

Proposed new law on mental health in Georgia

Preamble

Georgia, as a democratic state, recognizes that mental health is a fundamental aspect of human health and is an indispensable condition for the well-being of society and that the protection of the rights of people with mental, behavioral or neurodevelopmental disorders is an obligation of the State, and by this Law determines the legal and organizational basis for mental health support.

Comment: This is an adaptation of the present law. The term “mental, behavioral or neurodevelopmental disorders” corresponds to the relevant chapter of the International Classification of Diseases from the World Health Organization.

Chapter 1 – General provisions

Article 1: Legal basis for mental health activities

The legal basis for mental health activities are;

- the Constitution of Georgia,
- the treaties and international agreements of Georgia, and in particular the United Nations convention on the rights of persons with disabilities ratified by Georgia on the 13th of March 2014,
- the Law of Georgia on Patients' rights, the Law of Georgia on Health Care, the organic law of Georgia “Local Government Code”, this Law, and other legislative and subordinate statutory acts,
- The law of Georgia on medical practice

Comment: The United Nations convention on the rights of persons with disabilities having been ratified by Georgia, it has to be implemented in the mental health activities

Article 2: Scope of the law

1. This law applies to the promotion and prevention of mental health, to mental health care in the health system, and to all forms of support in the community for people with people with mental, behavioral or neurodevelopmental disorders
2. This Law applies to citizens of Georgia, stateless persons and citizens of foreign countries who are on the territory of Georgia and need mental health care.

Article 3: Definition of terms

1. For the purposes of this Law, the terms used in this law have the following meanings:

- a) Mental health: a state of well-being in which the individual realizes his or her own abilities, can cope with the normal stresses of life, can work productively and fruitfully, and is able to make a contribution to his or her community¹.
- b) Mental, behavioral or neurodevelopmental disorders (in this law, mental disorders): mental, behavioral and neurodevelopmental disorders are syndromes characterized by clinically significant disturbance in an individual's cognition, emotional regulation, or behavior that reflects a dysfunction in the psychological, biological, or developmental processes that underlie mental and behavioral functioning. These disturbances are usually associated with distress or impairment in personal, family, social, educational, occupational, or other important areas of functioning².
- c) Psychiatry: a branch of medicine focused on the diagnosis, treatment and prevention of mental, behavioral or neurodevelopmental disorders
- d) Psychiatrist: a physician who specializes in psychiatry
- e) Psychology: an academic and applied discipline that involves the scientific study of mental functions and behaviors.
- f) Psychologist: a professional specializing in psychology.
- g) Forensic psychiatry: a subspecialty of psychiatry in which scientific and clinical expertise is applied in legal contexts involving civil, criminal, correctional, regulatory, or legislative matters, and in specialized clinical consultations in areas such as risk assessment or employment.
- h) Mental health care: a set of measures aiming at the examination, treatment and rehabilitation of a person with a mental disorder and the prevention of exacerbation, and at the facilitation of social adaptation and community reintegration.
- i) Mental health institution: a medical institution, a unit of a medical institution having an appropriate license or a shelter which provides mental health care, as detailed in chapter 9.
- j) Community service: a service having an appropriate license, which provides mental health care in a domiciliary setting as detailed in chapter 9
- k) Rehabilitation: to prepare someone to resume normal life after an illness, or to restore to their former status
- l) Psychosocial rehabilitation: to teach emotional, cognitive, and social skills that help those diagnosed with mental disorders live and work in their communities as independently as possible.
- m) Consent to treatment: permission given by a person before they receive any type of treatment, test or examination. It must be done based on an explanation by a clinician and must be voluntary and informed, and the person consenting must have the capacity to make a conscious decision.
- n) Involuntary treatment: a legal process through which an individual who is deemed by a qualified professional to have symptoms of severe mental disorder is ordered by a court into treatment in a mental health institution or in a community service.
- o) Capacity to make a conscious decision: ability of a person to use and understand information concerning his/her own mental health, the goal of medical intervention and the expected result of medical treatment in order to take a decision, and to communicate any decision taken.
- p) Clinical head of a mental health institution or of a community service: a psychiatrist who is leading the process of mental health support in a mental health institution or a community service.
- q) Special committee of a mental health institution: a committee operating in a mental health institution for the purposes of the evaluation of the mental health of a patient subject to compulsory mental health

¹ From <https://www.who.int/news-room/fact-sheets/detail/mental-health-strengthening-our-response>

² From <https://icd.who.int/dev11/f/en#/http%3a%2f%2fid.who.int%2f%2fid%2f334423054>

treatment, whose composition and rules of operation are determined by an ordinance approved by the Minister of Labour, Health and Social Affairs of Georgia.

- r) Nominated person: a person designated by a person with mental disorder involved in relation to a person's treatment, care or support. The nominated person is required to be notified and supplied with information when various things are done under this Act. A nominated person can be a close relative or a close friend, a carer, a neighbor or any other individual.

Comment : as a person may not be in good relations with his or her nearest relatives (see below), it is important to let the possibility for persons with mental disorders to choose a trusted individual who will make the choices when he or she is not able to make a conscious choice.

- s) Nearest relative: the person first described below who is for the time being surviving, relative of the whole blood being preferred to relatives of the same description of the half-blood, and the elder or eldest of two or more relatives, regardless of sex:
 - (a) Spouse.
 - (b) Child, foster child.
 - (c) Parent, foster parent.
 - (d) Sibling.
 - (e) Grandparent, foster grandparent.
 - (f) Grandchild; foster grandchild.
 - (g) Aunt or uncle.

Comment: in both the Law on the Rights of Patients and the Law on Health Care, the term "patient's relative" is defined as a person who enjoys a preferred right to participate in decision making as it relates to the provision of medical care for a patient or after a patient's death.¹⁸ However, no legislation actually establishes the order of persons enjoying this preferred right to participate in the decision-making process. The definition of the term "patient's relative" is therefore dangerously vague and let courts decide on a case by case basis. This definition is taken from UK and may be adapted

- t) Physical restraints: a coercive approach of reducing a patient's physical movement, which aims to ensure safety and maintain necessary treatment when a patient poses life-threatening risks.
- u) Mental health or mental health advance directive: a legal tool that allows a person with mental illness to state their preferences for treatment in advance of a crisis. They can serve as a way to protect a person's autonomy and ability to self-direct care exclusively in cases when the person lacks the functional capacity to make and communicate his/her will and preferences.

Comment: The absence in the present law of advanced directive is a serious problem, which is not in line with international practice and is addressed in our draft.

- v) Certification: The purpose of certification is to demonstrate that specified requirements are met. The requirements are usually based on international standards.
- w) Accreditation: Accreditation is the determination and demonstration of competence. The goal of accreditation is to demonstrate the reliability of the results and/or the credibility of the certificates issued by the body.
- x) Child: any person under age 10

y) Adolescent: any person between ages 10 and 19³

2. For the purposes of this Law, the following terms are defined in the Law of Georgia on Patients' rights:

- Informed consent
- Patient's legal representatives

Comment:

We have decided not to redefine terms which are defined in other legislations such as the Law on Patients' Rights, and the Law on Health Care.

