

Report

to the Georgian Government on the visit to Georgia carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT)

from 25 to 27 March 2023

The Government of Georgia has requested the publication of this report and of its response. The Government's response is set out in document CPT/Inf (2024) 03.

Strasbourg, 18 January 2024

Note: In accordance with Article 11, paragraph 3, of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, names of individuals have been deleted.

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I. INTRODUCTION

A. The visit, the report and the follow-up

1. In pursuance of Article 7 of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter referred to as “the Convention”), a delegation of the CPT carried out a visit to Georgia from 25 to 27 March 2023. It was the Committee's 10th visit to Georgia.¹

2. The visit was one which appeared to the Committee “to be required in the circumstances” (see Article 7, paragraph 1, of the Convention).² The delegation focused its attention on prison healthcare services. In particular, the delegation visited the secure wards of VivaMedi Clinic in Tbilisi,³ where prisoners receiving inpatient treatment were accommodated.

3. The visit was carried out by three CPT members:

- Hans Wolff, 1st Vice-President of the CPT (Head of Delegation)
- Marie Kmecová and
- Vytautas Raškauskas.

They were supported by Borys Wódz, Head of Division at the CPT’s Secretariat and assisted by two interpreters, Kira Chokhuri and Mara Tsakadze.

4. The report on the visit was adopted by the CPT at its 111th meeting, held from 3 to 7 July 2023, and transmitted to the Georgian authorities on 2 August 2023. The various recommendations, comments and requests for information made by the Committee are set out in bold type in the present report. The CPT requests that the Georgian authorities provide within three months a response containing a full account of action taken by them to implement the Committee’s recommendations, along with replies to the comments and requests for information formulated in this report.

B. Consultations held by the delegation and cooperation encountered

5. The delegation held consultations with Rati Bregadze, Minister of Justice, Beka Dzamashvili, Deputy Minister of Justice, Nika Tskhvarashvili, Director General of the Special Penitentiary Service (SPS) and Malkhaz Urtkmelidze, Head of the Medical Department of the SPS.

Further, the delegation met Giorgi Burjanadze, Deputy Public Defender (Ombudsman) and members of the Medical Expert Group appointed by the Public Defender.

6. In the course of the visit, the delegation enjoyed very good cooperation overall from the management and staff of VivaMedi Clinic, especially as regards access to the premises and the possibility to speak with patients in private.

However, despite an express request made in the letter notifying the Committee’s intention to visit the establishment and the corresponding assurances by the Georgian authorities, the delegation was not provided with full, immediate and unrestricted access to the relevant medical files and other documentation on the first day of the visit to the establishment.

1. See <https://www.coe.int/en/web/cpt/Georgia>.

2. It was the CPT’s 4th ad hoc visit to Georgia.

3. See also paragraph 8 below.

Further, neither the General Director nor the Medical Director of VivaMedi Clinic were present on the premises on the first day of the visit, and the delegation could only speak with the duty doctor who clearly had not been informed in advance of the CPT's visit (despite the request having been made in the notification letter) and who was not in a position to reply to many of the delegation's questions.

The delegation met the General Director, the Medical Director and some of the treating doctors, and was able to consult the entirety of the medical files, on the second day of the visit to VivaMedi Clinic (which was a Monday). However, **the Committee hopes that such delays in organising meetings and providing its delegation with access to written information necessary for the carrying out of its task will not occur in the future.**

The aforementioned notwithstanding, the delegation did – on the whole – appreciate the efficient assistance provided to it prior to and in the course of the visit by the Liaison Officer appointed by the Georgian authorities, Ketevan Sarajishvili of the Ministry of Justice.

7. As already mentioned in paragraph 1 above, the CPT has so far carried out 10 visits to Georgia; all of the 9 reports transmitted to the Georgian authorities to date have been published following the authorities' request. The Committee welcomes this.

Nonetheless, in recent years both the Committee of Ministers and the Parliamentary Assembly of the Council of Europe have been encouraging the Organisation's Member States which have not yet done so to request the automatic publication of future CPT visit reports and related government responses.⁴

The Georgian authorities are invited to consider introducing the automatic publication procedure in respect of all future CPT visit reports concerning Georgia and the related Government responses, subject to the possibility of delaying publication in a given case.

