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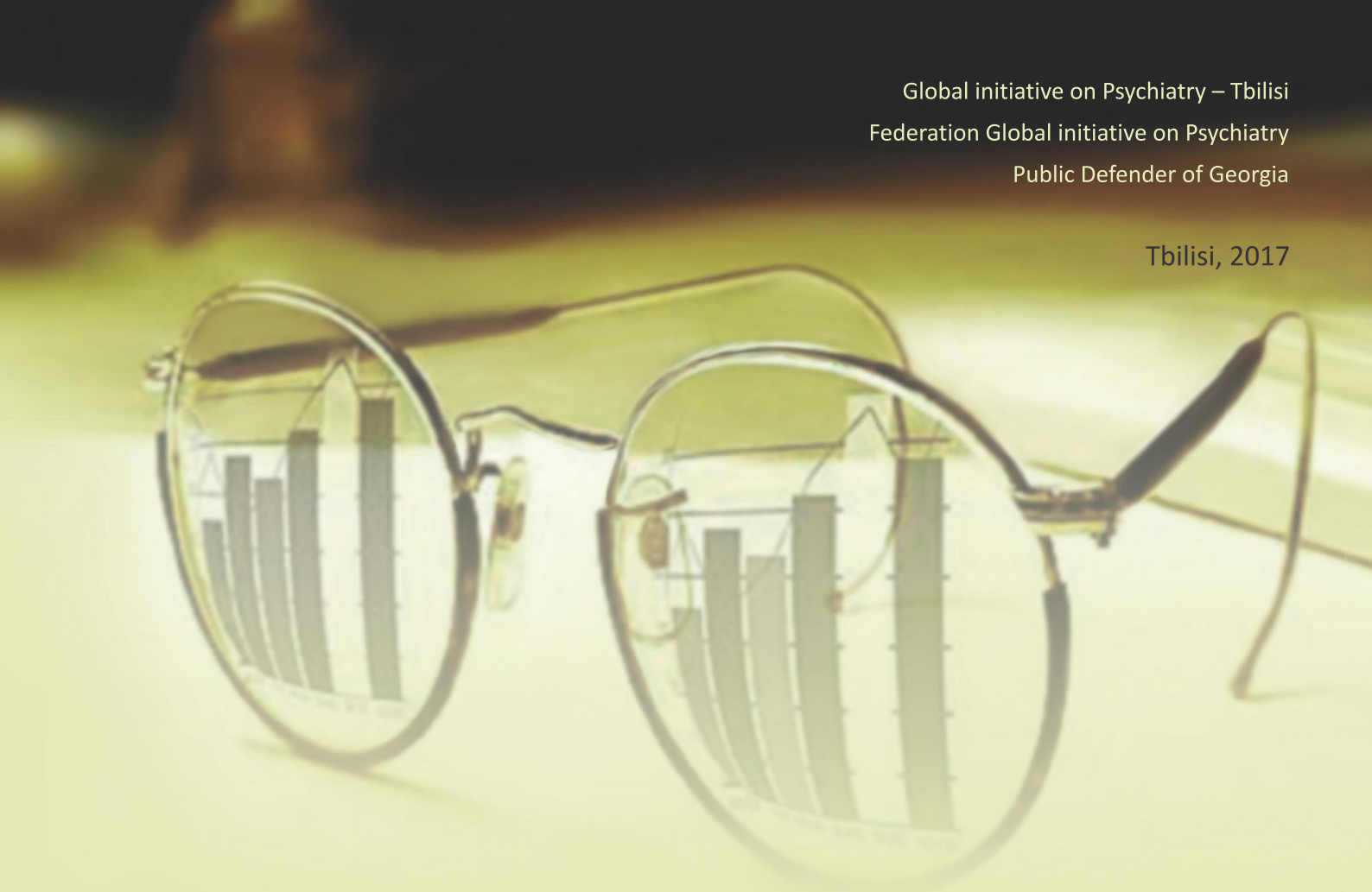

PRIVATIZATION OF MENTAL HEALTH CARE FACILITIES IN GEORGIA

Assessment, Conclusions and Recommendations to the Georgian Government

Kingdom of the Netherlands

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Global Initiative on Psychiatry

GIP Federation Global Initiative on Psychiatry

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The authors of the publication are Foundation Global initiative on Psychiatry – Tbilisi, Federation Global initiative on Psychiatry, and the Public Defender of Georgia.

Privatization of Mental Health Care Facilities in Georgia

Assessment, Conclusions and Recommendations to the Georgian Government

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TABLE OF CONTENTS

Executive summary

INTRODUCTION

More than twenty-five years after the collapse of the Soviet Union, much of the highly institutionalized and biologically oriented psychiatric service of the USSR is still in place, and resistance against the introduction of modern, community-based and user-oriented services remains very strong. Over the past decade Georgia has implemented a national mental health reform program that focused on the introduction of a humane and community based mental health system that meets basic standards of human rights. However, the full implementation of the program has not been realized. Of the newly developed services some were never fully operationalized and in other cases the process was halted or even reversed. Recently, privatization has been introduced in general health care as a format that would allow an influx of non-governmental capital, providing a new format that is targeted at upgrading services in mental health to an acceptable level.

Hitherto the state program to privatize health care facilities in the country did not include its mental health hospitals. The sudden and rather unexpected privatization process that started with the privatization of the hospitals in Qutiri, and Batumi was not part of any of the national mental health plans that were adopted in recent years. For that reason, FGIP felt the urgent need to assess the situation, understand the basis and format of the privatization process and see where modifications ought to be implemented in order to ensure the continuation of care and protect the rights of persons with mental illness seeking professional help from national mental health care services.

From an international perspective, privatization of mental health care services is not new. Privatization can work as an incentive for public-hospitals to improve their performance, e.g. by implementing new approaches and experimenting with change. Public hospitals may however be limited by a net of historically grown rules, regulations and “unwritten laws.’’ Centralized arrangements, such as those governing working conditions and salaries may make it very hard to bring about real change.

On the negative side, profit is usually the main interest of entrepreneurs. They are motivated to keep to the terms of their contract but also to find ways to do things more easily and cheaper. This is often not in the interest of those hospitalized and of society as a whole. In some cases rules relating to security formulated in contracts do not work in practice, or patients find themselves forced against their will to undertake activities because this is stipulated in a contract. Management and staff are not driven by the urge to better society but to earn money and maintain a quiet, controlled institution.

When the delicate balance of publicly owned and private health care services changes, it is of paramount importance to monitor and consider the long-term implications of privatization. This process may lead to better efficiencies, improvements in the quality of care and better access to services. However, if implemented improperly, it may lead to negative consequences such as a focus on profit rather than on quality, patients’ rights, and accessibility.

SCOPE

In writing our assessment report, we were guided by a number of key questions. We wanted to scrutinize in detail the opportunities and risks of privatization, and understand the key drivers and considerations of the private investor's business case. Equally important was the issue of sustainability and what mechanisms would ensure good governance of the privatized institutions. We also wanted to look at what changes had been implemented during the first year of private ownership, what improvements have been made in terms of the quality of care, patients' rights and the institution's infrastructure, and also how these changes were perceived by the patients and staff. Finally, we were very keen to establish the plans of managers and the owner to improve the quality of care and to ensure that the rights of the patients are respected.

CONCLUSIONS

The outcome of our report is not wholly positive. To start with, it remains unclear what the goals are for privatization and how this will contribute to the implementation of the National Concept on Mental Health and National Strategy. The privatization process seems rushed and was carried out without any consultation with stakeholders. Neither the general privatization conditions nor the framework of privatization were set in advance. There was no open call and no predefined qualifications or experience required of potential investors. Also, there is no uniformity in the format of the two privatizations. The current privatization contract (we were able to evaluate just one of two existing contracts) does not give certainty in terms of the long-term planning of services and their financial sustainability. It has to be noted that the investor's business case remains unclear.

In both cases of privatization, there are no clear and detailed requirements with regard to the quality of care and the delivery of services at the privatized institutions. The experience in other countries shows that even when adequate monitoring and quality assurance mechanisms are in place, it is important that the State can issue sanctions in any case of non-conformity.

The visiting team did not notice any improvement with regard to the quality of treatment and care of the patients in Qutiri since privatization. The only improvements in Qutiri were material, with nothing said regarding an improvement in treatments and the quality of care. In Batumi the visiting team got the feeling that their newly found independence might allow the clinical team to improve the standard of their care and freed them from bureaucratic delays and barriers.

RECOMMENDATIONS

In our view, privatization must come with clear expected standards on the quality of care, patient safety and aspects of human rights. However, such conditions and requirements only make sense if there are adequate control mechanisms in place. A State monitoring body of qualified officials must make regular inspections, both announced and unannounced and there must be regular external monitoring, e.g. through a Societal council and/or a patient's council. None of this currently exists and must be intro-

duced as quickly as possible. Particular attention must be paid to forensic mental health and compulsory treatment units.

Well maintained buildings, sanitation, warmth and medication are essential, but attitudes towards patients and a focus on rehabilitation and reintegration are key. Treatment and rehabilitation are not only matters of medication. Patients should be stimulated to participate in activities and room must be provided for group and individual therapy, workshops for arts & crafts, and sports facilities in premises outside the wards where patients sleep. Patients need to be taken seriously and prepared for a return into society.

A new and comprehensive structure must be in place that ensures that sufficient energy is directed to enforcing real change and an investment is made in quality and meeting the minimum requirements set by the State. There should be supervisory boards with clear contractual obligations and much more attention should be directed towards the professional knowledge and skills of clinical personnel.