However, there are contradictions between these laws. The Law on Health Care and the Law on Public Health provide significantly different definitions of "informed consent," creating a conflict in both letter and spirit of the law. Under the Law on Health Care, "informed consent" is the consent of the patient, his or her relative, or legal representative to perform a necessary medical intervention after the risks of the procedure have been explained. This definition covers only a small subsection of the definition of "informed consent" under the Law on the Rights of Patients, which also indicates that the patient has to be informed of the essence of the proposed treatment as well as its necessary results, expected results, alternative options of treatment and their risks and effectiveness, expected results of refusal of medical care and other accompanying financial and social issues regarding the proposed treatment. We have chosen the most extensive definition in the interest of the patient, when the previous law on psychiatry was including another definition.

It would be better for Georgia to have a public health code, gathering all health legislation in a logical way in order to avoid contradictions between laws, instead of a collection of laws sometimes contradicting each other.

3. For the purposes of this Law, the following terms are defined in the Law of Georgia on Health Care:

- National Practice Recommendations (Guidelines)
- Clinical Condition Management State Standard (Protocol)
- Second opinion
- Implied consent
- Patient
- Primary Health Care
- Family doctor
- Health promotion
- Random control

³ <https://apps.who.int/adolescent/second-decade/section2/page1/recognizing-adolescence.html>

Article 4: General principles

The following principles are to be systematically given effect to in the health system with respect to the care and treatment of people with a mental disorder:

- a) People with mental disorders, including those already in institutions, have the right to receive in the least restrictive environment available and with the least restrictive or intrusive treatment and rehabilitation available, taking into account their health needs and the need to protect the safety of others.

Comment: From the Recommendation REC (2004)¹⁰ of the Committee of Ministers of the Council of Europe concerning *the protection of human rights and dignity of persons with mental disorders*. **It is the legal basis for deinstitutionalization.**

We have not kept from the previous law “the best possible care and treatment” as it is defined in paragraph c)

We have not kept from the previous law the terms “as near to their place of residence as possible” as everybody told us that it is not respected in Georgia, and as the best possible care is not necessarily near the place of residence. It is better defined in paragraph d)

We have added the rehabilitation to treatment, as it is an important phase of the process

- b) Mental health being an important part of health, mental health care has to be integrated into all levels of the health system, including general hospitals, primary care and the community, to provide accessible and affordable mental health care to the entire population.

Comment: This is the second part of deinstitutionalization. Combining a) and b) leads to close mental health institutions and opening mental health units in general hospital, the recognition of the role of primary care in mental health, and the development of community care.

- c) Mental health of children and adolescents has to be addressed specifically, with the provision of comprehensive, integrated and responsive mental health and social care services mainly in community-based settings, specific strategies for promotion of psychosocial well-being, prevention of mental disorders and promotion of human rights of young people with mental disorders, and adequate and specific trainings of professionals

Comment: According to WHO, worldwide 10-20% of children and adolescents experience mental disorders. Half of all mental illnesses begin by the age of 14 and three-quarters by mid-20s. Children and adolescents with mental disorders face major challenges with stigma, isolation and discrimination, as well as lack of access to health care and education facilities, in violation of their fundamental human rights. Georgia needs to address this topic, including in particular the recognition of specific children’s and adolescents’ mental health and the development of specific community services

- d) People with a mental disorder should be provided with timely and high-quality treatment and care in accordance with internationally accepted standards.
- e) The provision of care and treatment should be designed to assist people with a mental disorder, wherever possible, to live, work and participate in the community,
- f) The prescription of medicine to a person with a mental disorder should meet the health needs of the person and should be given only for therapeutic or diagnostic needs and not as a punishment or for the convenience of others, nor for his/her or other people safety.

Comment: this principle clearly forbids the so-called “chemical restraint”. A good definition of “chemical restraint” comes from the US Accreditation Commission as *«a drug or medication, or a combination, when it is used as a restriction to manage the patient’s behavior, restrict the patient’s freedom of movement, or to impair the patient’s ability to appropriately interact with their surroundings – and is not standard treatment or dosage for the patient’s condition»*

This does not prevent from prescribing appropriate medications indicated in specific clinical conditions. There are currently a number of medicines on the market specifically indicated in the treatment of agitation, each of which would clearly be an appropriate medication in the clinical condition of agitation. And certainly, any medication indicated in the particular cause of the agitation – for example, treating agitation originating from paranoid psychosis with an antipsychotic medication, or in medically addressing the source of a delirium – would also be a “standard treatment for a patient’s condition”, so is not considered as chemical constraint and not forbidden by this paragraph.

However, this restriction should be accompanied by standards to be developed by the Ministry of health to manage agitated patients, accompanied with trainings for health professionals. The Ministry and the Georgian professionals working on such standards could find inspiration from the US 2012 Project BETA guidelines (Best Practices in the Evaluation and Treatment of Agitation)

- g) Every effort that is reasonably practicable should be made to involve persons with mental disorder and their families in the development of treatment plans and recovery plans and rehabilitation plans, and to support people who lack the capacity to understand them with the help of their supporter or of their legal representative when they are designated
- h) Every effort that is reasonably practicable should be made to obtain the informed consent of people with mental disorders when developing treatment plans, recovery plans and rehabilitation plans with the help of their supporter or of their legal representative when they are designated
- i) Every effort that is reasonably practicable should be made to inform people with mental disorders on their rights in the language, mode of communication or terms that they are most likely to understand, with the help of their supporter or of their legal representative when they are designated

Chapter 2: Roles and responsibilities

Comment: this part was lacking in the law, and it is an important one, as different public operators are involved in mental health, including mental health policies. We have added the supporter, which is an important element from recent legislation.

Article 5: Mental Health in all policies

Ministries and local authorities must take into account the mental health implications of their decisions and ensure that their decisions have no harmful impact to the wellbeing and the mental health of the population.

Comments: Important WHO concept, and its implementation will have to be discussed once the law is adopted. It could also be included in the public health law.

Article 6: Development of mental health policies

The Ministry in charge of Health, which ensures pursuit of the State's health care policy according to the Law of Georgia on Health Care, develops programmes and actions in favor of mental health. These programmes and actions aims at promoting mental health and preventing mental health problems, developing mental health care according to international standards, avoiding stigmatization and discrimination of people with mental health problems and ensuring their inclusion in the society. The Ministry of education is consulted on the development of mental health policies for children and adolescents.

