

Response

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

from 25 to 27 March 2023

The Government of Georgia has requested the publication of this response. The CPT's report on the 2023 visit to Georgia is set out in document CPT/Inf (2023) 02.

Strasbourg, 18 January 2023

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.

*Comments of the Government of Georgia on the report of the
European Committee for the Prevention of Torture and Inhuman
or Degrading Treatment or Punishment (CPT) on its ad hoc visit
to Georgia from 25 to 27 March 2023*

Prepared by the Ministry of Justice of Georgia

November 2, 2023

Introduction

The delegation of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) carried out *ad hoc* visit to Georgia in the period of 25-27 March 2023. The delegation visited civil sector clinic (VivaMedi) and examined the healthcare services provided to the prisoners, who are serving sentence there due to the health conditions.

The CPT submitted its *ad hoc* visit report to the Ministry of Justice of Georgia (MOJ) on 2 August 2023. The present document responds to the certain issues raised in the report.

The MOJ is pleased to receive positive observations by the CPT delegation, specifically on the following:

- *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;*
- *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;*
- *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), well-kept and clean;*
- *Ventilation and artificial lighting were good as well;*
- *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;*
- *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;*
- *[Mr C]'s premises were well furnished (including a sofa, a table, chairs and a fridge);*
- *[Mr C] had access to some means of distraction (such as television, print and online media);*
- *All prisoners transferred to the secure wards of VivaMedi Clinic had consented to being treated there (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;*

- *Patients accommodated on the three secure wards of VivaMedi Clinic had access to a wide range of somatic treatments dispensed at the Clinic's numerous doctors and other medical professionals.*

These positive observations clearly reflect the spirit of the MOJ to fully cooperate with CPT as well as the quality of treatment and healthcare services provided to inmates.

MOJ comments on the issues raised in the CPT ad hoc report

Paragraph 6: [...] 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.

[...] 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.

Comment of the MOJ: It is noteworthy that no obstacle was caused by the Special Penitentiary Service. Any technical hindrance to the visit on the first day was because of the fact that the visit of the delegation to the VivaMedi Clinic took place on Sunday, when the majority of the staff, including the management of the VivaMedi Clinic is having a day off and no visits of patients are allowed. On the second day of the visit, the delegation had unhindered access to the required documentation/information and met the management of the Clinic.

Requested information on all 3 cases referred to paragraphs 10-11 are attached: Annexes 1-3.

Paragraph 12: 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.

Paragraph 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.

Comment of the MOJ:

Ministry of Justice of Georgia and Special Penitentiary Service took into account the recommendations of CPT delegation and implemented the most efficient measures to timely respond the issues raised by the Committee members related to the services for inmates in medical-clinic VivaMedi. In particular:

1. Six wards of medical-clinic VivaMedi where the inmates undergo medical treatment, have been equipped with tables and chairs;
2. Based on the risks of each convict and security arrangements, two additional wards were provided with TVs;
3. Phones were installed to ensure communication between inmates and family members, lawyers, legal representatives or any other relevant institutions.

The information about the measures implemented along with relevant photocopies was officially communicated to the CPT on 12 April 2023 (before the adoption of the report).

Paragraph 13: 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.

Paragraph 21: [...] 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).

Comment of the MOJ:

The Ministry of Justice of Georgia and Special Penitentiary Service take all the necessary measures, in line with the recommendations of the medical personnel and the medical condition of inmates/convicts, to ensure their access to the rights enshrined in the Imprisonment Code of Georgia and relevant legislation. For that aim telephones were installed in VivaMedi Clinic for the inmates in order to provide access via phone communication to family members, lawyers, legal representatives or any other relevant institutions. Moreover, the work for the creation of the walking area for the inmates is underway.

As for the contact with outside world of inmate [Mr C] it should be noted that he enjoys frequent visits from his family members, members of parliament, lawyers, and consular staff of Ukraine. In fact, inmate's family member is visiting [Mr C] every day and is having unlimited access to him. Since 1 October 2021 more than 2600 visitors met [Mr C], while in VivaMedi Clinic more than 1850 persons visited [Mr C]. Apart from that, inmate C constantly refuses to exercise his right to outdoor activity. Having in mind the abovementioned factual circumstances, the Georgian authorities cannot share the CPT assessment that the regime of [Mr C] is resembling "solitary confinement".

When it comes to the access of inmates to fresh air and daily outdoor exercise, the current practice should be taken into account which suggests that mainly patients with surgical problems are admitted to the clinic and the average length of their stay in the hospital is 3-5 days (with some exceptions), while the average length of stay for therapeutic patients is 5-7 days (with some exceptions). Therefore, the urgent necessity for the outdoor activities have never raised. However, the Special Penitentiary Service, in cooperation with the clinic, will work on the creation of needed infrastructure to insure access to outdoor activities for the inmates placed at the clinic.

Paragraph 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.