In our view, all future privatizations should follow a process whereby potential bidders must demonstrate that they meet specific criteria to qualify for the tendering process. Any proposed privatization should follow a tendering process where bidders outline their business models and long term plans to develop services. Contracts must ensure that the provider demonstrates to the ministry that they operate a service that meets a full range of financial and clinical standards. Equally important, the privatization contracts must stipulate the obligations from the Government – in terms of what kind, how many and for which price services will be purchased – this would ensure the proper planning process and financial and operational sustainability. All hospitals, both State owned and private, should have these performance figures monitored and treated in non-discriminatory manner.

We believe it would be important to suspend the process of privatization until all the important preconditions and an adequate legal framework are in place. This should include a detailed list of requirements, both with regard to material conditions and standards of care, and specify sanctions that will follow in the case of non-compliance. Adequate governmental and non-governmental control mechanisms are essential, including the development of societal and patient councils and a mechanism for patients to submit complaints when they feel their rights have been violated.

Also, a monopoly on care should be avoided at all cost. In the case of forensic psychiatric care this implies that at least one other facility should be opened giving the government the ability to limit or discontinue the use of a facility where the care offered is not of the required quality.

Finally, absolute transparency is necessary, both with regard to the framework within which privatized mental health institutions function and with regard to ownership, business plans and profits.

II The scope and format of the report

II.a. THE OBJECTIVE OF THE REPORT

As the Georgian health system develops and the delicate balance of publicly owned and private health care services changes, it is of paramount importance to monitor and consider the long-term implications of privatization. This process may lead to better efficiencies, improvements in the quality of care and better access to services. However, if implemented improperly, it may lead to negative consequences such as a focus on profit rather than on quality, patients' rights, and accessibility. The government's inability to have a proper say on how services are delivered is a further danger.

Privatization of mental health care services is not new, and many countries have a long and well-developed experience of its implementation.[1] Privatization can work as an incentive for public-hospitals to improve their performance. Private hospitals are often able to implement new approaches and experiment with change. They can make a new start in a different context. Public hospitals may however be limited by a net of historically grown rules, regulations and "unwritten laws.'' Centralized arrangements, such as those governing working conditions and salaries may make it very hard to bring about real change.

On the negative side, profit is the main interest of entrepreneurs. They are motivated to keep to the terms of their contract but also to find ways to do things more easily and cheaper. This is often not in the interest of those hospitalized and of society as a whole. In some cases rules relating to security formulated in contracts do not work in practice, or patients find themselves forced against their will to go to a gym because this activity is stipulated in a contract. Management and staff are not driven by the urge to better society but to earn money and maintain a quiet, controlled institution.

Experiences in England include that staff working in privatized facilities may seek "the easy way" to keep patients quiet by "making friends" with the more dominant personalities, creating an insecure environment. Also, forensic psychiatric services are complex with different, almost contradictory aims, e.g. keeping patients safely contained and at the same time reintegrating them into the community. It turns out to be hardly possible to write a tender in which one chooses a provider on the basis of quality and innovation. Subsequent contracts need to specify a service over hundreds of pages what is expected from the new investor.

The next problem encountered is the need for a sophisticated and extended inspection regime to ensure that a contract is being carried out properly. In the end, privatized services may be as expensive as the public sector and no better. Finally, it becomes a commercial interest to have more patients and to keep them in hospital longer, often combined with a reduced ability for the State to intervene.

This report takes in to account an earlier report by the National Prevention Mechanism under OPCAT

[1] For a list of argument for and against privatization see for instance the following link: http://www.economicshelp.org/blog/501/economics/advantages-of-privatisation/

of the Public Defender of Georgia on the monitoring of mental health institutions of Georgia, carried out from 9 October 2015 to 6 November 2015.[2] Our focus was not to repeat findings already identified by the public defender, but rather to look at any changes that may have happened since the hospitals in Qutiri and Batumi have been privatized.

Another important aspect of this report is to look at the privatization "business case," from the private investor's point of view. We were looking to understand what the expectations are in terms of profit and how any profit will be used. Also, we sought to answer the important questions of whether the privatization process can lead to an improvement to the quality of care, whether sufficient control mechanisms are in place and whether privatization may result in a reduction in the political responsibility of the government to ensure the provision of adequate care. And finally, we wanted to know whether privatization would solve existing problems, rather than creating new unforeseen ones that would, in turn, negatively influence the provision of adequate care.

We defined the following questions to guide our analysis:

1. What are the opportunities and risks of privatization?
2. What are the key drivers and considerations of the private investor's business case (the expected return on investment and how this will be generated) and the sustainability of services?
3. What is the balance between the obligations of the private investor and the State?
4. What mechanisms are in place to ensure the privatized institutions are well governed;
5. What changes have been implemented in the first year of private ownership and what improvements have been made in terms of the quality of care, patients' rights and the institution's infrastructure;
6. How these changes are perceived by the patients and staff;
7. What are the plans of managers and the owner to improve the quality of care and to ensure that the rights of the patients are respected;

II.b. DESCRIPTION OF THE TEAM OF EXPERTS

The report is the result of investigations by a diverse group of experts. Initial preparatory work was carried out by associates of the Global Initiative on Psychiatry (Nino Makhashvili and Robert van Voren). Subsequently, a team of experts traveled to two facilities in Georgia for an on-site assessment of the situation (Gavin Garman, Mindaugas Plieskis and Jos Poelmann). On the basis of their visits and discussions, a draft report was composed that was subsequently reviewed by a number of independent reviewers in the field of mental health facilities management (Frans Douw, former prison director from

[2] The Public Defender of Georgia is a constitutional institution, which supervises the protection of human rights and freedoms within its jurisdiction on the territory of Georgia. It identifies the violations of human rights and contributes to the restoration of the violated rights and freedoms (http://www.ombudsman.ge/en/public-defender/mandati, accessed on 18/05/2017). The report can be accessed here:http://www.ombudsman.ge/en/reports/specialuri-angarishebi/report-on-the-monitoring-of-mental-health-institutions.page

the Netherlands, one of the co-authors of the report) and mental health economics (Prof. Paul McCrone and Arthur ten Have). Their feedback was incorporated in to the final report as it is now presented, providing a balanced multi-perspective overview that we believe is an accurate and thorough representation of the existing situation. The recommendations are based on our findings and knowledge of the current situation in mental health care delivery in Georgia.

The team experienced good cooperation and assistance during the visits and gained access to patients, staff and some documents as needed. The staff of both facilities was welcoming and open to discussing their practice. Particular thanks go to the Office of the Public Defender, under whose auspices the visits took place and whose constant support and added expertise made the assessment a successful undertaking.

II.c. THE FACILITIES VISITED

A fact-finding mission was carried out by a group of three experts (Gavin Garman, Mindaugas Plieskis and Jos Poelmann), accompanied by Levan Begiashvili and Nino Valikov of the Office of the Public Defender.

On April 11, 2017, the experts visited the LLC "Acad. B. Naneishvili National Center of Mental Health" (Quitiri hospital). Interviews were conducted with Mr. Gocha Bakuradze, the General Director of the hospital, assisted by his deputy directors, Mr. Ioseb Naneishvili (responsible for medical treatment) and Mr. Tamaz Lomtadze (responsible for finances, programs and logistics). They also spoke with doctors, nurses, staff members, and patients.

On April 12, 2017 a visit was carried out to Batumi hospital, where their main interlocutor was the Director, Dr. Eka Zoidze.

III Background

III.a. INTRODUCTION

Georgia, one of three Caucasian countries that regained independence in 1991, has a turbulent recent history. Following the collapse of the Soviet Union, the country was ravaged by civil war and internal strife. As a result the economy came almost to a standstill and the health care system collapsed. At that time it was impossible to imagine how the system could ever be rebuilt. However, by the end of the 1990s a certain level of development had been reached, albeit still a far cry from the relative wealth of the Soviet period when Georgia was considered to be one of the most wealthy and developed of all Soviet republics. Small pockets of reform had been created and new initiatives were blossoming all over the country.

Start of the reform process

At the beginning of this century a nation-wide reform program for mental health was introduced, which was meant to transform the mental health service landscape. The reforms included moving away from the Soviet "Semashko System," changes in healthcare financing and provision, the development of private health care insurance, the privatization of health care providers and the reform of the so-called *Sanitary-Epidemiological System* (SES) into a modern public health system.

The Health Care Strategy 2011-2015 of the Ministry of Labor, Health and Social Affairs (MoLHSA) stressed the importance of mental health care and stated that "increasing physical and geographical access to psychiatric services for the population of Georgia is one of the top priorities" of the Ministry. In line with this 2011-2015 Strategy, several important steps were taken as a joint effort of a wide range of stakeholders, including the NGO sector in general and ex-users in particular. In December 2013, the Parliament of Georgia adopted a National Concept on Mental Health that emphasized importance of balanced care. Consequently, a National Mental Health Reform Strategy and Action Plan for 2015-2020 was adopted in December 2014 after an extensive and transparent working process involving all stakeholders, and coordinated by Global Initiative on Psychiatry-Tbilisi (GIP-T). The Action Plan has various priorities, among others, improving and modernizing hospital and out-of-hospital care, development of community based services, capacity building, etc.

The situation in psychiatric hospitals however remained worrisome. Reports from the Public Defender's Office (the latest from 2015), based on regular monitoring of closed psychiatric institutions, highlighted gross violations of the basic rights of in-patients, including physical restraint and seclusion. Also, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) has repeatedly criticized the Georgian government on the inhuman conditions of their mental health institutions, the low quality of care and lack of staff training. These reports include many systemic policy recommendations, directed at the promotion of de-institutionalization and the development of community–based services. The recommendations also emphasize the need for intensive capacity building within the mental health workforce, strengthening professional ethics and of guaranteeing patient's rights.