Article 7: Regulations, certification, accreditation and control

1. The Ministry in charge of Health ensures the development of regulations applicable to mental health services, National Practice Recommendations (Guidelines) and Clinical Condition Management State Standards (Protocols) based on international standards and practices.
2. Guidelines and Protocols are produced by an independent body of specialized professionals and scientists, in line with international practices.

3. The Ministry in charge of Health ensures controls the application of these regulations, guidelines and protocols through a permanent monitoring body performing regular and random inspections in health structures and services.
4. The Ministry in charge of health ensures the development of an independent certification system run by professionals through a specific accreditation system based on international standards and practices

Comments: This is an important part when ensuring the quality of the mental health services in Georgia, and it is important to avoid misunderstandings.

Accreditation is both a process and a credential, the accreditation process is voluntary and only organizations, agencies, or programs can be accredited. If an organization is accredited this means they conducted under the supervision of a third party organization a thorough self-assessment and compared themselves to recognized standards of best practice. Accreditation means that the organization, agency, or program was able to demonstrate evidence of implementation to all of the relevant standards. The process is voluntary; however regulating bodies often require accreditation in order to be licensed or certified. The accreditation process typically repeats every 2-4 years, depending on the accrediting body. Accreditation functions better when the self-assessment is performed with the support of comparable organizations or agencies who can participate in the self-assessment.

Licensing exists primarily for public safety and the well-being of consumers. Typically, licensing is not optional. Individuals, facilities, programs, organizations or agencies can be licensed. Individuals are licensed for example to practice health activities or perform social work. Organizations may need to be licensed in order to provide a specific service. Practitioners and programs are required to be licensed or face penalties, including suspension or closing.

Certification demonstrates the capability to provide a specialized service or particular program. Typically, certification is voluntary, but sometimes regulatory bodies require certification in order to provide a specific service. Individuals, facilities, programs, organizations or agencies can obtain certification.

In the field of health, Ministries traditionally license hospital and health services. Certification is performed by a third party (quality certification partner) showing that the hospital or the service has functioning processes in line with predefined quality standards, but accreditation is important as it is an educational tool, and check not only the quality of the processes, but also the end result and the quality of the services provided.

Article 8: Training of professionals

1. The Ministry in charge of education with the support of the Ministry in charge of health ensures that all public health professionals are educated in mental health issues following international standards, and that a sufficient number of mental health professionals are educated for mental health care, in compliance with international standards. A specific education cursus is organized for children and adolescents' mental health care.
2. The Ministry in charge of health with the support of the Ministry in charge of education provides technical and financial support for continuous professional education following international standards in the field of mental health for health professionals in primary health care and mental health professionals and defines the criteria for maintaining their licenses.
3. The Ministry in charge of health defines by a national regulation standards for compulsory continuous training of health professional in the field of mental health in order to allow them to stay licensed, and checks that these standards are met.
4. The mental health institutions and services are responsible of ensuring that their staff is trained according relevant legislation and regulations, in particular on the present law, on the law of Georgia on patient's rights, on the law of Georgia on the elimination of all forms of discrimination, on the United Nations' Convention on the Rights of Persons with Disabilities and on the relevant regulations taken on their basis.
5. The ministry in charge of health controls that mental health institutions and services provide appropriate training to their staff, and may withdraw the institutions or services' licensed if this is not the case.

Article 9: Mental health strategy

Every five years, the Ministry in charge of health publishes an assessment of the implementation of the previous mental health strategy, including an assessment of quality and human rights based on the WHO Quality Rights Toolkit for the implementation the United Nations convention on the rights of persons with disabilities. Three months after this assessment, the Government of Georgia adopts a mental health strategy for adults, and for children and adolescents. The Ministry in charge of health prepares and implement this strategy with the support of other relevant ministries and agencies, and with patients' and parents of patients' organizations

Comment: The WHO Quality Rights Toolkit is a very useful tool for such an assessment, that's what we mentioned it

Article 10: Role of local governments

1. The municipalities' role in the field of mental health is complementing the actions developed at the national level.
2. In accordance with the Organic Law of Georgia "Local Government Code", the Regional Advisory Council is consulted on territorial projects and programmes in mental health to be carried out by the State in the relevant territory based on the national strategy adopted by the government and makes recommendations for the state trustee - Governor in their planning and implementation.
3. In the context of their own powers defined in article 16 paragraph 2 of the Organic Law of Georgia

“Local Government Code”, municipalities have to provide a shelter to homeless persons, including homeless persons with mental disorder. In this activity, they must take into account the specific needs of these persons.

4. In accordance with article 16 paragraph 4 of the Organic Law of Georgia “Local Government Code”, municipalities are encouraged to develop actions in the field of mental health promotion, prevention, care and support in the community.
5. The ministry of health supports these actions launched by municipality by providing financial support to local initiatives, technical advice and organizes a network of municipalities involved in mental health.

Comment: the role of municipalities is extremely important worldwide in developing community services, and supporting rehabilitation.

Article 11: Statistics

1. The Ministry in charge of health shall produce the official statistics on mental health taking into consideration the goals and objectives of their activities, and responsibilities observing methodologies and standards which are in line with their international analogues and are approved by the Board of National Statistics Office of Georgia. These statistics are meant to know the mental health status in Georgia, to allow international comparisons and to follow the implementation of the national strategies for adults, adolescents and children.
2. The public authorities, and the private and public institutions and services involved in the production of the financing of mental health services shall provide the necessary information, in line with regulations from the Ministry in charge of health.
3. These statistics should be used by service officers and researchers in order to monitor and ameliorate services provision and adequacy on regular basis

Comment: this part on statistics and data collecting is one of the requirements from WHO, as you cannot define policies and strategies without measuring. There is clearly in Georgia a lack of data on mental health, only information on the use of certain services (mainly hospitals).

Chapter 3: Access to mental health care

Article 12: Access to mental health care

1. Persons needing mental health care have access to the necessary treatments without geographical restrictions, through family doctors, psychiatrists, psychologists, primary health care structures, schools’ health services and mental health services and institutions.
2. The Ministry in charge of health ensures that a sufficient number of health professionals trained in mental health are available for the population of each municipality.
3. The Ministry in charge of Health is authorized to use new information technology systems to provide access to mental health care to persons with mental disorders in all regions and to all patients of Georgia, including in high-altitude settlements, ensuring their confidentiality.

Article 13: Availability of essential drugs

Patients on the Georgian territory should, when needed, have access to essential drugs, defined in a list established by the Georgian ministry in charge of health based on the World Health Organization's list of essential medicines for mental disorders provided they had a prescription completed by a trained professional.

Chapter 4: Rights of persons with mental disorders

Article 14: General application of the law on patient's rights

Except in cases specifically stated in the present law, patients in mental health care and mental health services benefit from the same rights as patients in other health care services. In particular, the Law of Georgia on Patient Rights and Chapter II of the Law on Georgia Health Care apply in mental health institutions and services.

