prohibited immigrant", notwithstanding the order of the Board.[24] The European Court of Human Rights held that this is not a sufficient remedy to meet the standards of the right to *habeas corpus* and to periodical review of the detention's lawfulness.[25] The ICJ is also concerned at allegations from detainees that public lawyers do not always provide effective representation to detained migrants.[26]

10. The ICJ recalls that administrative detention must be subject to judicial review both as regards the procedure that led to it and the merits of the detention itself in light of domestic and international law.[27] The judicial review on the lawfulness of detention must be provided to the person subjected to administrative detention "without delay"[28] or "speedily".[29] Migrants in detention have the right of prompt, regular and confidential access to a lawyer.[30]

<u>Conditions of detention and reception</u>

11. The ICJ carried out a mission to Malta in September 2011 in which it visited the detention centres for undocumented migrants, located within the military compounds of Safi Barracks and Lyster Barracks, and several reception centres for asylum seekers.[31]

12. The ICJ found that the situation in Safi Barracks amounted to degrading treatment to those detained in the facility. This resulted from the accumulation of poor conditions of detention, including sanitary conditions, together with the apparent existence of cases of

psychological instability, with the lack of leisure facilities, the overcrowded conditions and the mandatory length of 18 months of detention. By contrast, the facility for couples at the Lyster Barracks did not exhibit serious overcrowding,

13. With regard to the reception centres for asylum seekers visited, the ICJ found in several of them conditions that raised concern with regards to the residents' rights to adequate housing, to health and to an adequate standard of living. In one of them - the Hal-Far Hangar centre, made up of tents underneath an abandoned hangar-, the ICJ considered that, at the time of the visit, the cumulative conditions were sufficient to establish degrading treatment, in particular given the vulnerability of some of the residents in the hanger, in particular children. Aspects of these same conditions were also found to be in breach of the rights to health, to adequate accommodation, and to an adequate standard of living. While this centre is at present empty and not used, the Maltese authorities have never publicly dismissed its use and it is still considered as a centre to be used in case of emergency arrivals.

14. On 16 August 2011, a serious violent disruption took place in the Warehouse One of the Safi Barracks, after several detainees in the centre were told of the rejection of their asylum claims.[32] According to media reports, the protest was quelled with tear-gas in an operation involving, besides detention staff, 85 army personnel and 120 police officers. Twenty-three migrants were arrested and brought to court. Rubber bullets were allegedly used in the operations. There were a number of calls for an inquiry into the necessity and proportionality of the use of force.[33] The death of an undocumented migrant, Mamadou Kamara, in detention in July 2012,[34] led to the establishment of a judicial inquiry headed by Judge Jeffrey Valenzia,[35] and to a government dialogue with the relevant NGOs on conditions and treatment in detention of migrants and asylum seekers.[36] The ICJ commends this initiative and looks forward to the conclusions of the inquiry and the results of the dialogue in shaping legislative and policy reform.

Access to reproductive health services and criminalisation of abortion

15. Malta's Criminal Code prohibits the termination of pregnancy, specifying that both women who procure miscarriages and medical professionals who perform or assist them may be held criminally responsible.[37] The terms of the law do not envisage any exception and as a result even abortion for therapeutic purposes, such as to save the life of a pregnant woman, is subject to this prohibition. These provisions undermine Malta's compliance with its obligations to ensure women's enjoyment of the rights to life and highest attainable standard of health, and freedom from torture and cruel, inhuman or degrading treatment, as enshrined in the Convention on the Elimination of Discrimination against Women (CEDAW), the ICCPR, the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the Convention against Torture.[38] In its concluding observations on Malta in 2010, CEDAW expressed serious concern about the extent of the prohibition and urged Malta to remove the provisions criminalizing women who undergo abortion from its law and to enact exceptions allowing abortion for therapeutic purposes and in cases of rape or incest.[39] Similar concluding observations were issued by CESCR in 2004.[40]

Recognition of gender identity and marriage

16. Under Maltese law, transgender individuals are not permitted to marry their opposite-sex partners.[41] In May 2011, the Constitutional Court affirmed the decision of the Director of Public Registry that a woman named Joanne Cassar, who was identified male at birth but had subsequently undergone gender reassignment and had changed her sex in her birth certificate, could not marry her boyfriend. The Court ruled that Joanne Cassar could not legally be considered a woman for purposes of marriage. The Constitutional Court thus rejected the applicability of *Goodwin v United Kingdom*, in which the European Court of Human Rights had held that States must recognize a change of gender identity and protect the right to marry for individuals who have changed their gender. The result of the Constitutional Court's ruling is that Joanne Cassar, who is legally recognized as a woman, cannot marry a man, thus undermining her rights to privacy and marriage and family life.[42] The case of *Cassar v Malta* is currently pending before the European Court.

