***To: UN Working Group on the Issue of Discrimination Against***

***Women in Law and in Practice***

**Women Deprived of Liberty**

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Partnership for Human Rights (PHR)

Despite the spirit of the UN Convention on the Rights of Persons with Disabilities, according to which States Parties have an obligation to ensure that the **existence of a disability shall in no case justify a deprivation of liberty**, involuntary psychiatric treatment and compulsory institutionalization is still being allowed within the frames of Georgian legislation merely on the basis of medical diagnosis.[[1]](#footnote-1) Article 18 of the Law of Georgia on Psychiatric Care determines that involuntary stationary psychiatric care is carried out when a person lacks an ability of making consciously perceived decisions due to mental disorder and proper psychiatric care cannot be provided without hospitalization. Likewise, if: a) delay of psychiatric care endangers life/health of a patient or life/health of another person; b) a patient can cause significant material damage to herself/himself or to inflict material harm to other person. As underlined by the Georgian legislation, the consent of a patient or her/his legal representative and in case of the one’s absence – the consent of a relative, is not necessary for initiating involuntary stationary psychiatric care.[[2]](#footnote-2)

Thus, according to Georgian legislation, “medical needs” can be considered as the very basis for involuntary stationary psychiatric care; The concept of informed consent, which has some crucial importance by the spirit and international standards of CRPD, is not fully realized within the Law of Georgia on Psychiatric Care, now that involuntary psychiatric care and compulsory institutionalization on the basis of mental disorder is legitimized by the Law.

As it’s been revealed by the legal practice of the local NGO “Partnership for Human Rights”, the permitted mechanism for involuntary psychiatric care contains a threat for establishing harmful practice towards women victims of violence. In some cases, family conflicts, physical/psychological/economic violence against women contains risks for enforcing legal mechanism of involuntary institutionalization. The legal possibility for involuntary psychiatric treatment, prescribed by the law, and lawful authorization of the doctor-psychiatrists’ committee for initiating involuntary treatment without informed consent of a patient, as well as the grave situation concerning the legal status of women and gender equality within the country, discussed for multiple times by the Public Defender of Georgia in various monitoring reports on women’s rights,[[3]](#footnote-3) can be considered as significant prerequisites to be taken into account for establishing the harmful practice mentioned above.

Within the framework of PHR’s legal practice, one of the beneficiaries of the organization was involuntarily hospitalized in the psychiatric institution on the basis of the Court’s judgement and conclusion of the duty doctor and the doctor-psychiatrists’ committee.[[4]](#footnote-4) According to her religious beliefs, the beneficiary of the organization used to apply to specific nutrition plan and detoxification diet with the aim for cleansing the body, which, in turn, led to a family conflict. The beneficiary’s mother, who’d considered religious practice of Buddhism as direct sign of a medical diagnosis, called for ambulance and patrol crew in order to initiate involuntary stationary psychiatric treatment of her daughter. The patrol crew, who had witnessed the family conflict, hospitalized the beneficiary of the organization without her consent. Within the psychiatric institution, doctors of the establishment and later, the Court itself, decided to enforce involuntary stationary psychiatric care, since religious practice of the organization’s beneficiary, as well as the family conflict had been considered as manifestation of the medical diagnosis, which became the decisive cause for involuntary hospitalization. As lawyers of “Partnership for Human Rights” appealed the decision of the Court, litigation proceeded at the Court of Appeal. The Appellate Court abolished the decision of the Court of first instance and, within its judgement, pointed out the fact that compulsory hospitalization of the beneficiary had not been connected to her “mental disorder”, the pivotal basis for involuntary institutionalization had been the family conflict that preceded the arrival of the patrol crew. In agreement with the Court’s judgement, following the specific circumstances of the case, the beneficiary of the organization had long-term conflict and tensed relationship with her mother, which, in the end, caused the engagement of emergency services and involuntary institutionalization, as a final result.[[5]](#footnote-5)

Considering the above-mentioned case from the legal practice of “Partnership for Human Rights”, the genuine threat for family conflicts evolving into decisive basis for initiating involuntary stationary psychiatric treatment, had been revealed. The grave background surrounding the country concerning women’s rights and gender equality issues, with special emphasize on increasing amount of physical, psychological and economic acts of violence against women, intensifies the risk for replication of the dangerous practice.

The legal norm, established within the Law of Georgia on Psychiatric Care, which legitimizes involuntary stationary psychiatric treatment, shall be reviewed by the Constitutional Court of Georgia due to the constitutional claim of the beneficiary of “Partnership for Human Rights.” However, it is noteworthy that, until the Court hearing, the alarming rate of violent acts against women, as well as the harmful practice of involuntary institutionalization, could lead to even bigger threats and enhanced risks, when family conflicts could once more be misleadingly considered as the sufficient basis for involuntary psychiatric treatment, which would only aggravate the situation.

1. Convention on the Rights of Persons with Disabilities, Article 14)b)

   <http://www.un.org/disabilities/documents/convention/convoptprot-e.pdf> [↑](#footnote-ref-1)
2. The Law of Georgia on Psychiatric Care, Article 18.

   <https://www.matsne.gov.ge/ka/document/view/28492> [↑](#footnote-ref-2)
3. The Public Defender of Georgia, Special Report: Women’s Rights and Gender Equality.

   <http://www.ombudsman.ge/en/reports/specialuri-angarishebi/womens-rights-ang-gender-equality.page> [↑](#footnote-ref-3)
4. The Order of Tbilisi City Court, Case: N3/6989-17. [↑](#footnote-ref-4)
5. The Order of Tbilisi Court of Appeals. Case: N 330311117002133747; N3ბ/2442-17. [↑](#footnote-ref-5)