Article 15: Specific rules for mental health care institutions and services

In addition, persons in mental health institutions and services:

- a) benefit at any time of the services of a supporter designated in line with the Georgian legislation, and in particular the Chapter XLIV of the Civil Code of Georgia and the Civil Procedure Code of Georgia, and if necessary request such a support.

Comment: It is important that this possibility is implemented in the Georgian mental health system.

- b) receive written and oral information about their rights, as soon as they arrive in mental health care and mental health services and are reminded of them when they need. Detailed verbal information adapted to their conditions is provided to patients unable to read, in an understandable language.

Comment: this is common practice internationally, and the patient generally signs a document certifying that he or she has received the information.

- c) request at any moment the services of an interpreter, a lawyer or a social worker. Mental health institutions and services shall arrange a confidential meeting of a patient with a lawyer or a social worker without the presence of a third party, with adequate safety measures.

Comment: institutions and services can always organize the meeting in a way that guarantees it with a high level of security and confidentiality. Specific devices can be used for this purpose.

- d) enjoy all citizens' rights, according to Georgian Constitution and laws, except when such rights are limited by a Georgian court
- e) communicate freely with other persons outside the institution or the service. Each mental health institution or service adopts a policy defining the way this communication is organized.

Comment: defining a number of phone calls in a day should not be in the law, but it can be considered.

- f) be permitted to make an unlimited number of private telephone calls to supporter and legal counsel and to receive an unlimited number of private telephone calls from supporter and legal counsel.
- g) have the right to practice their religion, in conditions to be defined by a regulation from the ministry in charge of health
- h) have the right to choose culturally appropriate treatment
- i) have the right to access to education and training, to be defined by a regulation from the ministry in charge of health and of other relevant ministries
- j) enjoy recreational and leisure activities organized or facilitated by the institution or service
- k) receive a salary in line with to the labour law and collective agreements of the sector if they work inside or outside the institution or the service where they are treated

Comment: we have been informed of abuses in certain structures, where people in mental health services are employed part-time or even full-time in workshops without real salaries

- l) receive social subsidy and salaries on their own account, under their own control
- m) register mental health advance directives.

Article 16: Prohibition of sterilization and abortion

1. Sterilization based on the fact of having a mental disorder is forbidden, except with the informed consent of the patient able to make conscious decisions.
2. Abortion based on the fact of having a mental disorder is forbidden, except with the informed consent of the patient able to make conscious decisions, or of the legal representative when the patient is not able to make conscious decisions within the first 12 weeks of pregnancy.

Comment: considering the present situation in the mental health institutions, which seems relatively acceptable, and the problems which may incur if such an article is discussed, it may be better not to consider this article, even if it is in line with WHO recommendations.

Article 17: Clinical research

1. Clinical research on persons having mental disorders who have not the capacity of giving informed consent is forbidden.
2. In all other cases, the relevant articles of the law of Georgia on healthcare apply.

Article 18: Access to medical records

In addition to the access to medical records foreseen in the law of Georgia on Patient's rights, a lawyer chosen by the patient shall be entitled to examine any kind of medical records about the patient and ask for copies. The requests for such access shall be submitted in writing to the administration of the mental health institution.

Comment: We are not sure that we need to keep this article and thus to treat a person with mental disorders differently from persons in the rest of the health system. In addition, a lawyer has always access to the files in case of legal proceedings. The article 17 of the Law of Georgia on Patients' Rights, which apply in mental health institutions and services, states that:

"1. The patient, or if he/she doesn't refuse, or in case of his/her incapacity, his/her relative or legal representative shall have the right:

a) to access information included in medical records and require to amend information about the patient. Medical records shall contain the amended information entered by patient, his/her relative or legal representative as well as the information existed in the file before amendment was made.

b) to require to receive copies of any part of the medical records.

2. The request to access medical records as well as to receive its copies shall be submitted to the medical institution in written form."

This seems sufficient.

Article 19: Access to Housing

Persons with mental disorders from mental health institutions and services and persons in community services benefit from the same subsidies and the same access to housing as beneficiaries of the law of Georgia on Social protection of persons with disabilities.

Comment: this article has been added because there does not seem to be a coherent approach on the territory of people who are going out of mental health institutions and services, or are cared in community services and need support: some people get the support, and others don't depending on specific medical criteria.

Article 20: Right to confidentiality

Comment: some improvements compared to the present law in order to adopt international standard practice.

1. Disclosure of health status, of personal information, of information on private life or of personal data of people with mental health is forbidden, except in the following cases:

- a) the patient or, if the patient is not able to give his/her informed consent due to his/her mental health condition, his/her legal representative designated by a court, authorizes disclosure in writing,
 - b) the patient has provided mental health advance directives on this disclosure
 - c) the disclosure is of overall benefit to a patient who lacks the capacity to consent,
 - d) the disclosure is required by law,
 - e) the disclosure is required by a court.
 - f) the disclosure is necessary for the treatment of the patient and there is no alternative
2. Confidential information may also be disclosed if the life and/or health of a patient or a third party are threatened. In this case, a decision on the disclosure of information about the mental health condition of a patient shall be made by the administration of a mental health institution or a community service after recommendation by the patient's physician; such information shall be delivered only to the legal representative of the patient, or, in the absence of such, to his/her nominated person, or in the absence of such, to his/her nearest relative.

Chapter 5: Mental health activities

Article 21: Typology of activities

1. Mental health activities include:
 - a) Mental health promotion activities
 - b) Prevention of mental disorders
 - c) Examination
 - d) Guidance, advice and, when necessary, psycho-social support
 - e) Treatment
 - f) Compulsory treatment
 - g) Rehabilitation
 - h) Mental health activities are performed according to the rules set in the Law of Georgia on Health, except in cases provided for in the present law.
2. Mental health activities are performed according to the rules set in the Law of Georgia on Health, except in cases provided for in the present law.

Article 22: Mental Health Promotion Activities

1. The Government of Georgia leads mental health promotion in Georgia, which consists in the process of enhancing the capacity of individuals and communities to take control over their lives and to improve their mental health, and in the prevention of discriminations linked to mental disorders.
2. Mental health promotion uses strategies that foster supportive environments and individual resilience, while showing respect for equity, social justice, interconnections and personal dignity. These actions are included in the 5 years strategy proposed by the Ministry in charge of health, with the support of other relevant ministries and municipalities, and organizations of people with mental disorders and their families.

Comment: important role, absent in the present law.

Article 23: Prevention of mental disorders

1. Mental health prevention actions directed towards populations at risk of developing mental disorders are led by the Ministry in charge of health, and for children and adolescents in the education system by the Ministry in charge of education.
2. These actions seek to eliminate those factors that cause or contribute to the incidence and prevalence of mental illness and aims at
 - a) reducing the occurrence, frequency, and re-occurrence of mental disorders, the time spent with symptoms, and the risk for a mental illness,
 - b) preventing or delaying their occurrence and decreasing their impact in the affected person, their families and society.