International human rights instruments and mechanisms

17. Malta is party to several of the core human rights treaties but is yet to become party to: the OP to ICESCR, the OP to CEDAW, the third OP to the Convention on the Rights of the Child (CRC), the International Convention on the Protection of the Rights of all Migrant Workers and Members of Their Families (ICMW) and the International Convention for the Protection of all Persons from Enforced Disappearance (ICPED).

18. Malta has adhered to most treaty body reporting requirements, although these have not all been timely.[43] Malta has failed to submit its third, fourth, fifth and sixth periodic reports to the Committee against Torture (due between 2004 and 2012), and its second periodic report to the Committee on Economic, Social and Cultural Rights (due June 2009).

19. Malta has extended a standing invitation to the UN Special Procedures.

Recommendations

20. The ICJ calls upon the Working Group and the Council to recommend to the Government of Malta to:

Concerning administrative detention of migrants

i). Provide in legislation for alternatives to administrative detention of migrants and asylum seekers, the application of which must be decided on a case-by-case basis;
ii). Provide in legislation that administrative detention of migrants and asylum seekers shall be resorted to only where it is strictly necessary in the particular circumstances of the case, and that it should be subject to a clear maximum duration;
iii). Provide for regular periodic judicial review of the necessity and proportionality of administrative detention;
iv). Provide for free legal assistance to those subject to administrative detention and/or alternative measures, regardless of their status of asylum-seeker and of the appeal or review proceedings;
v). Give competence and jurisdiction to courts - or in the alternative to other effective, independent and impartial bodies authorised by law to exercise judicial power - to review on the merits, promptly and without delay, the grounds and the procedure of administrative detention, to ensure observance of domestic and international law;

Concerning conditions of detention and reception

vi). Ameliorate the conditions of detention in the administrative detention centres for migrants and asylum seekers, and in particular in the Safi barracks;
vii). Reduce dependence on detention through an effective plan of alternatives to detention, with detention being only the last recourse;
viii). Guarantee thorough and effective legal representation to asylum seekers through their asylum claims, including for any other legal issues that may arise from their detention;
ix). Permanently close the Hal-Far Hangar Reception Centre;
x). Ameliorate the conditions in the other migrant reception centres;
xi). Continue its dialogue with relevant NGOs and extend it to all the detention policy of migrants;
xii). Publish the results of the inquiry into the death of Mamadou Kamara in detention;

Concerning criminalisation of abortion

xiii). Decriminalize abortion and ensure that women in Malta have access to safe and legal abortions in situations where their life or health may be at risk or where respect for the right to freedom from torture or cruel, inhuman or degrading treatment or punishment so requires;

Concerning gender identity and marriage

xiv). Take steps to legally recognize a person's chosen gender identity in all aspects, including the right to marry, and to ensure that individuals are not discriminated against on the basis of gender identity;

Concerning international human rights instruments and mechanisms

xv). Become party to the OP to ICESCR, the OP to CEDAW, the third OP to the CRC, the ICMW and the ICPED;

xvi). Provide without delay its outstanding periodic reports to the Committee against Torture and the Committee on Economic, Social and Cultural Rights;

xvii). Present to the Council, as soon as possible after adoption of the outcome document for the UPR of Mata, a national plan of action for the implementation of accepted recommendations and voluntary pledges and commitments; and

xviii). Present to the Council, two years after adoption of the outcome document, a mid-term progress report on the status of implementation of recommendations and voluntary pledges and commitments.

ENDNOTES

[1] See, LIBE Committee of the European Parliament (LIBE), *Report on the visit to the administrative detention centers in Malta*, 30 March 2006. p. 4; Council of Europe`s Parliamentary Assembly (PACE), *Europe's "boat people": mixed migration flows by sea into southern Europe*, Doc. 11688, 11 July 2008, paragraph 23.