4. See, in particular, Parliamentary Assembly Resolution 2160 (2017) adopted on 26 April 2017, and Committee of Ministers' reply to Recommendation 2100 (2017), adopted at the 1301st meeting of the Ministers' Deputies of 29 November 2017. See also <http://www.coe.int/cpt/automatic-procedure>.

II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED

1. Preliminary remarks

8. VivaMedi is a private clinic located in the Didi Dighomi district of Tbilisi, with which the Ministry of Justice in 2019 signed a contract for the provision of inpatient, diagnostic and outpatient healthcare to prisoners, the basic criteria being the lack of available beds and/or specialists⁵ in the Prison Hospital (Penitentiary Establishment No. 18 located in the Gldani district of Tbilisi⁶). Apart from emergencies, the average waiting time for transfer to VivaMedi Clinic (for scheduled interventions) was said to be between one and five months.

At the time of the CPT's visit, three wards of the eight-storey building of VivaMedi Clinic (hereafter referred to as Floors 4, 5 and 6) were used to accommodate prisoners, with a theoretical capacity of 30 beds per ward (although the Medical Director told the delegation that the Clinic had never in practice accommodated more than 30 prisoners at a time).

Floor 4 had 11 rooms and was accommodating ten patients (including two women), mostly in post-operative care. Floor 6 had 9 rooms and was accommodating eleven male patients receiving specialist treatments (internal medicine, cardiology, oncology, haematology etc.) as well as two prisoners hospitalised due to prolonged hunger strikes,⁷ whilst Floor 5 was accommodating only one patient, the former President of Georgia. The three wards were secured and guarded by custodial staff from the Special Penitentiary Service.⁸ In addition, three prisoners were hospitalised in the Clinic's intensive care unit.

2. Ill-treatment

9. In the course of the visit, the delegation heard no allegations of ill-treatment of patients by staff working on the three secure wards of VivaMedi Clinic. The atmosphere appeared to be relaxed (especially on Floors 4 and 6) and several patients spoke positively of both the healthcare and custodial staff. As for inter-patient violence, it did not seem to be an issue in the parts of the Clinic used to accommodate prisoners.

10. However, the delegation was informed by the Public Defender's Office of two complaints made by prisoners, regarding ill-treatment by custodial staff working at VivaMedi Clinic.

In the first complaint, Mr A complained that he had been verbally abused and physically (including sexually) assaulted by several custodial officers on 10 October 2022. In the second complaint, Mr B referred to an incident on 22 October 2022, in the course of which a custodial officer had reportedly verbally abused him and attempted to forcefully remove the drain attached to his stomach; further, the custodial officer had allegedly put a lit cigarette near the inmate's genitals and then on one of his shoulders.

Investigations into both of the aforementioned complaints have been initiated by the Special Investigation Service. **The CPT would like to be informed, in due course, of the outcome of both investigations (including any disciplinary and/or criminal sanctions applied vis-à-vis custodial staff working at VivaMedi Clinic).**

5. The contract specifically refers to the provision of surgical, cardiological, internal medicine, orthopaedic, traumatological and oncological care but, as the delegation was told, this list is not exhaustive.

6. Visited by the CPT several times in the past, most recently during the 2018 periodic visit (see paragraphs 91 and 92 of document [CPT/Inf \(2019\) 16](#)).

7. They had been transferred to the Clinic due to the severity of their somatic condition but were not subjected to any forceful measures (feeding or medication), pursuant to the national Guidelines on managing persons on hunger strike issued in November 2021. The Medical Director of VivaMedi Clinic told the delegation that only life-saving measures, if patients became unconscious, would be performed without consent.

8. See paragraph 18 below.

11. Further, the delegation was informed of a formal complaint made by Mr C concerning the alleged physical ill-treatment by custodial officers who had transferred him from Prison No. 12 in Rustavi to the Prison Hospital in November 2021. Mr C alleged that five custodial officers had assaulted him, held him (including by his neck) to the floor in a painful and humiliating position and punched him several times. He stated that the pretext for the ill-treatment was that the custodial officers wanted to seize his watch, the wearing of which was reportedly not permitted in the Prison Hospital. Investigation into these allegations had been opened by the Special Investigation Service.