On the positive side, the evidence on human rights violations that was collected over the years gave a strong impulse to the reform process. Persistent advocacy and lobbying created a solid foundation for this process. One of the prime outcomes of these efforts was the new Law on Psychiatric Care, which is considered by many experts to be very progressive with a strong focus on ensuring the rights of persons with mental illness. The development of the draft law was a transparent process involving all stakeholders, including users and their representatives.

The law entered into force in 2007 and instituted a number of new practices, such as making a court decision for any involuntary hospitalization obligatory. Among the innovations are sections on patients' rights and confidentiality, an emphasis not only on treatment but also on the integration of a patient into society and his/her psychosocial rehabilitation and the introduction of informed consent before treatment. Several by-laws, which were subsequently elaborated, introduced practical procedures to implement these sections, such as control mechanisms in regard to the use of physical restraint. The implementation process has been further analyzed since and several further modifications and amendments have been approved by Parliament. These amendments focused in particular on improving procedures with regard to forensic psychiatric treatment and prison mental health.

Over the years the Georgian government increasingly recognized the urgent need for change and took some important steps in ameliorating the situation, for instance by doubling the state budget for mental health since 2004. Increased funding allowed the MoLHSA to bring about some important changes, among them the introduction of evidence-based recommendations focusing on improving the quality of treatment, the rehabilitation of some of the main psychiatric institutions and the improvement of living conditions of patients undergoing involuntary and forensic treatment. However, the guidelines have not all become daily practice due to several factors, among others the high cost of the suggested treatments and the lack of availability of some treatment methods. Resistance by some health care providers also proved to be an obstacle.

In Georgia, like in many other former Soviet republics, there is still resistance to the reform of mental health care services. Reform means changing roles, changing levels of authority, challenges to knowledge and expertise. In an environment where the transformation from a totalitarian to a democratic and open society already leads to fundamental challenges (in particular for the older generation), change in the professional environment becomes sometimes too much to bear. A recent article in The Lancet Psychiatry showed that in most of the countries of the region, fundamental changes in the mental health care system have been extremely difficult to achieve. Despite many promising policy documents, in practice services were found to be still reliant on large psychiatric hospitals, in which conditions are often inadequate. The authors concluded that systems of mental health care are underfinanced, and the effective allocation of the few resources available is hampered by a dearth of epidemiological and economic evidence. Stigma and discrimination are widespread and human rights violations continue to occur.[3]

[3] Winkler, P. et.al.: *A blind spot on the global mental health map: a scoping review of 25 years' development of mental health care for people with severe mental illnesses in central and eastern Europe*, The Lancet Psychiatry, http://dx.doi.org/10.1016/S2215-0366(17)30135-9 (accessed 20 May 2017).

III.b.NATIONAL STRATEGIES ON MENTAL HEALTH

Despite these efforts, the overall situation remained unsatisfactory. The MoLHSA (together with other parties) acknowledged that "the conditions, in which the patients of mental health care institutions live and undergo treatment require urgent intervention in order to provide them with proper therapeutic surroundings and treatment appropriate to their dignity, rights and state of health". In order to address these serious shortcomings, at the end of 2010 the MOLHSA commenced a fundamental reform program of the mental health care system. The priorities for reform were very much in line with international requirements and standards and included issues such as the provision of acute and emergency treatment within general hospitals; the establishment of residential facilities for long-term and rehabilitation services; the development of community-based services; professional development of health care professionals; and the involvement of user organizations and patients' family members at all stages of treatment and rehabilitation process.

The national Health Care Strategy 2011-2015 reiterated the importance of mental health care. In line with the 2011-2015 Strategy several important steps were taken. One of the leading psychiatric hospitals in the country, the Asatiani Psychiatric Hospital in the capital Tbilisi (250 beds) was closed. The acute beds from the Asatiani Hospital were relocated to general, multi-profile clinics (90 acute beds in 3 clinics). A new mental health department for children was opened in a general hospital. In addition, a separate mental health center was established and a Crisis Intervention Center was created in Tbilisi. Buildings were reconstructed, to be used as residential facilities in towns outside Tbilisi, and guidelines and codes of conduct were elaborated, personnel were trained and a long-term development policy was agreed.

One of the priorities of the reform program was the professional development of mental health professionals: doctors, nurses and other assisting specialists. A strategy for human resources development was elaborated and basic modules for re-training the workforce were developed. European experts provided training for local professionals. The first phase of re-training mental health personnel, focusing on those working in the capital Tbilisi, started in the summer of 2011. All psychiatrists, nurses, psychologists and social workers, as well as assistant nurses and managers were invited to attend selected training courses and were enrolled free of charge. Unfortunately, in 2012 the program was aborted after a change in government.

In December 2013 the Georgian Parliament adopted the "National Concept on Mental Health"[4]. This document stipulated that "Georgia recognizes the importance of mental health". Moreover, "Georgia undertakes to organize delivery of mental health services within the country in the manner that people with mental disorders receive treatment in the least restrictive environment, to the extent possible in their own home or close by, based on their basic needs; to ensure maximum protection of their rights and dignity and their full and effective participation in society on an equal basis with others". The Concept also gave directions on how this balanced care should be developed: a "balanced development model includes in-patient care, community-based services and strikes a balance between drug treatment and non-medicine treatment; personal, family and community interests; as well as prevention, treatment and rehabilitation methods".

[4] Decree of the Parliament of Georgia dated 11 December 2013 on the "National Concept of the Psychiatric Health Care", Available at: https://matsne.gov.ge/ka/document/view/2157098

National Strategy and Action Plan

The MoLHSA launched a National Strategy and Action Plan for the years 2015-2020, which was approved in December 2014[5]. Three strategic directions in this plan are of particular relevance to this report:

- **Improvement of State oversight and management in the mental health care system:** Better policies and flexible funding models should be elaborated with stakeholders, e.g. mental health professionals, which is necessary to provide good services for the vulnerable population. State government agencies develop legislation, other interested parties focus their activity on these regulations prescribed by law;
- **Development of human resources:** Qualified personnel in the field of mental health are a precondition to improve the quality of mental health services. Human Resource Development aims to enhance the staff 's capabilities with modern skills and create engaged, motivated and committed staff;
- **Mental health in the penitentiary system:** The prison system must provide prisoners with effective, affordable, timely and high-quality mental health services, which will be not less than the existing standards in the public sector. Mental health services must provide for the proper treatment of prisoners with mental disorders and provide care that will allow them self control and to function independently, as well as to increase the safety of inmates and prepare them for re-socialization in society.

III.c. PRIVATIZATION ISSUES

The privatization process, which started with the sudden and rather unexpected privatization of the hospital in Qutiri, was not part of any of the above-mentioned documents. Not only was it not part of any long-term plan, the process itself was rather obscure and unexpected. Over the past half dozen years, the Georgian government has been implementing a program to privatize health care facilities in the country, but this did not include mental health hospitals.[6] Initially the "100-hospital plan" focused on the construction of new and modern hospitals by external investors in exchange for acquiring old buildings in very attractive locations, such as downtown Tbilisi. However, now external investors were sought to privatize facilities entirely, i.e. the psychiatric hospitals in Qutiri and Batumi and a further 7 mental health facilities.

There are many examples of the privatization of health services across the world, including the privatization of mental health services. In many cases the objective of privatization from the point of view of the Governments is to achieve efficiencies, i.e. at least the same or better output for the same input (with the assumption that a private company is more likely to implement unpopular austerity measures as staff loses public sector protection). An important objective of privatisation is to shift the role of the

[5] Decree N 762 of the Government of Georgia on "Establishment of the Strategic Document of Development of Psychiatric Health and Action Plan 2015-2020" dated 31 December 2014, Available at: https://matsne.gov.ge/ka/document/view/2667876

[6] The 100-hospital plan did not include the privatization of psychiatric hospitals. Rather, the newly developed general hospitals should open 30-bed acute psychiatric departments to replace the psychiatric hospitals e.g. the large Asatiani hospital in Tbilisi.

Government from being the provider of the services to becoming the purchaser of the services. By doing this, Governments acquire the power of a purchaser and negotiator, provided that no monopoly is created by the privatization. Also the objective of the privatization is to enhance quality through innovation that is sometimes hard to achieve in the public sector, using competition between private sector entities to achieve this. An additional objective of privatization can be to pass the obligation of capital investments to a private investor.

A potential investor will decide whether to invest after a careful assessment of the business case and whether the project has the ability to generate a return on their investment and if so, how quick and how big that return will be. A reasonable investor also asks for assurances and guarantees from the Government – on a minimal level of pricing, the volume of services that the Government is going to purchase and their long-term commitment. This is especially true when the establishment to be privatized operates not in a "free market", but in an environment restricted by regulations and/or by the nature of the services/goods, as is in this case.

According to two authors of an article in the Harvard Business Review, there is however also a third perspective.[7] In their view the issue is not simply whether ownership is private or public. Rather, they assert, the key question is under what conditions will managers be more likely to act in the public's interest. They believe the debate over privatization needs to be viewed in a larger context. Privatization involves the displacement of one set of managers with another set of managers, who may answer to a very different set of requirements and expectations.

Refocusing the discussion towards the impact of privatization on managerial control moves the debate away from the ideological ground of private versus public to the more pragmatic ground of managerial behavior and accountability. Privatization will work best when private managers find it in their interests to serve the public interest. To achieve this a government must specify the public interest in such a way that private providers can understand it and agree to sign a contract with these specifications. To do that there needs to be solid competition among potential providers, which may also include governmental entities.

Considering the above, the pros and cons of privatization can be measured against the standards of good management—regardless of ownership.

The authors come to three important conclusions:

1. Neither public nor private managers will always act in the best interests of their shareholders. Privatization will be effective only if private managers have incentives to act in the public interest, which includes, but is not limited to, efficiency;

2. Profits and the public interest overlap best when the privatized service or asset is in a competitive market. It takes competition from other companies to discipline managerial behavior;

3. When these conditions are not met, continued governmental involvement will likely be necessary. The simple transfer of ownership from public to private hands will not necessarily reduce the cost or enhance the quality of services.