[2] See URL: http://www.unhcr.org.mt/index.php?option=com_content&view=article&id=652&Itemid=135. See for comparative statistics, ICJ, *Not here to stay: Report of the International Commission of Jurists on its visit to Malta on 26-30 September 2011*, May 2012, p. 8.

[3] A "prohibited immigrant" is "any person, other than one having the right to entry, or of entry and residence, or of movement or transit […]" (Article 5(1), Immigration Act 1970 (Ch. 217)) that did not receive leave by the authority. Moreover, migrants unable to provide for their support and that of their dependants, suffering from mental disorder or being mental defective, staying in Malta after quarantine, having committed certain criminal offences, contravening immigration provisions or regulations, whose conditions for staying have been breached or elapsed, being a prostitute or a dependant of a "prohibited immigrant" enter automatically within this category.

[4] See, articles 14(1) and (2), 16 and 22, Immigration Act.

[5] *Irregular Immigrants, Refugees and Integration: Policy Document*, Ministry of Justice and Home Affairs and Ministry for the Family and Social Solidarity, 2005, Part I, point 5, p. 11, see at URL: http://www.mjha.gov.mt/downloads/documents/immigration_english.pdf. Council of Europe Commissioner for Human Rights (CoECComm), *Follow-Up Report on Malta (2003-2005)*, CommDH(2006)14, 29 March 2006, paragraph 14. See also, European Commission against Racism and Intolerance (hereinafter, ECRI), *Third Report on Malta*, CRI(2008)22, 14 December 2007, paragraph 33. PACE, *op.cit.,* fn 1, para. 60. Medecins du Monde, *"Everybody just tries to get rid of us*, November 2007, p. 9. CoECComm, *op.cit.*, fn 5, para. 6-9. CPT, *op. cit.*, fn 6, para. 11. LIBE, *op.cit.*, fn 1, point 2, p.2.

[6] Reportedly, the Maltese Government asserts the legal ground of this detention's term based on Directive 2003/9/EC of the Council of the European Union of 27 January 2003, Article 11. See, Council of Europe`s Committee for the Prevention of Torture (CPT), *Report on the visit to Malta from 15 to 21 June 2005*, CPT/Inf(2007) 37, 10 September 2007, paragraph 11.

[7] Legal Notice no. 81 of 2011.

[8] Regulation 11.1, S.L. 217.12.

[9] ICJ, *Not here to stay: Report of the International Commission of Jurists on its visit ti Malta on 26-30 September 2011*, May 2012, p. 13.

[10] 2005 Polcy Document, pp. 11-13.

[11] ICJ, *Not here to stay: Report of the International Commission of Jurists on its visit ti Malta on 26-30 September 2011*, May 2012, p. 13.

[12] Human Rights Committee (HRC), *Omar Sharif Baban vs, Australia*, CCPR/C/78/D/1014/2001, 18 September 2003, para. 7.2. See also, HRC, *Saed Shams and others vs. Australia*, CCPR/C/90/D/1255 and others, 11 September 2007, 7.2; HRC, *C vs. Australia*, CCPR/C/76/D/900/1999, 13 November 2002, para. 8.2; HRC, *D and E and their two children vs. Australia*, CCPR/C/87/D/1050/2002, 9 August 2006, para. 7.2; HRC, *A vs. Australia*, CCPR/C/59/D/560/1993, 30 April 1997, paras 9.2 and 9.3; HRC, *Danyal Shafiq vs. Australia*, CCPR/C/88/D/1234/2004, para. 7.2; ECHR Article 5.1.f, ECtHR, *Amuur vs. France*, Case no. 17/1995/523/609, 20 May 1996, para. 43 (relative to ECHR); ECtHR, *Saadi vs, United Kingdom*, Application no. 13229/03, 29 January 2008, para. 67. UN Working Group on Arbitrary Detention (WGAD), *Annual Report*, E/CN.4/1999/69, 18 December 1998, para. 69, guarantee 13.