Comment: Important role, absent in the present law

Article 24: Guidance and advice

The Ministry of in charge of health provides guidance and advice for the public, people suffering from mental disorders and their families through different media, including a website and a specific helpline.

Comment: international good practice, absent in the present law and not really done in reality from what we know.

Article 25: Examination

1. Mental health examination is performed by a professional, such as a general practitioner, a family doctor, an occupational health practitioner or a psychiatrist, in order to assess a possible mental disorder, and define what type of treatment or referral is needed.
2. The mental health examination is a structured way of observing and describing a patient's current state of mind, under the domains of appearance, attitude, behavior, mood, affects, speech, thought process, thought content, perception, cognition and insight.
3. A mental disorder shall be diagnosed in accordance with international standards adopted by the Ministry in charge of health. A person may only be diagnosed with a mental disorder by a medical doctor.
4. Merely professional or family conflicts, or discrepancies with moral, religious, cultural or political values prevalent in society, shall not form the basis of a diagnosis of mental disorder.
5. The fact of having had treatment in a mental health institution in the past shall not be considered as a decisive factor when evaluating the current mental condition of a person.
6. When examining a patient, a professional shall introduce himself/herself to the patient and explain the purpose of the examination, except where such action might exacerbate the condition of the patient. A decision on the restriction and/or non-delivery of information, as well as the basis of such a decision, shall be indicated in the medical records.

7. The patient may ask or be proposed to benefit during the examination of the services of of his/her supporter designated in line with the Georgian legislation, and in particular the Chapter XLIV of the Civil Code of Georgia and the Civil Procedure Code of Georgia.

Article 26: Treatment

1. Treatment chiefly uses community and primary health services, and patients should stay as much as possible in the community. Patients who cannot be treated in the community can receive specialized mental health care at mental health institutions.

Comment: this article is key for non-institutionalization.

2. Treatment shall be provided with the informed consent of a patient, or if the patient is under 16 or unable to give his/her consent, on the basis of the informed consent of the patient's legal representative . This consent shall be confirmed in the medical records by the signature of the patient, or of the patient's legal representative.
3. If a patient waives treatment, it shall be indicated in the medical records.
4. Treatment by electroconvulsive therapy is not permitted unless highly documented by psychiatrists after failure of other appropriate treatments.

Comment: proposed by Pr Viviane Kovess as electroconvulsive therapy may be used as a very effective treatment option.

5. All medical treatments and all other decisions relating to a person with a mental disorder must be documented in writing in the patient's record.

Article 27: Physical restraints

1. Physical restraints is to be used as a last resort to prevent imminent and serious risk of harm to patients and staff, where less restrictive interventions have been unsuccessful or are not feasible.
2. It must be implemented only by qualified and trained personnel.
3. Methods of physical restriction are isolation in a specialized ward and/or the physical binding of a patient.
4. The use of methods of physical restriction shall be terminated immediately upon the elimination of the danger as determined in paragraph 1 of this article.
5. Using methods of physical restriction or giving medicines for the purposes of punishment or intimidation of patients shall be prohibited.
6. A decision on using physical restriction against a patient shall be made by the physician in charge or the physician on duty of a hospital, and their justifications shall be included in the medical records.
7. A patient against whom methods of physical restriction has been used, or his/her legal representative or, in the absence of such, the nominated person, or, in the absence of such, the patient's relative, shall be entitled to appeal to court the expediency of using the method of physical restriction.
8. The detailed procedures for using these methods of physical restriction and the content of the

training of the professionals authorized to use physical restraint shall be established by a regulation of the Minister in charge of health.

Comment: very important part, as the use of physical restraints by people not trained for it can lead to very dangerous situations for the patient.

Article 28: Psychosocial rehabilitation

Promoting personal recovery, successful community integration and satisfactory quality of life for persons who have or have had a mental illness or mental health concern is a goal of all mental health care's activities, from the beginning to the end of the treatment.

Chapter 6: Involuntary mental health care

Comment : all this chapter is in line with the Recommendation Rec(2004)10 of the Committee of Ministers of the Council of Europe to member states concerning the protection of the human rights and dignity of persons with mental disorders, which can be found on : https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016805dc0c1

Article 29: Definition of involuntary treatment

Involuntary mental health treatment is indicated, the consent of a patient or his/her legal representative, or in the absence of such, the nominated person, or the absence of such, the patient's nearest relative, shall not be necessary.

Article 30: Criteria for involuntary treatment in mental health institutions and services

A person may be subject to involuntary treatment only if all the following conditions are met:

- a) the person has a mental disorder;
- b) the person's condition represents a significant risk of serious harm to his or her health or to other persons;
- c) the involuntary treatment has a therapeutic purpose
- d) no less intrusive means of providing appropriate care are available;
- e) the opinion of the person concerned has been taken into consideration.

Article 31: Principles concerning involuntary treatment

1. Involuntary treatment should:
 - a) address specific clinical signs and symptoms;
 - b) be proportionate to the person's state of health;
 - c) form part of a written treatment plan;
 - d) be documented;
 - e) where appropriate, aim to enable the use of treatment acceptable to the person as soon as possible;
 - f) take place in an appropriate environment.
2. In addition, the treatment plan should:
 - a) whenever possible be prepared in consultation with the person concerned assisted by his/her supporter, when designated, the person's legal representative, if any, and the person's nominated person;
 - b) be reviewed at appropriate intervals and, if necessary, revised, whenever possible in consultation with the person concerned assisted by his/her supporter, when designated, the person's legal representative, if any, and the person's nominated person;
 - c) take into account the patient's advanced directives, when they exist and when the patient or his/her nominated person cannot be consulted as described in paragraph a).

Article 32: Process of involuntary mental health care

1. The need for involuntary mental health care shall be defined by a licensed medical doctor.
2. Appropriate law enforcement bodies are obliged to carry out the placement in a mental health institution or a community service of a patient upon request of a physician.
3. The involuntary mental health care can be provided through compulsory treatment in licensed community services able to deliver mental health care, or in mental health institutions, on a decision of a psychiatrist on duty in the institution or in the service.
4. If at any time, the involuntary treatment in a community service is impossible, because it put in danger the life or the health of the patient, or it may cause significant damages to the patient and others is not accepted by the patient, he/she is hospitalized in a mental health institution.
5. The hospitalization in a mental health institution or the admission to a community service of a patient shall be deemed the commencement of involuntary treatment.
6. Within 48 hours from admission in a community service, the clinical head of the community service shall study the mental condition of the patient in the presence of the psychiatrist who has decided on the involuntary hospitalization and make a decision on the involuntary inpatient mental health care.
7. Within 48 hours from admission in a mental health institution, its Special Committee shall study the mental condition of the patient in the presence of the psychiatrist who has decided on the involuntary hospitalization and make a decision on the advisability of involuntary inpatient mental health care. The commission of psychiatrists shall make the decision by a majority of votes. Where votes are equally divided, the decision shall be made by the clinical head of a mental health facility, or in his/her absence, by a duly authorized person who has been granted such powers in writing.