[7] Goodman, John.B., and Loveman, Garry W.: Does privatization serve the public interest? In Harvard Business Review, November-December 1991. To be accessed at: https://hbr.org/1991/11/does-privatization-serve-the-public-interest

Privatization in Georgia

In 2011 the European Bank for Reconstruction and Development (EBRD) assessed Georgia from the perspective of Public Private Partnerships (PPPs), which includes all types of arrangements between public authorities and private institutions.[8] This assessment excluded the sale of public assets or of public company shares that are part of a privatisation process.

However, we believe that this is a highly relevant document, as this assesses the readiness of the country to engage in PPPs, as well as the possibility of PPPs bringing benefits to society. It also highlights all the important elements, e.g. the necessary legislative framework, and evaluates how that framework works in practice.

It is important to note that Georgia has in this respect been ranked by the EBRD in 2011 as a "Very Low Compliance/Effectiveness" country. We believe this evaluation is important and despite the fact that the study focused on PPPs (as defined in the report), this shows that the country is not really ready to engage in meaningful and mutually beneficial relations with private investors. To our opinion this must be taken in to account by the government when considering major privatization undertakings especially in areas impacting highly on the public interest and human rights.

The privatization of mental health services in Georgia poses a number of questions with regard to the quality of services, control, anti-corruption policies and accessibility for the most vulnerable groups.[9] Health care privatization in general and in forensic psychiatry in particular poses many risks and organizational questions that need to be addressed.

For instance, in The Netherlands a major problem in mental health care provision is that privately run services tend to focus on "lighter" cases as they are more profitable, while the more serious and chronic mental health cases are often ignored or sidelined because they are financially unattractive, unless the payer agrees to pay more for more serious cases[10]. In our view, there has been too little consideration and expert analysis of the long-term consequences of privatization. From a business perspective, clients that have a really problematic behavior or are hard to treat can be a commercial disaster. To respect their human rights during treatment becomes an expensive affair, both from a treatment and security perspective, with often very limited results. This group of patients easily ends up in the penitentiary system.

This issue is particularly crucial in the case of forensic psychiatry. In Georgia, most of the forensic psychiatric services are provided by the Qutiri psychiatric hospital in the Western part of the country[11]. Qutiri psychiatric hospital is a facility with 660 beds, of which some 300 are for forensic patients. It is the only facility in Georgia with both a high and medium security forensic psychiatric unit, and thus is

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[8] EBRD: Georgia. Assessment of the quality of the PPP legislation and of the effectiveness of its implementation; 2011. The report can be downloaded via the following link: http://www.ebrd.com/downloads/legal/concessions/georgia.pdf

[9] See Makhashvili, N. and Van Voren, R.: Balancing Community and Hospital Care: A Case Study of Reforming Mental Health Services in Georgia. PloS Medicine, January 2013

[10] De Wolf, A. H. ., & Toebes, B. . (2016). Assessing private sector involvement in health care and universal health coverage in light of the right to health. Health and Human Rights, 18(2), 79–92. Retrieved from https://www.scopus.com/inward/record.uri?eid=2-s2.0-85004000510&partnerID=40&md5=0e44b49ee9bd4f427ef813cf98e2759b

[11] There are only up to 30 other forensic beds in penitentiary system for prisoners/inmates.

a crucial component in the chain of mental health care provision. Although the budget is currently allocated from the State and it is based on the unilateral decision of the Ministry of Labor, Health and Social Care, the probability exists that in future the situation could be that the hospital will be selling its services to the state and may be able to set any price, as there are no alternatives. In addition, once the service is privatized the State tends to do everything possible to avoid becoming responsible for this category of patients again, resulting in a willingness to pay more to avoid a reversal of responsibilities.

In other countries such as The Netherlands where similar establishments were privatized, the Governments put into place several safeguards[12]: The service providers are owned and run by non-profit organizations and there are several competitive establishments to ensure no monopoly exists. Systems of quality control can be imposed, yet at the same time there may be no possibility to levy sanctions if these quality regulations are not followed, as the hospital's business is essential. In addition, the Ministry of Labor, Health and Social Care does not have any instrument to monitor the quality and effectiveness of the service provided (only the NPM under the Public Defender office can produce a report on human rights practices in those institutions), meaning there are no safeguards for patients. Even in well-developed and wealthy Western countries it can prove very difficult to maintain adequate controls over private contractors.[13]

Corruption within forensic psychiatry has been a serious problem in Georgia[14], as in other former Soviet republics, where diagnoses were bought by criminals in order to avoid long prison sentences and, instead, spend a much shorter period of time in a mental institution before being declared "treated" and "recovered". Considering the fact that countries like Georgia are still in the process of transformation from a totalitarian society towards a society based on the rule of law, there is a potential risk that the owner will be asked (or "convinced") to house criminal 'elements' in his facility in order to avoid long term imprisonment in governmental penitentiaries. However laudable the investor's intentions might be, he may not be able to resist and there are no mechanisms in place to help him resist such pressure. Earning money remains the main objective of the private investor.

In our view, an external expert assessment is a fundamental and necessary step towards the modification of policies or developing mechanisms that result in adequate mechanisms of control. Moreover, we believe external assessment is the right tool to use before the implementation of changes on such a large scale. A first step could be to start a small and well-monitored pilot to learn how best to implement such change and to learn from practice. It seems that the current situation in forensic psychiatry, where in principle all services are abruptly privatized, has a high risk of failure.

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[12]The Manual Planning and Control for Private forensic hospitals in the Netherlands (Handleiding Planning en Control voorParticuliere PBC's) can be downloaded on-line via the following link:

https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&ved=0ahUKEwiwuomP8YLUAhUCiywKHfQdA2MQFggmMAA&url=https%3A%2F%2Fwww.forensischezorg.nl%2Ffiles%2Fhandleiding_planning_en_control_2017.pdf&usg=AFQjCNGvzarAee2rcmmKczp43-nEDmY8lA&sig2=lVdOpm6Ej8i_U37KQaGhjg

[13]See, for instance: Lewis, Richard et.al.: How to regulate Healthcare in England. King's Fund, 2006; and Report of the Mid Staffordshire NHS Foundation Trust Public Inquiry, 2013, chaired by Robert Francis

[14]See Van Voren, R.: Forensic projects. In Mental Health Reforms, 2-2012, p.12

III.d. DESCRIPTION OF VISITS TO THE TWO HOSPITALS

Previous reports of The Public Defender of Georgia have detailed the size and nature of the establishments visited, and have assessed them in terms of material conditions and the humane treatment of patients. Our fact-finding mission was not intended to be a comprehensive human rights inspection. We spent time with the hospital directors, clinical staff and patients, focusing our discussion on changes they had been able to implement since privatization and their plans for the future.

III.d.1. Acad. B. Naneishvili Psychiatric Health Centre (Qutiri hospital)

The baseline for our assessment of the situation was the 2015 report by the Special Prevention Group of the Public Defender of Georgia on the monitoring of mental health institutions of Georgia, carried out from 9 October 2015 to 6 November 2015, to which we referred earlier in this document. This is the most recent detailed report on the situation in Qutiri hospital.

On entering the **forensic unit** we spoke to ten men who were exercising in a large cage at the front of the building. Whilst our staff escorts were with us, they hung back and the men did not seem to pay them any particular attention. One of the men had an amicable looking conversation with the deputy director. They told us that they had been at the hospital for times ranging from two months to two years. When asked if anything had changed over the last year, they answered that the bathrooms had changed and they had hot water now. They said that the food was good and they were not hungry. They said they were able to see a psychologist but would like more art therapy. They said that 'therapeutic medication' was scarce, by which they meant painkillers. When asked if the medication made them shake, they said no. They said they could however get restless, for which they would get medication from the nurses.

They told us that the nurses do not do activities or play games with them but would talk to them when they wanted something. They stated that they now receive a pension with which the staff could buy things for them. They said that they were able to make phone calls by having money on a phone card. The men said that they spent two hours a day out in the yard, otherwise they stayed in their rooms all day apart from meal times. The medication, they said, took all their energy. We asked why they did not have at least a football to play with in the yard. They replied that they used to have one but it had been punctured and had not been replaced.

The wards generally were overcrowded. In one of the wards, some men had to sleep in the corridor, as the rooms were full. Some men did describe that their care had been individualised in that they were supported to spend time alone. We saw some newspapers, cupboards for the patients' belongings and occasionally some minor personalisation of the wall space around beds. None of the bedrooms in the hospital had curtains.

Most of the patients spent the day lying on their beds. It seemed that they did not feel free to complain to us. We heard accounts of punitive responses to when patients had raised concerns or complained, in the form of extra medication and spending time in isolation rooms without any knowledge of how long they would remain there. Patients had no choice in their medications and had even been told they would need to pay for any alternative themselves.

We heard patients say that they were permitted once a week to talk to their family on the telephone.

Some patients complained about the lack of transparency of rules with many decisions made at the whim of staff.

The overall impression of the wards is poor, as in the past. The forensic wards were reconstructed and improved some years previously, including the fitting of en suite toilets, though these have provided another reason to not let patients out of their rooms. Even the "new" building is deteriorating quickly. One of the team-members had visited the hospital 10 years ago and reported no improvement, despite a GIP project to improve the quality of care and to provide training.