[13] UN Working Group on Arbitrary Detention (WGAD), *Annual Report 2008*, UN Doc. A/HRC/10/21, 16 February 2009, paras. 67 and 82; *European Guidelines on accelerated asylum procedures*, CMCE, *op. cit.*, fn. 39, principle XI.1. See also, *Conclusion No. 7 (XXVIII) Expulsion*, UNHCR, ExCom, 28th Session, 1975, para. e. See also, *Conclusion No. 44 (XXXVII) Detention of Refugees and Asylum-Seekers*, ExCom, UNHCR, 37th Session, 1986, para. B; *Concluding Observations on Bahamas*, CERD, UN Doc. CERD/C/64/CO/1, 28 April 2004, para. 17.

[14] ECtHR, *Amuur v France*, Case no. 17/1995/523/609, 20 May 1996, para. 50. WGAD, *op.cit.*, fn 9, guarantee 10. CoEComm, *op.cit.*, fn 5, paragraph 16; *Abdolkhani and Karimnia v. Turkey*, ECtHR, Application no. 30471/08, 22 September 2009.

[15] Op. cit. 9; WGAD, *op.cit.*, fns 5 and 8 , guarantee 3; ECtHR, *Saadi v United Kingdom*, Application no. 13229/03, 29 January 2008, para. 72, 74; Resolution 1521(2006) on Mass Arrival of Irregular Migrants on Europe's Southern Shores, Parliamentary Assembly of the Council of Europe, 5 October 2006, para. 16.4.

[16] HRC, *A v Australia*, CCPR/C/59/D/560/1993, 30 April 1997, para. 9.4.

[17] *Louled Massoud v. Malta*, ECtHR, Application no. *24340/08*, 27 October 2010, para. 68.

[18] Report by Thomas Hammarberg, Commissioner for Human Rights of the Council of Europe, following his visit to Malta from 23 to 25 March 2011, Coe Doc. CommDH(2011)17, Strasbourg, 9 June 2011, Summary.