The dissenting opinion of any psychiatrist shall be attached to the decision of the committee in written form.

8. If the conclusion of examination in articles 8 and 9 is that involuntary inpatient mental health care is unreasonable, the patient shall immediately be discharged from the service or the institution or continue his/her treatment voluntarily.
9. If the conclusion of examination in articles 8 and 9 is that involuntary mental health care is necessary, within 48 hours from the admission in the community service or the hospitalization of a person, the administration of the community service or of the mental health institution shall apply to court with a request to issue an appropriate order on the involuntary inpatient mental health care with an estimated duration of the treatment.
10. Information on the decision of the commission shall be immediately delivered to the person, to his/her legal representative and to the nominated person, or in the absence of such to the person's nearest relative; in the case of a foreign citizen, the information shall be delivered to an appropriate diplomatic mission.
11. A court is obliged to consider an appropriate request of the administration of a community service or of a mental health institution within 24 hours from its receipt and to make a decision on involuntary mental health care, in accordance with the rules established by the Administrative Procedure Code of Georgia, and taking into account possible mental health or mental health advance directives prepared by the patient. The participation of the patient and of the clinical head of the community service or of a representative of the Special Committee of the mental health institution in the consideration of the case shall be necessary.
12. The interests of the person in court shall be represented by his/her legal representative or, in the absence of such, by the nominated person, or in absence of a nominated person the nearest relative, and/or of an advocate. If the person does not have a lawyer, the court shall appoint an advocate for him/her.
13. The court shall take the decision on the request for involuntary treatment and state the maximum period beyond which it should be formally reviewed, which shall not exceed six months.

Comment: slight rewriting in line with Council of Europe recommendation, in order to give the court the possibility to require a review in less than 6 months

14. The clinical head of the community service or the Special committee of the mental health institution shall review the continuation of involuntary mental health care of a patient on a monthly basis.
15. If the court does not make a decision on the hospitalization of a person for the purposes of providing involuntary inpatient mental health care (or on extending the period of involuntary mental health care of a patient), the patient shall be immediately discharged from the community service or the mental health institution or continue in the community service or in the mental health institution as a voluntary patient.
16. If the clinical head of the community service or the Special committee of the mental health institution considers it necessary to extend the period of involuntary inpatient mental health care of a patient for more than decided by the court, the administration of the community service or of the mental health institution shall apply to court, 72 hours prior to the expiry of the 6-month period of involuntary mental health care, with a request to extend this period. The court shall make a decision, in accordance with the rules provided for by the Administrative Procedure Code of Georgia, within 72 hours of receipt of the request.
17. The administration of the community service or of the mental health institution shall be entitled

to apply to court without limits with a request to extend the period of involuntary mental health care, on the basis of an opinion of the clinical head of the community service or of the Special committee of the mental health institution, until the criteria for involuntary mental health care are no longer presented.

18. When the criteria for involuntary mental health care are no longer valid, a patient shall be discharged on the basis of a decision of a committee of psychiatrists and the court shall be immediately notified; thereafter, treatment may be continued voluntarily and with the consent of the patient, which shall be indicated in the medical records and confirmed by the signature of the patient.
19. A patient, his/her legal representative, and his nominated person, and in the absence of such, the nearest relative, as well as the administration of a community service or of a mental health institution, shall be entitled to appeal an order of a judge on involuntary inpatient mental health care, or an ordinance on the refusal to impose involuntary mental health care, or an order on the extension of the period of involuntary inpatient mental health care, or an ordinance on the refusal to extend the period of involuntary inpatient mental health care, in accordance with the rules established by the Administrative Procedure Code of Georgia.

Article 33: Provision of involuntary mental health care to unidentified persons

1. When a person whose identity (name, surname, age, citizenship, address of place of residence) is unknown (an unidentified patient) and needs involuntary mental health care, a community service or a mental health institution may provide him/her with appropriate care, in the conditions defined in article 30 of this law.
2. The administration of the community service or of the mental health institution shall immediately notify a city (district) police department in the area of the discovery of the patient after his/her hospitalization, and the police shall take appropriate measures to identify the patient after the receipt of this notification. Forthwith, a police officer shall draw up a protocol describing the physical appearance of the patient (estimated age, gender, height, color of hair and eyes, and other details of appearance and expression), which might enable identification (a photo shall be attached to the protocol).
3. If, based on the grounds provided for in Article 30 of this Law, a court issues an order in accordance with the rules established by the Administrative Procedure Code of Georgia on the involuntary mental health care of an unidentified person, the person shall be assigned an identification number according to the number of the discussed administrative case and shall be referred to as 'unidentified patient No' which shall be indicated in the order of the judge, and thereafter, the patient shall be identified with this name in all documents. Moreover, the administration of the community service or of the mental health institution shall be authorized to give the patient a conventional name which shall not be degrading to his/her honor and dignity, in order to simplify contact during the process of treatment; the conventional name shall be used for personal contact and shall not be kept in medical records.
4. If, at any stage of court hearings and/or treatment, the police identifies the patient, the name 'unidentified patient No' given in accordance with paragraph 4 of this article shall be replaced by the identified name of the patient in all documents relating to him/her.

Chapter 7: Rules for accused and convicted persons and forensic care expertise (no changes)

Comment: we have practically not changed this chapter, as it would have need a comprehensive work with the ministry of justice, which seems to undergo some transformations of its health system in prisons. We got however the following comment: *“The scope of forensic psychiatry is questionable. For example, risk assessment should also be done when determining the necessity for involuntary placement and treatment, but this is traditionally not forensic treatment”*.

Article 34: Mental health support to accused and convicted persons

5. In the case provided for in Article 191 (part 2) of the Criminal Procedure Code of Georgia, the involuntary mental health treatment of a person shall be provided in accordance with the rules established by Article 221 of this Law.
6. The administration of a mental health institution shall apply to an authorized expert institution for forensic mental health expertise if a convicted person placed in a penitentiary institution shows signs of mental disorder and legal proceedings against him/her have already ended. If the opinion of the authorized expert institution confirms that involuntary mental health care is necessary, the administration of the penitentiary institution shall apply to a court for the provision of involuntary mental health care based on the opinion of the authorized expert institution. The court shall make a decision in accordance with the rules provided for by the legislation of Georgia on the provision of involuntary mental health care before the recovery of a convicted person, after which the convicted person shall continue serving the sentence in accordance with general penal rules.
7. If a patient is provided with involuntary inpatient mental health care in the cases provided for by Article 191(3) and (4) of the Criminal Procedure Code of Georgia and he/she recovers within the term of the sentence to be served, which recovery is confirmed by an opinion of a committee of psychiatrists, the administration of the mental health institution shall notify the Ministry of Corrections and Legal Assistance of Georgia and the Ministry shall ensure the immediate escort of the convicted person to an appropriate penitentiary institution to serve out his/her sentence. The period of hospitalization shall be included in the total term of the sentence.
8. If a patient is provided with involuntary inpatient mental health care in the cases provided for in Article 191(3) and (4) of the Criminal Procedure Code of Georgia and he/she does not recover within the term of the sentence to be served, such that the criteria for involuntary mental health care are still present, the issue of providing involuntary mental health care to the person after the completion of the term of the sentence shall be dealt with in accordance with the rules provided for by this Law.