The Committee requests to be informed of the outcome of the above-mentioned investigation.

3. Living conditions

12. Material conditions in the secure part of VivaMedi Clinic were on the whole adequate, as could indeed be expected from a healthcare facility. Patients' rooms were spacious (for example, a single room measuring some 15 m², a double room measuring some 40 m² and a room with six beds accommodating three patients measuring approximately 60 m²),⁹ well-kept and clean. Ventilation and artificial lighting were good as well. Further, patients had unrestricted access to good-quality toilets, washing and shower facilities, and those without their own financial resources were offered basic personal hygiene items. Also, the provision of food and clothing (if needed) posed no problem.

Almost all the rooms had large windows allowing plenty of natural light and offering a pleasant outside view. However, this was not the case with Mr C's quarters, where windows could hardly be opened and were fitted with frosted glass depriving him (ever since his admission to the Clinic, more than 9 months previously) from an outside view. In this context, the Georgian authorities informed the CPT, in their letter dated 12 April 2023, that the frosted glass had been removed and Mr C was enabled to enjoy outside view and sunlight. The Committee welcomes this positive step.

Mr C's premises were well furnished (including a sofa, a table, chairs and a fridge) but this was far from being the case on Floors 4 and 6, where patients' rooms mostly only contained beds (with bedding) and small cupboards. There were no tables and chairs (except in a few rooms accommodating more severely ill patients), which meant that patients could only take their meals sitting on their beds (there were no dedicated canteens or dining rooms) whilst most of the patients the delegation saw clearly were not bedridden. **The Committee recommends that steps be taken to improve the furniture in patients' rooms on Floors 4 and 6 of VivaMedi Clinic, in light of the above remarks.**

13. Only Mr C had access to some means of distraction (such as television, print and online media). Other patients could borrow books from a very small library (or receive books from home) but had no access to TV, radio and press. Moreover, none of the patients had access to daily outdoor exercise (there was no yard).

Whilst this was not necessarily a problem for the majority of the patients who remained at VivaMedi Clinic for only a few days (the usual stay being between a few days and two weeks), several (at least three) patients had stayed there for much longer periods, including one patient for 5 months and another (Mr C) for over 9 months.

For those patients, to be deprived of the possibility to go outdoors to the fresh air, expose themselves to sunlight and (to the extent that their health allowed) exert themselves physically was not only oppressive but also anti-therapeutic. Furthermore, some of the patients had been accommodated alone in their room, without any real possibility of association, on occasion for

9. The premises occupied by Mr C were particularly generous in size, with a day room and a bedroom measuring in total approximately 20 m² (fully-partitioned bathroom excluded).

prolonged periods. This was *inter alia* the case with Mr C, whose regime could be considered as resembling solitary confinement.¹⁰

The CPT recommends that urgent steps be taken to remedy the above-mentioned deficiencies, and in particular provide the possibility of daily outdoor exercise, offer access to television, radio and newspapers, and enable patients accommodated alone to have meaningful human contact (at least 2 hours per day) with fellow patients or dedicated and duly trained staff.¹¹

4. Treatment and healthcare staff

14. It should be stressed that all prisoners transferred to the secure wards of VivaMedi Clinic had consented to being treated there¹² (indeed, in most of cases, they or their lawyers had actually requested the transfer) and that, in their overwhelming majority, they expressed satisfaction with the treatment received.

15. Unsurprisingly, patients accommodated on the three secure wards of VivaMedi Clinic had access to a wide range of somatic treatments¹³ dispensed at the Clinic's numerous doctors¹⁴ and other medical professionals.

In addition, a general practitioner was on duty from 9.30 a.m. to 5 p.m. on working days (whilst after 5 p.m. and on weekends the duty doctor of the Internal Medicine Department of VivaMedi Clinic was in charge of Floors 4, 5 and 6) and each ward had four dedicated nurses and four orderlies, with at least one nurse and one orderly present on each ward at any given time. On the whole, this appeared to be sufficient. Also, the Clinic's medical equipment (including life-saving equipment such as defibrillators and oxygen) and supplies of medication and relevant materials seemed not to pose any problem.