Comment of the MOJ: Production of medical records of the patients (including convicts/defendants) placed in the civil sector clinic is fully the responsibility and competence of the clinic. The production of the inpatient medical documentation in medical institutions is required to carry out in accordance with the Order N108/N of the Minister of Labor, Health and Social Protection dated March 19, 2009 "On the Approval of the Rules for Production of Inpatient Medical Documentation in Medical Institutions". The medical records are subject to frequent changes and updates according to the medical treatment of the patient and are finalized upon the completion of the treatment.

Paragraph 16: [...] 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 specialties. In the case of [Mr C], it appeared that at least some of his symptoms and pathological findings had not been sufficiently investigated. **The Committee recommends that the aforementioned deficiencies be eliminated.**

Comment of the MOJ: Alleged lack of individual treatment plans and a multi-disciplinary approach towards [Mr C] was also raised before the European Court of Human Rights (ECtHR). Upon the request of the ECtHR and in response to the applicant, the Government of Georgia submitted the individual treatment plan to the ECtHR which did not find any deficiency and rejected [Mr C]'s request to impose interim measure on Georgia.

Paragraph 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. 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.

Comment of the MOJ: The Ministry of Justice notes that one of the main reasons for cooperation with VivaMedi Clinic is its multi-profile character. As indicated in the medical card of [Mr C] number of medics from various fields are involved in his treatment. All the medical personnel when performing their duties act in accordance with the Law of Georgia “On Health Protection” and the Law of Georgia “On Medical Activity”, which guarantees independence of medical activities.

Since the day of his placement in the Penitentiary System [Mr C] has been receiving (subject to his consent) an adequate and high-quality medical treatment. All the necessary examinations and treatments prescribed by the doctors are in line with the guidelines and protocols developed and recognized for the particular diseases.

It should be noted that [Mr C] repeatedly refused to consult a psychologist and a psychiatrist, which is confirmed by the relevant documentation. Even after CPT visit, upon the recommendation of CPT delegation, Special Penitentiary Service has offered the treatment of psychiatrist to [Mr C]. The inmate was also given the liberty to bring any psychiatrist of his choice for the treatment, however, he once again refused all options referring the lack of time for psychiatrist’s assistance.

The Clinic has a psychiatrist and upon necessity can involve a clinical psychologist in the treatment process, however inmate [C] refuses the involvement of psychiatrists in his treatment.

Paragraph 18: It was very conspicuous that security considerations prevailed over medical ones on Floors 4, 5 and 6 of VivaMedi Clinic [...]. All this did not befit a healthcare establishment.

Paragraph 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.

Comment of the MOJ: Under the Article 121¹ of the Penal Code when admitting defendants/convicts to civil clinic a temporary security checkpoint is organized in the receiving hospital. Security checkpoint consists of members of the escort team who provide protection and surveillance and when necessary is reinforced by other staff of the penitentiary system. During the placement of the defendants/convicts in the clinic, security is maintained in order to avoid any kind of incidents. In performing their duties relevant staff of the penitentiary service fully take into account the recommendations of the medical personnel, they do not involve in the medical activities and do not

access any medical documentation, unless given directly by the medical staff of the clinic. Only medical staff is responsible for the treatment of the inmates.

As for the video surveillance of [Mr C], it is conducted in full compliance with the national legislation. The presence of CCTV cameras is required to insure [Mr C]'s security. It also serves to respond the allegations on torture and/or inhuman/degrading treatment against [Mr C].

Paragraph 20: [...] 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.

[...] 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.

Comment of the MOJ: The medical confidentiality of all inmates in VivaMedi is duly protected. Any statement in media regarding [Mr C]'s health conditions was made in response to allegations of mistreatment and deterioration of his health.

Paragraph 22: [...] 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.**

Comment of the MOJ: The Ministry would like to inform the CPT that relevant work for the placement of the so-called complaint boxes at the Clinic has been completed and convicts/defendants admitted to the Clinic have a possibility to send confidential complaints.

Paragraph 25: [...] 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.**

Comment of the MOJ: Penitentiary healthcare is a part of the Public Health system and the provision of medical services to the accused/convicts is carried out in full compliance with the health care legislation of the country. Infrastructure and material-technical equipment of the medical unit operating in each penitentiary institution, as well as the N18 prison hospital (has official permit from the Ministry of Healthcare) is functioning in accordance with the healthcare requirements. Medical care in prison establishments is conducted based on national recommendations (guidelines) and state

standards (protocols) for clinical management by doctors holding state certificates for independent medical activity and certified nurses with proper medical education. All medical services are provided free of charge and if necessary, inmates are transferred to the relevant civil sector clinic. It is noteworthy that over the years the penitentiary system has been successfully implementing state programs for tuberculosis management, HIV/AIDS, hepatitis C elimination, methadone replacement (detoxification), diabetes, dialysis and prosthetic and orthopedic devices. In view of all the mentioned, the inmates are provided with equivalent civilian medical services, which clearly confirms the close integration of the penitentiary health care with the national health care system.