Article 35: Compulsory mental health treatment

1. In the case provided for in Article 191(2) of the Criminal Procedure Code of Georgia, the court hearing criminal cases shall be authorized to use compulsory mental health treatment on the two following grounds:

- a) a person is unable to make a conscious decision due to a mental disorder and the provision of mental health support is impossible unless he/she is hospitalized.
- b) there is a risk that due to a mental disorder a person will behave in such a manner that may damage, threaten and/or harm himself/herself and/or other persons.
2. For the purposes of providing compulsory mental health treatment, a person shall be hospitalized by the court hearing criminal cases based on a ruling made in accordance with Article 191(2) of the Criminal Procedure Code of Georgia. A person shall be placed only in a hospital where special security is provided and a system of measures ensuring risk mitigation, resocialization and improvement of mental health is implemented. A system of measures ensuring risk mitigation, resocialization and improvement of mental health shall be determined by an order of the Minister of Internally Displaced Persons from the Occupied Territories, Labour, Health and Social Affairs of Georgia.
 3. A person shall be hospitalized for the purposes of providing compulsory mental health treatment for the period specified in the ruling indicated in paragraph 2 of this article. This period shall start from the moment of the hospitalization of the person. The patient may be discharged from an inpatient facility before the end of this period in accordance with paragraph 5 of this article if the grounds provided for in the first paragraph of the same article no longer exist.
 4. Once a year, a special committee of a mental health institution shall evaluate whether the grounds provided for in paragraph 1 of this article still exist in the case of a patient subject to compulsory mental health treatment. The physician in charge of the patient shall be authorized to apply to a special committee of a mental health institution to provide a premature evaluation and opinion if it is reasonable according to the mental health condition of the patient.
 5. If, as a result of a regular or premature evaluation, a special committee of a mental health institution concludes that the grounds provided for in paragraph 1 of this article no longer exist, the administration of the mental health institution shall immediately discharge the patient from hospital.
 6. If the grounds provided for by paragraph 1 of this article no longer exist at the moment of the expiry of the term specified in the ruling provided for by paragraph 2 of this article and the criteria defined in Article 25(1) of this Law are not presented, the patient shall be discharged from hospital.
 7. If the criteria indicated in Article 25 of this Law exist at the moment of the expiry of the term specified in the ruling indicated in paragraph 2 of this article, the administration of a mental health institution shall apply to a court to request the provision for a patient of involuntary inpatient mental health care as defined by Article 18 of this Law, after which the patient shall be provided with mental health care in accordance with the rules established by Article 18 of this Law.
 8. After discharge from hospital in accordance with paragraphs 3 and 4 of this article, a person shall be registered in the nearest outpatient mental health institution to his/her place of residence.

Article 36: Rights of patients convicted of crimes who receive treatment on the basis of a court decision

Patients convicted of crimes who receive treatment based on a court decision shall enjoy the basic rights and guarantees of patients except the rights to choose the type of mental health support and to waive treatment.

Chapter 7: Forensic psychiatry expertise (no changes)

Article 37: Forensic mental health expertise

1. The following shall be authorized to conduct activities which require forensic mental health expertise:
 - a) appropriate institutions licensed by the Ministry in charge of health
 - b) state expert forensic institutions.
2. Investigation bodies or their subordinate agencies shall be prohibited from conducting activities which require forensic mental health expertise.
3. Forensic mental health expertise shall be provided and financed by a body (person) appointing an expert or the State through state financed programmes or other sources. Detained persons to be examined shall be escorted to and guarded in an expert institution by an appropriate agency of the Ministry of Corrections and Legal Assistance of Georgia.

Article 38: Right to guard a person to be examined during the provision forensic mental health expertise

A hospitalized person may enjoy the services of a lawyer during the provision of forensic mental health expertise in accordance with the rules provided for by the legislation of Georgia.

Chapter 8: Organizational forms of mental health care

Article 39: Standards

The Ministry in charge of health develop standards for each type of services and institutions according to international practices. These standards are developed with professionals and patients' and patient's family participation.

Comment: this article could be improved, but the main point is that all institutions and services should know exactly what kind of persons they must treat, and what is expected from them, for example in terms of staffing, premises and activities. For example, in the UK, the standards for community services include the following chapters:

1. Access, referral and waiting times
2. Preparing for the assessment
3. Initial assessment
4. Following up service users who do not attend appointments
5. Reviews and care planning
6. Care and treatment
 - 6.1 Therapies and activities
 - 6.2 Medication
7. Physical healthcare
8. Risk and safeguarding
9. Discharge planning and transfer of care
10. Interface with other services
11. Capacity and consent
12. Service user involvement
13. Carer engagement and support
14. Treating service users with compassion, dignity and respect
15. Provision of information to service users and carers
16. Service user confidentiality
17. Service environment
18. Leadership, team-working and culture
19. Staffing levels
 - Staff recruitment, induction and supervision
21. Staff wellbeing
22. Staff training and development
23. Clinical outcome measurement
24. The service learns from incidents

Article 40: Community mental health services

1. The Ministry of health develops community mental health services, which must offer alternatives to placement in mental health institutions and provide rehabilitation services.
2. The list of community mental health services to be developed is in annex 1. It can be amended by government's decree.

Article 41: Mental health Institutions and shelters

1. Mental health institutions are hospitals or wards specializing in the treatment of serious mental disorders as defined by international classifications. They should be the last resort solution for mental disorders and stay duration should be as short as possible
2. Mental health shelters are small structures aiming at facilitating the transition of patients from mental health institutions to a life in the community.

Article 42: Mental Health services for children and adolescents

1. In each region, the Ministry in charge of health creates a Child Mental Health Service in charge of providing in the community assessment, support and treatment, at the request of a child, their parents, a family doctor, a health professional or the child's school, for children with mental disorders.
2. In each region, the Ministry in charge of health creates an Adolescent Mental Health Service in charge of providing in the community assessment, support and treatment at the request of an adolescent, their parents or caregivers, a family doctor, a health professional or the adolescent's school, for adolescents with mental disorders
3. It is strictly forbidden that children and adolescents get mental health care in the same wards or services as adults.