At the **female acute ward** we found a mix of short stay acute and long stay forensic women who stay there for several years. Of the 27 patients, 17 were forensic. The ward corridor was long and dark, with large bedrooms of up to ten beds. The walls were badly damaged with large areas of missing plaster. The environment was impoverished. There is a dining area, two toilets and two showers. The showers are pipes sticking from the wall. The water was hot. Patients are always observed in the shower. When asked why staff responded because they have razors. There were no heaters in the corridors. The rooms each had one electric heater. All rooms had what appeared to be fairly new secondary double-glazing although this had not been mentioned in the list of recent improvements.

The women were hanging around in the corridors and approached us en mass. There appeared to be a high level of acute psychosis in the content of their speech and behaviour. We observed evidence of extrapyramidal side effects in patients and no apparent assessment of the side effects of neuroleptic medication. This included evidence of high prolactin levels amongst the women in the form of facial hair.

The **male chronic wards** were also impoverished. Each bedroom was crowded with 15-17 beds. There were no cupboards for patients' possessions and the walls were bare. Each room had one electric heater. The windows had the same secondary double gazing. The ward smelt strongly of cigarette smoke. We saw no books or magazines. Work had begun to install a new shower. In the mean time there was only one shower for 87 men, a pipe sticking from the wall. The shower room had large piles of broken wood and masonry and damp sacks. There were three toilets. The men looked thin. Some had mental retardation.

We spoke to men who had been in the hospital for different lengths of time. One had been admitted to the hospital previously and said there had been almost no change. The food had not improved. They did however receive a pension that they could spend on weekdays on cigarettes, sweets, cheese and meat. The shower was now hot.

The exercise yard was 'not suitable' so the men could not go outside. They said there was a psychologist, singing and art therapy, though none we met were participated themselves. Some patients were clearly bright and able to speak with us coherently. They had little or no idea of how long they would be on a ward or why they had changed ward but remained reluctant to complain, even though we heard accounts of harassment by other patients.

At the **social care home** we visited both the male and female wards. There was less crowding in the bedrooms but the conditions were very poor. The rooms were cold and bare. Some doors were broken and doorways roughly repaired. The patients were in ragged clothes, many stayed in their beds.

We saw commode seats and buckets next to the beds of frail elderly patients on both the male and fe-

male wards. There were no curtains or privacy when the patients used these, as they were in plain view. Some rooms did not have a heater. Some windows were broken. There were large patches of missing floor covering in rooms and broken tiles on the shower room floor. The psychiatrist told us that the patients there received the same level of care as a hospital patient. Considering the fact that patients might never leave and could end their lives on these wards, we felt that the conditions were inhumane and unacceptable.

Overall, the hospital provides little therapeutic activity; there are no workshops, no sports and no group or talking therapies. The staff of Qutiri Hospital gave an impression of exhaustion. Most staff members had been working at the hospital for many years. According to the accounts of management and the employees, staff level nor the remuneration has not been changed. There is an absence of strong leadership and clinical vision to improve the care that the men receive, other than improvements to buildings.

III.d.2. Batumi Psychiatric hospital

The acute and chronic wards are out-dated and have poorer material conditions than the rehabilitation ward, which in many ways is a modern psychiatric facility. Having said that, there are pleasant murals on walls across the hospital and no bedrooms were locked. The lounge on the female chronic ward was being converted to a library. Dozens of painted books were suspended from the ceilings and the room was impressive. We also saw a very active art room full of recently created jewellery and craft pieces.

Files held by the psychologists showed good assessments, individualized development plans and the use of evidence based tools such as the Becks Depression Inventory.

The first improvements made on the acute wards were visible: the isolation rooms had been transformed: windows replaced bars and the rooms were nicely refurbished. Despite the poor quality of some of the buildings, the atmosphere in the wards was very different to Qutiri Hospital. We were met with young and motivated psychiatrists and heads of department, who showed us around whilst talking and joking with patients. We were told the teams included qualified psychotherapists and that there were weekly groups for patients as well as individual psychotherapeutic sessions.

It also seemed that the use of medication was appropriate as we saw less negative side-effects and the patients were alert and responsive. The nurses were more open and communicative. Apart from the replacement of the bars in the isolation rooms, it is hard to claim that these positive aspects are a result of the very recent privatization.

The building that houses the rehabilitation ward is light, clean and spacious, with a large room for general activities, workshops for arts and crafts and a library. The ward had newly fitted shelving and furniture and it was clear that many aspects of their design had been created to remove ligature points. Staff said some of the patients from the chronic wards were also able to access these facilities. The gardens are well used but in a poor state.

IV Privatization

IV.a. CURRENT STATUS OF THE PRIVATIZATION

Quitiri hospital

At the end of 2015 the state-owned Qutiri hospital (LLC "Acad. B. Naneishvili National Center of Mental Health") was privatized by a direct sale (sold to a selected applicant without open bidding/auctioning, sale was organized by National Agency of State Property, not clear how the applicant was selected). According to the Decree N 2248 of the Government of Georgia of 22 October, 2015, and the public registry data, 95% of the shares of the hospital have been sold to the LLC "B&N" and 5% of the shares have been retained by the State. According to the record in the Public Registry of Georgia governing body (supervisory board) for the LLC "Acad. B. Naneishvili National Center of Mental Health" was appointed.[15]

Records in the Georgian public registry show that LLC "B&N" is 95% owned by Badri Kakabadze and 5% is owned by Nata Kakabadze.[16]

On 20-01-2016 a privatization contract was signed between LLC "B&N" and the National Agency of State Property. The contractual obligations of LLC "B&N" are:

- Payment of the privatization price of 800,000 (eight hundred thousand) GEL (around 300 thousand Euros) within one month of signing the agreement. The beneficiary of this contract is the State;
- Within 4 years from the time the agreement is signed to establish, equip and improve the medical institution with a minimal capacity of 700 (seven hundred) hospital beds on the immovable property belonging to LLC "Acad. B. Naneishvili National Center of Mental Health", including construction of at least 2 (two) **additional** buildings with a minimum total area of **2400 square meters**, serving aforementioned purpose, as well as their acceptance into service, equipment, capital improvement, and operation. The equipment, improvements and new buildings must result in the investment of a minimum of 6,000,000 (six million) GEL (around 2.2 million Euro);
- Maintenance of all services provided in the past by the LLC "Acad. B. Naneishvili National Center of Mental Health", also during the fulfillment of the investments. The list of "services provided in the past" is not provided in the contract;

[15]Chair/Member, Avtandil Ioseliani; Deputy chair/Member, Kakhaber Kukhianidze; Member, Badri Kakabadze, Russia, Georgia; Member, Ramaz Giorgadze; Member, Ioseb Naneishvili; Member, Gocha Bakuradze; Member, Shorena Okropiridze.

[16] Portal Business Georgia describes Mr Badri Kakabadze as the most famous Georgian living in St. Petersburg, Russia. He has the background and education of the engineer in the industry of frozen products. He is the owner and the managing director of the Joint Stock Company "Petroholod" which is one of the major producers of ice cream in Russia. The company focus areas are also the wholesale trade and services of storage of food products. Besides this company he is claimed to be the owner of several restaurants in St. Petersburg and Tbilisi. His estimated wealth is around 500 million USD and according to the report of the business portal Mr Kakabadze is 27th in the list or richest Georgians. We could not find any reference or information on Mr Badri Kakabadze doing business in health care.

- Maintenance of the medical profile of the property (including 2 newly build buildings) throughout the period of the existence of the buildings but not less than **50 (fifty) years from the privatization**. The services provided must include "tuberculosis management" and "mental health"; the full package envisioned by the State Program on "Mental Health"; the provision of ambulatory and inpatient services; involuntary inpatient psychiatric services and inpatient services for mental and behavioral disorder(s) induced by alcohol consumption, as well as the provision of proper shelters for persons with mental disorders.

The contract also stipulates multiple obligations of the Buyer (LLC "B&N") to provide the State with audit/expert conclusions, prepared by an expert and/or audit companies (from the list of audit companies, approved by the Government) with different timelines. We understand these obligations would allow the State to closely monitor the implementation of the contract.

It is noteworthy that the privatization agreement of Quitiri hospital also contains some special provisions:

- LLC "B&N" is granted the right to place a mortgage on their "95% share of the Enterprise" (provided written approval from the State is granted). In the event that LLC "B&N" fails to fulfill the mortgage obligations, the mortgage lender is entitled to take over the ownership, however all the obligations of the LLC "B&N" are then transferred to the "new owner";
- LLC "B&N" is not granted the right to sell the immovable property of the hospital and should this property need to be used as the mortgage guarantee, State approval is needed;
- LLC "B&N" is granted the right to sell the whole 95% of their shares or part of it to third parties. For this LLC "B&N" only needs to notify the State in writing. The contract does not set any timelines of when such notice should be given (before or after transfer of ownership), nor foresees any qualification requirements for the new owner. The agreement also stipulates that in the case of transfer of ownership, all the obligations of LLC "B&N" are transferred to the "new owner".

Batumi hospital

According to the record in the Public Registry of Georgia, the privatization agreement for Batumi hospital (LLC republican Clinical Psycho-Neurological Hospital) was signed on 10/02/2017. The record in the Public Registry of Georgia indicates that Batumi hospital was sold by the Government of the Autonomous Republic of Achara to the LLC Health Care Group and this company now fully owns the hospital (100% shares). The LLC Health Care Group is owned by Gocha Bakuradze (49%) and LLC "B&N" (51%). It is important to note that while Mr Gocha Bakuradze is a member of the board of the privatized Quitiri hospital, he is also the director of the very same Quitiri hospital.

We were informed by the directors of both hospitals that the owner/investor is the same in Quitiri and Batumi, but the legal bodies that are indicated as owners of the shares in the Public Registry are different. In comparison to Quitiri, Batumi hospital has no appointed governance/supervisory board and only the name of the director Eka Zoidze is mentioned in the public registry.