[19] See, *Europe's "boat people": mixed migration flows by sea into southern Europe*, Parliamentary Assembly of the Council of Europe, Doc. 11688, 11 July 2008, available at URL: http://assembly.coe.int/ASP/APFeaturesManager/defaultArtSiteView.asp?ID=777.
[20] See, Article 25A(1), (5), (8) and (9), Immigration Act. See also, ECRI, *op.cit.*, fn 7, paragraph 40.
[21] See, Article 25A(10), Immigration Act.
[22] See, Article 25A(10), Immigration Act. The Board must not release a migrant whose identity has not been verified, in particular, but not only, when the migrant contributed to obstructing the research of his/her identity by, for instance, destroying his/her documents; when elements grounding the application for Refugee status cannot be achieved in the absence of detention; and "when the release of the applicant could pose a threat to public security or public order".
[23] See, Article 25A (1)(a) and (4), Immigration Act.
[24] See, Article 25A(12), *ibidem*.
[25] *Louled Massoud v. Malta*, ECtHR, Application no. 24340/08, 27 October 2010, para. 44.
[26] ICJ, *Not here to stay: Report of the International Commission of Jurists on its visit ti Malta on 26-30 September 2011*, May 2012, p. 33.
[27] HRC, *Omar Sharif Baban vs, Australia*, CCPR/C/78/D/1014/2001, 18 September 2003, para. 7.2. See also, HRC, *Saed Shams and others vs. Australia*, CCPR/C/90/D/1255 and others, 11 September 2007, paras. 7.2 and 7.3; HRC, *C vs. Australia*, CCPR/C/76/D/900/1999, 13 November 2002, paras. 8.2 and 8.3; HRC, *D and E and their two children vs. Australia*, CCPR/C/87/D/1050/2002, 9 August 2006, para. 7.2; HRC, *A vs. Australia*, CCPR/C/59/D/560/1993, 30 April 1997, paras 9.2, 9.3 and 9.5; HRC, *Danyal Shafiq vs. Australia*, CCPR/C/88/D/1234/2004, paras. 7.2 and 7.4; ECHR Article 5.4; ECtHR, *Amuur vs. France*, Case no. 17/1995/523/609, 20 May 1996, para. 43; ECtHR, *Saadi vs, United Kingdom*, Application no. 13229/03, 29 January 2008, para.67; CoEComm, *op.cit.*, Fn 5, paragraph 20.
[28] Article 9(4), International Covenant on Civil and Political Rights (ICCPR).
[29] Article 5(4), European Convention on Human Rights (ECHR).
[30] Concluding Observations on Australia, CCPR, Report of the Human Rights Committee to the General Assembly, 55th Session, Vol.1 UN Doc A/55.40 (2000) para.526; UNHCR Revised Guidelines on Detention, Guideline 5(ii).
[31] ICJ, *Not here to stay: Report of the International Commission of Jurists on its visit ti Malta on 26-30 September 2011*, May 2012. The Ministry of Justice and Home Affairs declared on 28 September 2011 that there were around 750 migrants and asylum seekers in all Malta's detention centres at that time of the ICJ visit. "750 migrants from Libya in detention", *The Times of Malta*, 28 September 2011, at URL: http://www.timesofmalta.com/articles/view/20110928/local/750-migrants-from-Libya-in-detention.386714.
[32] "Migrants riot as police and army fight back", *The Times of Malta*, 17 August 2011, at URL: http://www.timesofmalta.com/articles/view/20110817/local/Migrants-riot-as-police-and-army-fight-back.380561: see also *Concluding Observations of CERD: Malta*, 14 September 2011, UN Doc. CERD/C/MLT/CO/15-20, para. 14.
[33] "Migrants driven to tears", *The Sunday Times,* Malta, 21 August 2011, at URL: http://www.timesofmalta.com/articles/view/20110821/editorial/Migrants-driven-to-tears.381096; and "Forces fired rubber bullets", *The Sunday Times*, Malta, 21 August 2011, at URL: http://www.timesofmalta.com/articles/view/20110821/local/Forces-fired-rubber-bullets.381073.
[34] See URL: http://www.maltatoday.com.mt/en/newsdetails/news/national/Migrant-s-death-intensifies-call-to-revisit-detention-policy-20120702; http://www.hrw.org/news/2012/07/18/malta-migrant-detention-violates-rights; and http://www.unhcr.org.mt/index.php?option=com_content&view=article&id=561:unhcr-calls-for-review-of-maltas-detention-policy&catid=35:slideshow-news&Itemid=135.
[35] See URL: http://www.timesofmalta.com/articles/view/20120909/local/Questions-being-raised-over-2011-migrant-s-death-inquiry.436085.
[36]See URL: http://www.independent.com.mt/articles/2012-07-03/news/irregular-immigration-detention-policy-pm-launches-inquiry-to-meet-ngos-312450/.
[37] Sections 241 and 243, Chapter 9, Criminal Code of the Republic of Malta
[38] Report of the Special Rapporteur on torture, UN Doc A/HRC/22/53 (2013), paras 45-50; report of the Special Rapporteur on the right to health, UN Doc A/66/254 (2011), paras 21 et seq; and views of the Committee on the Elimination of Discrimination against Women, *L.C. V Peru*, Communication 22/2009, UN Doc CEDAW/C/50/D/22/2009 (2011).
[39] See URL: http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G10/464/41/PDF/G1046441.pdf?OpenElement.
[40] See URL: http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G04/452/02/PDF/G0445202.pdf?OpenElement.
[41] This legal regime is based on Articles 257A and 257B of the Civil Code, and Article 8 of the *Marriage Act*.
[42] See, summary of the judgment in Statement of Facts, *Joanne Cassar v. Malta*, Application no. 36982/11, lodged on 1 June 2011.

[43] The initial report to the Committee Against Torture (CAT) was submitted over four years after the deadline; the second periodic report to CAT was submitted almost three years after the deadline; the initial report to the Human Rights Committee (HRC) was submitted over one year after the deadline; the second periodic report to the HRC was submitted over fifteen years after the deadline; the initial report to the Committee on the Elimination of Discrimination Against Women (CEDAW) was submitted over ten years after the deadline; the second periodic report to CEDAW was submitted over seven years after the deadline; the third periodic report to CEDAW was submitted over two years after the deadline; the fourth periodic report to CEDAW was submitted over five years after the deadline; the second to twentieth periodic reports to the Committee on the Elimination of all Forms of Racial Discrimination were submitted from six months to ten years after the deadline, the initial report to CESCR was submitted ten years after the deadline; the initial report to the CRC was submitted over five years after the deadline; the second periodic report to the CRC was submitted over twelve years after the deadline; and the initial report due under the first OP to the CRC was submitted over one year after the deadline.