Article 43: Financing of mental health activities

1. The sources of funding mental health activities are the following:
 - d) national programs
 - e) state and local authorities' subsidies and grants
 - f) fees paid by the patients;
 - g) other grants
 - h) other income permitted by the legislation of Georgia.
2. The State shall provide mental health care of persons with mental disorders through financing programmes and financing targeted programmes.

Chapter 10: Specific rules concerning persons working in mental health institutions and services

Comment : we have not looked at the relevance of these rules, which are in the existing Georgian law.

Article 44: Rights and social guarantees of persons working in the field of mental health

Taking into account the specific conditions of their working environment, the personnel working in the field of mental health such as physicians, psychologists, nurses, caretakers, social workers or other persons who are entitled to provide care to people with mental disorders, on the basis of the legislation of Georgia shall enjoy the following benefits:

- a) reduced working week - 30 hours.
- b) increased leave - 42 working days.

Article 45: Right to withdraw

If the life or the health of a person in mental health care is threatened by a patient, he/she shall have the right to refuse to participate in the examination or the treatment of the patient.

Chapter 10: Liability

Article 46: Violation of Rights

1. Violation of one of the rights guaranteed by Articles 15, 16, 19, 22, 34, 36, 39.2 or any other article of this Law, if this violation does not include the signs of an actions punishable by the Criminal Code of Georgia,
 - will result in administrative liability, in particular, warning or a fine of 1000 GEL and/or suspension of the doctors right to practice medicine/medical activity license/permit and/or prohibition of medical activity for the medical establishments for a period of not more than 3 months;
2. Violation of two or more rights guaranteed by Articles 15, 16, 19, 22, 34, 36, 39.2 or any other article of this Law, if this violation does not include the signs of an actions punishable by the Criminal Code of Georgia,
 - will result in administrative liability, in particular, a fine of 5000 GEL and/or suspension of the doctors right to practice medicine/medical activity license/permit and / or prohibition of medical activity for the medical establishments for a period of not more than 6 months;

Article 47: Violation of Mental Health Activity Rules

3. Violation of one of the rules set forth in Articles 12.1, 13, 27, 28, 29, 30, 31, 32, 33 or 35 of this Law,

- will result in administrative liability, in particular, a fine of 2000 GEL and/or suspension of the doctors right to practice medicine/medical activity license/permit and/or prohibition of medical activity for the medical establishments for a period of not more than 6 months;
- 4. Violation of two or more rules set forth in Articles 27, 28, 29, 30, 31, 32, 33 or 35 of this Law,
 - will result in administrative liability, in particular, a fine of 10000 GEL and/or deprivation of the doctors right to practice medicine/medical activity license/permit and/or prohibition of medical activity for the medical establishment.

Article 48: Criminal Liability of a person who was previously subjected to an administrative penalty

- 5. Repeated violation of the rights/rules set by the Articles 43 and 44 of this Law and/or violation of the other rights/rules set by the same articles by a person who was previously subjected to an administrative penalty under this law,
 - will result criminal liability in accordance with the Article 142⁴ of the Criminal Code of Georgia.

Article 49: Criminal Liability

- 6. Denying persons with mental health disorders the opportunity to exercise the rights granted by law and/or international treaties to which Georgia is a party, due to their mental health disorders, which substantially breaches their rights, will be subject to the criminal liability according to the rules stated in article 142³ of the Criminal Code of Georgia.
- 7. Illegal placement or detention of a person in a psychiatric hospital shall result in criminal liability in accordance with Article 149 of the Criminal Code of Georgia.
- 8. If a violation of any of the rights and/or activity rules provided by this Law constitutes signs of an act punishable by the Criminal Code of Georgia, in such a case, liability for the said act shall be determined on the basis of the relevant article of the Criminal Code of Georgia.
- 9. In addition, committing an act under Articles 120, 126, 126¹, 133-133², 134, 137-141, 143-143³, 144-144³, 150, 151-151¹, and 157-159 of the Criminal Code of against a person with a mental disorder is an aggravating circumstance for the offenses provided for in these articles and will result criminal liability in accordance with the rules established by the Criminal Code of Georgia.

Article 50: Civil Liability

A person whose rights have been violated is entitled to claim damages, including moral damages, through the court in accordance with the rules established by the civil legislation of Georgia.

Chapter 11: Final provisions

To be written by the Ministry

Annex 1: list of community mental health services

Comment: this list is a proposal, based on international best practice, which can be amended in the discussions with the Ministry

1. Community services are licensed by the Ministry in charge of health and are financed through national programmes in the field of health, social affairs, housing and employment. The Ministry of Health with the support of relevant ministries defines standards for each type of services, profiles of patients they are directed to and control the quality of these services as well as case mix.
2. Community services support or treat people with mental disorders in a domiciliary setting, instead of an institution. These services may include mental health and psychological care, supported housing with full or partial supervision, day mental health centers, crisis teams, crisis centers, psychosocial mobile teams, self-help groups for mental health patients and their families, employment support and support for coexisting substance use. They may collaborate with local primary care medical services. Their usage should be organized following a step care model which describe level of severity at each level and patients able to move from one type to another one following improvement or deterioration.
3. The Ministry in charge of health may define by ordinance other types of community services, provided their effect has been scientifically documented.
4. Community services in charge of psychosocial rehabilitation can be created by mental health medical institutions, by municipalities, by non-governmental organizations and by the private sector.
5. They focus on helping individuals develop skills and access resources needed to increase their capacity to be successful and satisfied in the living, working, learning and social environments of their choice. They may combine independent living and social skills training, mental health treatment, psychological support to clients and their families, housing, vocational rehabilitation and employment, pharmacological treatment, social support and access to leisure activities.
6. They can be financed *inter alia* by governmental programmes for mental health, for social services, for housing and for employment, and by municipalities in domains falling under their competences according to chapter III of the organic law of Georgia "Local Self-Government Code".
7. Psychosocial mobile teams are supporting people with severe mental disorders living in their private home or in residential settings. They regularly assess the needs of the persons, deliver the psychological and medical treatments and liaise with the social services.
8. An emergency mental health system is set up for each region according to its location: mental health attendance in general hospital emergency room, 24/7 dedicated phone number for professionals and at distance possibilities for mental health evaluation.
9. Mental health out patients consultation should be organized in a way they can accept unplanned consultation after systematic evaluation of the degree of emergency
10. Consultations adequately staffed, able to accept unplanned patients and opened days and late evening (until 8PM) should be available on each sub region; in addition when needed they could provide home visits.

11. In hospitals accepting emergency , short term beds (3 nights maxi) should allow to manage crisis and avoid involuntary hospitalization by rendering possible to the patient acceptance of his treatment
12. Evening and night structures (“Drop in cafes”) are small easily accessible light structures available in the evenings and/or at weekends for people who are finding themselves in need support with their mental health with minimal professional supervision and large place to self-help volunteers.