We had no opportunity to evaluate the privatization agreement of the Batumi hospital, as this contract was not available. However both directors informed us of the following details of this privatization case

and signed privatization agreement:

- This privatization was implemented via open/public bidding/auctioning[17]
- The open bidding resulted in a price increase from the initial price of 100k GEL to 2.5M GEL
- The Investor won the bidding and purchased **100%** of the shares of the Batumi hospital;
- The Investor's obligation is to invest 1M GEL (without requirement to build the new buildings);
- There is no obligation of the investor to maintain a certain number of hospital beds.

Further mental health privatization plans

The MoLHSA of Georgia on 16-02-2017 (letter No 01/9286 to LEPL National Agency of Public Registry) expressed its willingness to continue further privatization and indicated the intention to privatize 7 more mental health institutions: LLC "Tbilisi mental health center" (i/c 209446900), LLC "Rustavi mental health center" (i/c 216296880), LLC "Al. Kajaia Surami psychiatric hospital" (i/c 243858544), LLC "Bediani psychiatric hospital" (i/c 243123455), LLC "Drug addiction center" (i/c 248424307), LLC "Telavi regional drug addiction center" (i/c 231171148), LLC "Kutaisi mental health center" (i/c 212697429).

The MoLHSA of Georgia emphasizes in this letter the importance and high priority of mental health services. One more important aspect of this letter is that the Ministry of Labor, Health and Social Affairs is seeking some safeguards during the privatization process, namely:

- The State must maintain shared ownership (privatization should be limited to the sale of 95% of the share of each privatized institution);
- The presented privatization business plans will be reviewed by a working group on investment projects, established by the Ministry of Economics and Sustainable Development of Georgia, LEPL National Agency of Public Registry, Ministry of Labor, Health and Social Affairs of Georgia and field experts.

IV.b. CHANGES IMPLEMENTED IN THE FIRST YEAR

At Qutiri, the Director, Mr. Gotcha Bakuradze, and Deputy Director informed us that though conditions in the hospital were still bad, they had begun to invest in the hospital and had made a lot of changes. The director explained that the media interest in Quitiri has always been negative and scandalous and it had taken four years to interest the Ministry of Health in improving the hospital. The investor has begun his investment and funded: new roofs to all buildings, central heating and hot showers in the forensic wards and an upgrade to the sewage system.

The privatisation in Batumi was more recent. Though the process had begun at the end of 2016, it had only been completed two months before our visit. The only work completed in that time had been the replacement of the isolation rooms on the male and female acute wards. These had previously been very poor, bare rooms with a barred door and a roughly bricked up window. The staff had been involved

[17]The web-link to the bidding documents is no longer accessible

in the redesign process that was based on good practice witnessed abroad. There were now two rooms on each acute ward, which were newly decorated, with beds fixed to the floor, a large clear window facing the corridor with a workstation for a nurse to conduct observations and a shared toilet between the two adjacent rooms. The rooms were not yet in use but the old rooms had been converted into bedrooms.

IV.c. HOW STAFF PERCEIVES THE CHANGES[18]

IV.c.1. Qutiri

A psychiatrist explained that there had been many renovations and repairs: there were new radiators in all the rooms, hot water and improved nutrition. Before these, the hallways had been freezing. There was a new bathroom the men could use if their own shower was broken. All the buildings had new roofs, before they all leaked and you needed an umbrella inside. She said that there was a plan to repair the road into the hospital (which is very bad and difficult to negotiate).

When asked what she had been told about the privatisation, she answered that they had been told it was hard for the government to maintain buildings or provide the money for maintenance. She had met the new investor. She knew that the location for new buildings had been marked out. She told us that one old building had been gutted and would be renovated for new services.

We asked if therapeutic activities had changed at all and she replied that there were now visits from a cardiologist, a dentist and a surgeon. The dental equipment had not been updated but is functional (we did not see it). She said that they now used new medications but struggled to name any. The permanent number of doctors and nurses had not increased, but there were 5 or 6 new junior doctors doing residencies. The number of patients had not changed aside from normal fluctuations. We asked if staff could suggest changes and she said yes, there is a regular meeting where this could be done. She felt that the privatisation was a good thing because it was hopeful, promised good things and staff could advance their qualifications.

Three nurses told us that everything had improved, such as the heating and hot water now being in every cell and bathroom. Toilets have been renovated and roofs and the sewage system changed. They had met the investor and described him as open and free.

We asked if treatment had changed. They said that some medication had changed, that change there was not dramatic but was ongoing. We asked if the new medications had less side effects and they said no. They also struggled to name any new medications. Staffing numbers had not changed but they said the balance of males to females had changed, with more men being recruited.

The nurses did not know what the future plans for the hospital were but understood there would be more renovation and some construction. They said that if the clinical staff wanted something, they could approach the administration, which are helpful. They said they were hopeful.

[18]The current status of the staff in the privatized hospitals remains unclear. They consider themselves state-employed and receive salaries from the state program. However, it is unclear whether this will remain the situation.

In another ward we interviewed two nurses. They had been told that the hospital was sold to an investor and had seen him visit several times. They said there had been changes in infrastructure and some minor changes with patients. They did not know what the plans are for the hospital. Previously patients had stayed on acute wards for six days and then transferred to a chronic ward. Now they stayed for 15 days. This is an improvement as before, patients were often still acutely unwell when transferred. Staff numbers had remained the same. They stated there were some plans to renovate more wards in the future and develop community services. They said that they did not have new medications. They were hopeful for change.

In yet another ward, nurses told us that the roofs and sewage system had been changed and the bathrooms were to be renovated but they had not been informed of other plans. They had not heard much about the new investor. Staff numbers and the treatment programme had not changed. They reported that patients could see a psychologist and do drawing. There were occasional excursions, such as one in October to the town and church. They were not using new medications. They said they were optimistic. They said they were waiting for conditions to improve. There had been no change in salaries.

Innovating forensic psychiatry requires improvements in the legal position of patients, state of the art treatments and providing aftercare to patients in the community once they are discharged. On one hand it is about empowering patients and also about inspiring society and public services to take responsibility for this group of fellow human beings. Even when the private owner does his best to improve treatment and create a modern hospital, patients will not be able to reintegrate into society when there is no continuation of care, a place to live, daily activities and a means to earn a living. It is the experience in other former Soviet republics e.g. Lithuania, that where the standards of care within hospitals are brought to a European standard and rehabilitation becomes an integral part of the treatment program, a real reintegration into society fails when the services provided once the patient is discharged remain inadequate.

IV.c.2. Batumi

Discussions with staff took place whilst moving through wards rather than as sit down interviews. They came across as well motivated, patient centred and compassionate. They had ideas on future developments and were optimistic that the privatisation would prove positive.

The director of Batumi Hospital named some disadvantages of being a State hospital. In the Ministry of Health there is a lack of specialised knowledge of mental health treatment with whom to discuss the specific needs of a mental hospital. The administrative burden under state-control is large with a need to seek the approval of the Ministry on minor matters. It can be hard to develop new ideas and innovations, such as geriatric care, childcare and shelter homes.

However, practice in other countries where services were privatized shows that although in the short term privatization improves the situation, this may be temporary[19] or indeed had quite opposite results from what has been expected[20]. The bureaucracy that has to be developed between State and owner to develop good contracts and maintain adequate control is huge.

[19]Basu, S., Andrews, J., Kishore, S., Panjabi, R., &Stuckler, D. (2012). Comparative performance of private and public healthcare systems in low- and middle-income countries: A systematic review. PLoS Medicine, 9(6), 19. https://doi.org/10.1371/journal.pmed.1001244

[20]Quercioli C, Messina G, Basu S, et al The effect of healthcare delivery privatisation on avoidable mortality: longitudinal cross-regional results from Italy, 1993–2003 J Epidemiol Community Health 2013;67:132-138.

IV.d.HOW ARE CHANGES PERCEIVED BY PATIENTS

We only interviewed patients at Quitiri hospital. Staff there rapidly left us alone with patients when we asked them to leave. Talking to groups of patients and asking about any differences in the last year, the patients answered that the showers provided warm water (though not always). They had not noticed any change in treatment, therapeutic facilities, in the approach of staff or their attitude. The improvements patients talked about were about investments in sanitary conditions, such as warm water and the sewer-system. From patients who had been in the hospital over a year, we heard that nothing had changed, though they acknowledged the new heating when prompted. Medication and activities had not changed, but they could now buy therapeutic medication.

IV.e.PLANS TO IMPROVE THE QUALITY OF CARE

IV.e.1. Quitiri

We were told that Qutiri plan to invest in staff, nutrition and better quality medications. In the future, they may have private patients. Mr. Gocha Bakuradze said they had researched the market, for example there is stigma attached to mental health problems and addictions in Turkey, so Turkish patients could come to Georgia, which is why Batumi had been purchased. They have invited some Turkish hospital staff to visit.

We were told that future profits will be invested in patient care and that the investor envisages making a profit after ten or fifteen years. There are plans over the years for improved staffing and a treatment framework. Numbers of staff have not changed over recent years. With an investor, they now have a chance to implement changes. The investor is not yet expecting a profit, though he does not want a loss. The Director felt that though people thought they would reduce staff numbers they had not. They plan to systematically move wards into empty buildings while they are renovated.

Mr. Bakuradze produced a series of boards showing drawings and floor plans for the future hospital. In the drawings, the existing buildings looked cleaned and renovated. There was a new unit with three pods that seemed to each have 8 bedrooms. GB said there was a three-year plan to build and renovate the physical environment. This will take more than six million GEL and several years. They are negotiating with UNESCO's on-going continuous training programme, to deliver training and develop skills. They plan to pioneer geriatric and child psychiatry and a system of mobile teams in the community.