16. There was, however, a major issue of concern, namely the quality of medical records. The delegation's doctors saw medical files of some of the prisoners (in particular that of Mr C) and it was clear that there was no proper comprehensive, chronological recording system. Every doctor seemed to have their own records, and it was impossible to gain a proper overview of the patient's medical history without speaking with them all and attempting to compile information, which was otherwise scattered in a quite chaotic manner across various files, registers and paper documents.

This also revealed the lack of real individual treatment plans and a multi-disciplinary approach, with doctors apparently having little or no knowledge of the treatments administered to the patients by their colleagues of different specialities. In the case of Mr C, it appeared that at least some of his symptoms and pathological findings had not been sufficiently investigated.¹⁵

The Committee recommends that the aforementioned deficiencies be eliminated.

10. See also paragraph 21 below.

11. See paragraph 18 below.

12. Obviously, this did not apply to patients transferred to the Clinic's ICU in medical emergencies.

13. See paragraph 8 above.

14. According to the Medical Director, VivaMedi Clinic employed *inter alia* specialists in intensive and resuscitation medicine, general practitioners, internists, surgeons, traumatologists, cardiologists, neurologists and neuro-surgeons, haematologists, orthopaedists, angiologists, gynaecologists and anaesthesiologists.

15. Out of respect for medical confidentiality, no details of Mr C's symptoms and diagnoses are mentioned here; however, Mr C authorised the Committee to provide these details separately (in a confidential manner) to the Georgian authorities, if deemed necessary.

17. Another serious deficiency was that the Clinic employed neither psychiatrists nor clinical psychologists. In principle, whenever needed, the Clinic could purchase such specialist services from outside consultants (and the Ministry of Justice would cover the cost) but the situation of Mr C provided evidence that this did not work well in practice. Without wanting to dwell into the details of his medical condition, the offer in terms of mental health care (including psychological assistance) was obviously scarce and sporadic at best.¹⁶

The CPT recommends that steps be taken to improve access to mental health care (including psychological assistance) to prisoners transferred to the secure wards of VivaMedi Clinic. In this context, reference is also made to the remarks and recommendations in paragraph 13 above and paragraph 19 below.

5. Security

18. It was very conspicuous that security considerations prevailed over medical ones on Floors 4, 5 and 6 of VivaMedi Clinic.

Custodial staff from the Special Penitentiary Service¹⁷ (some of them in civilian clothes, some uniformed and carrying weapons and handcuffs in a visible manner) not only controlled the entrances to the wards but were also continuously present inside the patient accommodation areas and were the primary contact persons for patients in all matters related with their daily life on the ward.

Only the custodial staff had the keys to all the premises (healthcare staff having to ask them for permission to enter), they decided which patient was allocated to which room, they had wide access to patients' medical information (diagnoses, prescribed medication and dosages) and it was for them to decide whether they would be present (or not) during medical consultations, and if so then in which way.¹⁸

All this did not befit a healthcare establishment.

19. On Floor 5 (where Mr C was accommodated) the atmosphere was rendered even more oppressive by the presence of CCTV cameras in every part of the floor where the patient could find himself at any given moment, including in consultation and procedure rooms but excluding the toilet and shower.¹⁹

He had 3 CCTV cameras inside his quarters (the two rooms where he stayed most of the time), one of them constantly filming him in his bed. Not only did this arrangement violate the patient's privacy, but it was also disrespectful of his human dignity.

It was obvious that the purpose of the CCTV monitoring had nothing to do with the therapeutic process: doctors and nurses were not aware of the supervision scheme of the cameras (locally or centrally at the Ministry of Justice) and did not even know if the CCTV monitoring recorded sound or not.²⁰

Furthermore, as a consequence of the above, supervision of the patient was primarily carried out by custodial officers and not by health-care staff (and the former decided each time whether the presence of the latter was required).

16. Details (especially regarding the frequency of consultations) can be provided upon request.

17. Five to eight per ward (at any given shift), including at least one female officer at a time on Floor 4.

18. Although both patients and healthcare staff told the delegation that, usually, custodial staff would stay in front of the open door (within view but not hearing distance from the patient and doctor).