Mr. Gocha Bakuradze said they had a five year written action plan. He said that gathering the papers would take a while, as they are not in one document. In spite of repeated asking, we were not shown this document. We were told that they sent this action plan to the government but it somehow ended up being copied by a foundation who is their competitor and who is seeking to buy further hospitals. So they are now wary of giving it out.

IV.e.2. Batumi

The Director told us that they had applied for training from international organisations and signed memoranda with several organisations. In June and July, trainers will be coming to the hospital from UNESCO's

department of continuous education in Ukraine and from Lithuania. The director said they were 'gathering their strength' and had plans to open geriatric and child psychiatry services. The local government has also commissioned a Suicide Prevention Programme. The investor was described as very active. The proposed geriatric department would be on the third floor of the hospital and be the first unit of its kind in Georgia.

A planned source of income was to provide a service to private patients from Turkey. The Director said they have begun negotiations and would be able to offer good management, conditions and care for foreign patients. Turkish services are expensive and not always of good quality. Turkish language classes for Batumi's psychiatrists are being put in place. The doctors have been offered higher wages for taking Turkish patients.

The Director told us that there is a written strategy but we should not ask for it as it had been stolen by a competitor and implemented in Tbilisi. Arguments that it could be disclosed to the Ombudsman and that plans that will be beneficial to patient should be shared were not persuasive.

The Director outlined that laundry rooms were to be renovated. There is a plan for mobile teams in the community. This was said to be an example of another plan that had been taken and implemented poorly by others, resulting in the homicide of a staff member and a suicide.

It sounded very much that the two Directors were referring to the same plan being 'stolen' and we asked if there was one plan for the two hospitals. The Director replied that the plan had shared sections and parts that were unique to each hospital. When asked if there was a risk of profits from Batumi being invested in Qutiri, the Director stated that the financial regulations did not allow it, though the investor was free to take profits out of the organisation himself.

The Director said that the hospital had two good social workers but need three more. Two doctors had been trained on the assessment of patients. A recent project with nurses was described which focused on how to motivate patients. Nurses could now choose which patients go to work and other therapies. There was a psychologist and talking therapies, not just painting. These internal projects were titled: 'Fulfilling your dreams' and 'Learn and do together.' There had also been excursions for patients to the beach with the social workers.

The Director said that they had been able to remove bars as investment was provided for hard plastic windows that the government would never have allowed. The hospital was paying for an unfunded post for a therapist to address somatic problems. Community groups are to be introduced from June 1, 2017.

IV.f. THE INVESTOR'S BUSINESS CASE

Considering the significant size of the investment and its long-term obligations, we were expecting to be presented with the investors business case and development plans for the hospitals. However, no business case or development plan was provided. We had extensive discussions on this topic with the director of Quitiri hospital, Gocha Bakuradze. We understood Mr. Bakuradze to be the person directly connected to the investor and responsible for overseeing the business of both Quitiri and Batumi hospitals. Mr. Gocha Bakuradze has managed Quitiri hospital for 12 years as its director and explained to

us that he had proposed the project to the investor. During the discussions, we were joined by a representative of the investor, who was said to be a member of the board and a physician, but he did not speak during the meeting.

The Director in Batumi stated that she reports to and is accountable to the director of Qutiri and the investor. She said that Batumi had produced an operating surplus of 400,000 GEL over the last six years, money that was returned to the government and not invested in services. In Quitiri, we heard that the hospital was making 300,000 GEL operational surplus a year before privatization, but with a limited choice of medications.

The payment model in place for the period when both hospitals generated an operational surplus was a fixed fee per case. So-called "acute" cases were paid the lump sum of 840 GEL/month fixed rate and "chronic" cases were paid the lump sum of 450 GEL/month.

Since 2017 the payment model has been changed and "acute" cases are paid 46 GEL/day for up to 15 days. After 15 days in hospital, each acute case is converted to a "chronic" case and is paid 15 GEL/day fixed rate. Every "chronic" case is paid 15 GEL/day from the beginning of hospitalization. The hospital is allocated the lump sum to cover the expenses of add-on's, which are required by the forensic service (such as guards and security) and this amounts to 36.000 GEL/month. Shelter services provided in the hospital are paid on a lump sum basis of 540.000 GEL annually.

Both directors confirmed the long-term goal for the newly privatized hospitals (LLC's) is to generate a profit. However it was unclear exactly when the investor expects the profit to be generated – Mr. Bakuradze mentioned different periods ranging from 5 to 15 years.

It remains unclear why the Government elected to use a direct sale approach (without open bidding) and to sell Qutiri hospital to this particular investor.

A rough calculation of the return on the investment[21] indicates an annual return of around 4%, which is unlikely to be a sufficient incentive to invest. This may indicate that the Investor expects to earn money from other revenue sources than the government mandated services alone.

We did not see any current business plan or any other document (such as a business review or business update report) that could convincingly answer questions on the business rationale and how the investor sees the prospects of his business.

Financial snapshot and recent changes to the system of payment

We were provided with information on the income (data only from mental health services) and the expenditure of Qutiri hospital from 2015 – 2017 (year to date data which is referred later as YTD figures).

The data on the income from mental health services shows no changes from 2015 to 2016. Table 1 shows the annual earnings (2017 year to date) and the total number of patients (services) as per payment profile (acute, chronic and involuntary cases are paid differently). As the privatization occurred in 2016 and payment changes were introduced in 2017, we also looked at the average earnings and average number of services per month.

[21] Provided the privatization price of 800,000 GEL is paid and the total amount of 6000 000 GEL is invested over the 48 months, assuming the profit remains as it was indicated before the privatization 300 000 GEL (without taking in to account taxes and any other possible liabilities).

TABLE 1.
Quitiri hospital annual earnings 2015-2017 YTD* and annual number of services

	Income from Mental Health services	Acute cases, annual	Chronic cases, annual	Involuntary cases, annual
2015	3.989.081,00 GEL	633	3171	3393
2016	4.091.958,94 GEL	701	3412	3672
2017 YTD	98.716,00 GEL	136	865	873

*YTD – Year To Date

TABLE 2.
Average earnings per month and average monthly number of services in Quitiri hospital 2016-2017 YTD*

	Avg monthly income	Avg acute cases/month	Avg chronic cases/month	Avg involuntary cases/month
2015	332.432,00 GEL	52,75	264,25	283
2016	340.996,00 GEL	58,42	284,33	306
2017 YTD	335.755,30 GEL	45,3	288,3	291

*YTD – Year To Date

Mr. Bakuradze also explained recent changes in financial principles introduced by the Government from 2017. There were three main changes:

- Payment for services has been changed, adjusting the payments for acute and chronic services (with an overall increase);
- Separation of the "security package" which covers additional costs incurred in forensic services (security, guards etc.) and fixing this amount as a lump sum payment (regardless of the number of patients);
- Introducing "ceilings" for the amount that the hospital could earn per month (services above "ceilings" are not paid by the state).

According to Mr. Bakuradze these changes put the privatized hospital in a disadvantaged position. He feels the third measure (payment ceilings) was applied only to private institutions and that the level of the ceiling is too low. Overall the director told us that the hospital in 2017 provides the same or a greater level of service but is paid less compared to 2016.

We also looked at the expenditures of Quitiri hospital in 2015 and 2016 (Table 3)

TABLE 3.
Expenditures of Quitiri hospital in 2015 and 2016

Year	2015	2016	Change
Salaries	789.339,40 GEL	940.110,64 GEL	+19%
Fixed/indirect costs	1.490.208,89 GEL	1.541.619,77 GEL	+3%
Medications	137.289,31 GEL	167.168,85 GEL	+22%
Nutrition	938.655,08 GEL	1.070.590,59 GEL	+14%
Total	3.355.492,68 GEL	3.719.489,85 GEL	+11%

We see from the figures above that Quitiri hospital earns more than it spends. After the privatization we see a significant increase in expenditure across the budget lines. Compared to the year 2015 Quitiri hospital in 2016 spend 22% more on medications, 19% more on salaries and 14% more on nutrition. This resulted in a decrease in earnings (income minus spending) from 633 thousand GEL in 2015 to 372,5 thousand GEL in 2016.[22] According to the National Bank of Georgia annual inflation is currently 6.1% (April 2017) and targeted inflation for year 2017 is 4.0%.

In our opinion it is too early to say what impact the recent changes will make on the financial performance of the hospital (average per month figures from 2016 and 2017 are similar). Having said that, it is important to emphasize that a clear and predictable environment for a business is of paramount importance for proper planning, decision-making and sustainability. The government must avoid any discriminatory measures that may favour one institution over another.

Mr. Gocha Bakuradze verbally shared plans to make their mental health services attractive to foreign patients from Turkey. It seems these are early stage considerations and we did not evaluate this possible opportunity as we were not provided with any substantiating materials (market research or a business plan).

IV.g. BALANCE BETWEEN THE OBLIGATIONS OF THE INVESTOR AND THE STATE

We were able to assess only one of the privatized contracts as the contract for Batumi hospital is more recent and was not available. The contract evaluation showed extensive obligations placed on the buyer (investor) as described above in the Section “Current status of the privatization.”

The only obligation of the State stipulated in the privatization agreement of Quitiri hospital is to “confirm

[22] Important disclaimer: all figures reported in this section were provided by the hospital director on an ad hoc basis in the form of printed tables. We were not provided with official (audited) annual/quarterly reports, balance sheets or any other documents. We were also not awareof assets the hospital may have or of the cash position of LLC.

the fulfillment of the obligations of the Buyer" on the basis of audit and expert conclusion "presented by the Buyer to the Seller". There are no obligations from the State to buy services (or finance the hospital in any other means) and no obligations to sustain a minimal level of income for the hospital.