19. There were CCTV cameras on Floors 4 and 6 too, but they only covered the entrances and the corridors, not the patients' and consultation rooms.

20. At the end of the visit, the delegation was told by senior officials from the Ministry of Justice that the cameras did not record sound and that the footage was transmitted and kept at a central office/server at the Ministry.

Given that, without exception, all medical consultations and procedures with respect to him took place in rooms covered by CCTV, the delegation's doctors were hardly surprised to hear from him that he had no trust in the staff and that he feared that sensitive information regarding his medical condition was being passed on to the prison administration and to other unauthorised persons (including journalists, see below).

20. To sum up, the security arrangements on Floors 4, 5 and 6 of VivaMedi Clinic were excessive and incompatible with creating a therapeutic environment. On Floor 5 in particular, the procedures in place amounted to a total denial of medical confidentiality which damaged the necessary trust between the patient and healthcare staff and undermined the prospects of improving his medical condition.

This deplorable situation was further exacerbated by the rules governing the handling of patients' medical data: patients' consent was only sought for providing medical information to their lawyers; otherwise, it was the Special Penitentiary Service that decided about access to health information, in obvious violation of the principle that non-medical staff should only be provided such information on a strictly need-to-know basis.²¹

Furthermore, on a number of recent occasions, statements had been made to the media by the Clinic's doctors and the SPS or Ministry of Justice staff (or other senior officials and even political figures affiliated with the authorities) concerning Mr C's health condition, treatments and attitude to the proposed therapy, manifestly without seeking his prior consent. This represented another flagrant breach of medical confidentiality. In this context, **reference is made to the remarks and recommendations in paragraph 24 below.**

6. Other issues

21. The delegation was very concerned to observe that patients placed on the three secure wards of VivaMedi Clinic had extremely limited opportunities to maintain contact with the outside world: with rare exceptions (one of these being Mr C²²), visits were prohibited and so were telephone calls (apart from one call upon arrival).

This was of particular concern as regards patients who remained in the Clinic for prolonged periods (for example, more than two weeks); moreover, such restrictive arrangements were contrary to the provisions of the Imprisonment Code concerning prisoners' visits and telephone calls²³ while, legally speaking, patients accommodated on the three secure floors were all prisoners.

In the CPT's view, the current situation is unacceptable. **The Committee recommends that urgent steps be taken to ensure that the relevant provisions of the Imprisonment Code are, as a rule, fully applied vis-à-vis prisoners sent for medical treatment to VivaMedi Clinic** (to the extent that visits and calls are compatible with their medical condition, to be assessed and decided by doctors on each occasion).

22. Another issue of concern was the total absence of any written information for patients (on the house rules and on their rights). Further, there seemed to be no formalised and functional complaints procedure: the Medical Director told the delegation that patients could only complain orally to the staff, and there was no possibility to send confidential complaints to outside bodies. **The CPT recommends that both the aforementioned lacunas be eliminated as a matter of priority.**

21. This means that any medical information provided to non-medical staff should be limited to that necessary to prevent a serious risk for the patient or other persons, unless the patient consents to additional information being given.

22. Who could be visited by his mother, mainly so that she could bring him the food that he agreed to eat.

23. See paragraph 102 of the report on the CPT's 2018 periodic visit to Georgia ([CPT/Inf \(2019\) 16](#)).

7. Concluding remarks and recommendations

23. As things stand at present, despite the overall acceptable living conditions (see, however, paragraphs 12 and 13 above) and the availability of a range of medical specialists and treatments,²⁴ the three secure wards of VivaMedi Clinic fail to offer a proper therapeutic environment, due to the final word on all essential matters belonging to custodial (and not healthcare) staff and to the total lack of respect to patients' privacy and medical confidentiality.

In the case of Mr C, although he has access to a range of medical specialists and treatments, the combination of factors such as being held alone for many months, being deprived of outdoor exercise and being subjected to permanent CCTV monitoring results in a situation that is oppressive, degrading and not conducive to improving his health condition.

24. In the Committee's view, the only means to remedy this regrettable state of affairs is to introduce the management of the Clinic's healthcare staff over the three secure wards, so as to enable them to create a therapeutic and trust-based environment.

Whilst it is legitimate for the Special Penitentiary Service to exercise access control with respect to persons external to the Clinic, in order to prevent escapes and smuggling of prohibited objects, any other restrictions in movement within the floors (for the patients and healthcare staff) should be subject to authorisation by the doctors. Further, as already mentioned in paragraph 18 above, non-medical staff should have no access to medical information (except on a need-to-know basis, to be decided by the doctors).

Uniformed and armed custodial officers should not be present on a continuous basis inside the secure wards; their presence should be justified in individual cases by the risk that particular patients represent (for example, the risk of violence vis-à-vis the staff and fellow patients, risk of agitation and self-harm), and that risk should be assessed in consultation with healthcare staff. The decision to call custodial officers into the ward should belong to healthcare staff who should have full authority over any such interventions.

As regards the presence of CCTV cameras, especially the permanent surveillance of Mr C, the current arrangement should be reviewed as a matter of priority. Admittedly, permanent surveillance is only applied to one patient who has had a history of difficult (though not physically violent) relations with the Clinic's staff and a record of behaviour that might be interpreted as a form of self-harm (for example, refusal to accept the food offered by the Clinic and to follow some of the proposed treatments); however, at least at the time of the delegation's visit, the measures applied (which represented a flagrant incursion into the patient's privacy) appeared to be disproportionate to the potential threat. The same objective could have been achieved by ensuring, if and as needed, adequate presence of healthcare staff.

Steps must also be taken (in the form of relevant instructions) to ensure that no confidential medical information regarding the patients (including Mr C) is communicated, without the patient's consent, to non-medical staff (never mind outside persons, such as media representatives). Exceptions to this principle may only be those set out in the relevant Georgian legislation (for example, Section 28 (1) of the Patient Rights Act²⁵).

24. With the notable exception of psychiatrists and clinical psychologists, see paragraph 17 above.

25 "1. Medical care providers may disclose confidential information if:

a) the patient agrees;

b) the non-disclosure of information poses a risk to the life and/or health of third persons (whose identities are known);

c) while using patient information for educational or scientific purposes, the data are represented in such a way that patients cannot be identified;

c1) the information relates to the possible commitment of domestic violence and/or there is danger of repeat violence and such information is provided

only to the appropriate governmental agency to protect the patient's rights and interests;

d) it is provided for in the legislation of Georgia."

Such confidential medical data could also be transmitted to legally authorised organs of inquiry (such as prosecutors and investigators, in the context of ongoing investigations) and to national (NPM) and international monitoring bodies, within the limits of their legal mandates and while respecting the confidential character of the data.

The CPT recommends that the manner of functioning of the secure wards at VivaMedi Clinic be reformed in light of the above-mentioned remarks. The Committee expects to receive a detailed outline of the steps taken in the Georgian authorities' response to this report. In this context, the CPT also wishes to receive information on measures taken to address the Committee's specific concerns with respect to the conditions of detention of Mr C, described in paragraphs 13, 16, 17, 20 and 24.

25. More generally, the delegation's findings from this visit confirm the CPT's impression about the persistent problem of the lack of professional independence of healthcare staff working with prisoners.²⁶

In this context, the Committee remains of the view that a long-contemplated transfer of responsibility for prison healthcare services to the Ministry of Internally Displaced Persons from the Occupied Territories, Labour, Health and Social Affairs is both indispensable and overdue. **The CPT calls upon the Georgian authorities to proceed with such a transfer without further delay.**²⁷

26. As observed during previous CPT visits to Georgia, see for example paragraph 93 of the report on the 2018 periodic visit ([CPT/Inf \(2019\) 16](#)) and paragraph 28 of the report on the 2021 ad hoc visit ([CPT/Inf \(2022\) 11](#)).

27. See also the "[Strasbourg Conclusions on Prisons and Health](#)", issued at the end of the May 2014 joint World Health Organization (WHO)/Council of Europe international expert meeting "Prison Health in Europe: Missions, Roles and Responsibilities of International Organizations".