The Privatization agreement does not include any specific provisions as to the quality of care provided by the hospital, nor does it define any quality assurance framework.[23] The contract also does not include any reference to the current state of affairs (for example the current quality of care or the protection of rights of vulnerable populations) and does not reference the report of the Public Defender that in our view is a critical basis for any quality improvement efforts. There are multiple references to the "audit/expert conclusions" which the buyer must present to the State. However, these conclusions are exclusively focused on the fulfillment of contractual obligations by the buyer, and therefore purely based on legal and not public health concerns. The contract also stipulates that these "audit/expert conclusions" must be provided by the expert or/and audit companies determined by the Resolution of Government of Georgia #360 (5 September, 2012) on "Approval of the list of individuals and state enterprises, providing audited financial accounts or/and issuing expert and audit conclusions to the enterprises".[24] The companies listed in this decree include the largest accounting and auditing companies in the world (PwC, Delloite, KPMG, E&Y), but the contract does not provide a sufficient governance and quality framework, nor refers to any assessors who would be able to evaluate the quality of care and the protection of patient's rights.

IV.h. GOVERNANCE ARRANGEMENTS

The provisions in the privatization contract of the Quitiri hospital regarding the governance of the privatized institution are limited to the obligation of the buyer to provide regular reports on the implementation of individual paragraphs of the agreement. Financial penalties are imposed if the LLC "B&N" fails to provide the reports (different in size depending on the paragraph, ranging from 50 GEL (less than 20EUR)/day to 200 GEL(74 EUR)/day for violation of some provisions of the contracts and for example 0.1% from the amount of remaining investments per day if the obligations on the investments are violated) and limitations are set on how much the LLC "B&N" can borrow. None of the provisions in the contract stipulate a form of governance that would ensure good management, the improvement of the quality of services or the protection of rights of vulnerable populations. This clearly is a failure on the side of the Georgian government.

According to the record in the Public Registry of Georgia, the governing body (supervisory board) for the LLC "Acad. B. Naneishvili National Center of Mental Health" (Quitiri hospital) has been appointed; the members are listed under the Section "Current status of the privatization". It is important to note,

[23] The only inspectorate currently functioning is the National Prevention Mechanism (NPM) under the Public Defender. The control agency that is operational under MoLHSA could not monitor the quality of services provided. For that reasonthe MoLHSA tries to establish a special board and develop quality assurance framework and standards for each service. The Law on Psychiatry does not contain any clause about monitoring, though the Georgian Parliament promised in 2006 to discuss that specific issue in the future.

[24] According to the said resolution, the following companies have the right to carry out such financial audits: LEPL Levan Samkharauli National Forensics Bureau; PricewaterhouseCoopers; Deloitte; KPMG; Ernst & Young; Grant Thornton; BDO; Baker Tilly; Smith & Williamson; PKF; LLC Capto Group (member of RSM); Audit and Consulting Service MGI Georgia.

however, that the purpose and functions of this supervisory board are not clear (what are they supposed to supervise, how often do they have to convene meetings, what are their procedures and rules).

In Qutiri, we asked how they monitored the quality of their care. GB said they had invited experts from Tbilisi, psychiatrists with new ideas to assess everything. In Batumi, the director replied that they can demonstrate discussion of quality in the minutes of meetings. In future when more money is available, they plan to bring in some independent monitoring. A quality control department has also been proposed.

IV.i. OPPORTUNITIES AND RISKS

The Batumi Director gave a convincing account that the privatisation had 'freed her'. Now, she stated, they do not have to go to the government and argue for a long time every time they need to repair a pipe. She said that a good environment is necessary but she also recognised the importance of psychological treatment, attitudes and teamwork.

The plans that we heard in Batumi were more clinically oriented and patient focused than in Qutiri, where planned changes were predominantly to improve the physical environment.

It did appear that the privatisation would enable the staff at Batumi to accelerate their planned improvements in clinical quality. The hospital has many young, motivated staff and strong, patient centred leadership. Because of this, we can be optimistic that proposed improvements and new services will be delivered. This cannot be said of Qutiri. Whilst the improvements to the physical fabric of the wards are essential and are a priority, a vision to improve the quality of care was not articulated.

The hospitals and the ministry funding them do not have adequate governance arrangements or means to monitor and demonstrate the quality of care and the experience of patients. Batumi has a well-motivated and led team, but there are no assurances that this will be the case in the future. The clinical leaders in Qutiri appeared older and less forward thinking.

The plans in Batumi for selling beds to foreign patients may be a feasible way to generate income but care must be taken that this does not limit the number of beds and thus the care available for local Georgians needing admission.

If further privatisation is to continue, then it must be ensured that it takes place within a clear framework of quality control and performance management.

V Conclusions

V.a. CHANGE OF THE OWNERSHIP (privatization)

In 2011, the European Bank for Reconstruction and Development evaluated Georgia as being "Very Low Compliance/Effectiveness" when it comes to the ability to implement Public Private Partnerships and to benefit from them. It may well be that some positive changes happened meanwhile of which we are not aware. However, from the findings of this report it is clear that a proper legislative framework, long term planning of significant changes to the system, the balance of obligations of each of the parties involved and transparency are essential elements for privatization undertakings to be successful.

None of the strategic long-term documents in relation to mental health care in Georgia mention the privatization of mental health care providers. As far as we could establish the decision to privatize hospitals was rather unexpected and not the result of a strategic decision approved by the Parliament and Government. It remains unclear what the goals are for privatization and how this will contribute to the implementation of the National Concept on Mental Health and National Strategy.

It is our feeling that the privatization was rushed and did not involve consultation with major stakeholders (e.g. professionals, NGOs in mental health and, above all, consumers and their families and carers). At least, we did not hear any accounts of such consultation. Whilst Qutiri was sold without a tendering process, bids were invited for when Batumi was sold. The bidding process increased the price paid for Batumi greatly whilst the sale of the much larger Qutiri hospital appears to have been proposed and agreed very rapidly.

With regard to the process itself, neither the general privatization conditions nor the framework of privatization were set in advance. There was no open call for expression of interest from potential investors. Furthermore, there were no predefined qualifications or experience required of potential investors, despite the fact that the privatized institutions are major providers of mental health services in the country and the facility in Quitiri is the sole provider of forensic mental health services in the whole of Georgia.

There is no uniformity in the outcome of the two privatizations (one hospital has been 95% privatized with 5% retained by the State, another hospital was privatized 100%). It remains unclear what this 5% government ownership means in practice, e.g. what decision-making power the government has over what happens in Qutiri. The privatization contract only gives the State the right to restrict some potential decisions of the investor (e.g. borrowing).

Also the contractual obligations of both the investor and the State differ in the signed contracts. The contractual obligations for the investor in Qutiri are defined mainly in terms of capital investments, the number of beds that must be maintained over the period of time and the size in square meters of the new buildings. The contracts do not contain any requirements for the minimal level and qualifications of staffing or the implementation and maintenance of care within a quality framework.

Equally important is the fact that the privatization contract does not give certainty in terms of the longterm planning of services and their financial sustainability. There is no mention of any obligation to maintain a certain minimum level of pricing (or maximum, for that matter!) and the minimum amount of services to be purchased. The fact that no maximum is mentioned either is of particular importance for Qutiri, as this is the sole forensic psychiatric institution in Georgia and the government has no alternative if the price set for services is considered too high. To add to the confusion, there is no assessment with regard to the risks of the private investor either pulling out of the business, or deceasing, as a result of which his business would be at imminent risk of being terminated.

Despite in-depth discussions with the management of the Quitiri hospital the business case from the point of view of the investor remains unclear. It is not clear how the investor is going to ensure a return on his investment, when he expects the return and what is the business plan for the enterprise to be financially sustainable.

This situation and also the lack of the guarantees regarding the government reimbursement (for the services the institution provides) creates the risk of either the investor pulling out of the investment, or not being willing or able to invest the whole amount of money as stipulated in the contract, as a result of which the provision of vital services to the country are at constant risk.

V.b. GOVERNANCE

At the moment there are no clear and detailed requirements with regard to the quality of care and the delivery of services at the privatized institutions. The only control or monitoring mechanism in place is the Office of the Public Defender, which has the right to monitor all closed institutions. The Public Defender issued a very critical report on mental hospitals in 2015, however this has not had the desired effect i.e. a clear improvement in the quality of care delivered.

Even when adequate monitoring and quality assurance mechanisms are in place, it is important that in any case of non-compliance the State should have the possibility to issue sanctions or fines. Again, in the case of Qutiri the issue is more complex as the State does not have the possibility to refrain from using the facility as there are no alternatives in the country.

Also, we believe that the board of directors (or the director) should not be involved in the daily management of treatment and care. They should focus on business management and external relations, including the functions that before privatization belonged to the prerogatives of the State, e.g. financial and administrative policies, fundraising and finding new markets (this approach may be more likely in Batumi).

V.c. THE QUALITY OF CARE

We regret to have to conclude that concerning the quality of treatment and care of the patients in Qutiri, the living conditions and the interrelation between staff and patients there was no sign of improvement since privatization. The improvements in Qutiri were material, e.g. upgrading the water and sewer-system and the renewal of roofs. Although the director said he had many plans to improve the buildings and facilities, he did not mention anything with regard to the improvement of treatment, the quality of care, the range of therapies provided and the attitudes and skills of staff.

In Batumi however, there was a palpable sense that their newly found independence would allow the clinical team to develop the standard of their care and freed them from bureaucratic delays and barriers. Privatisation can be beneficial to well-led, motivated teams that believe in patient centred care. Equally it can free institutions to superficially improve their physical environments whilst making little or no improvement to the quality of care that their patients have a right to receive.

VI Recommendations

The privatization of mental health care can have positive effects if necessary preconditions are met. It is clear that in the process of privatization to date, these very important preconditions have not been met and crucial safeguards are not in place. It is essential that this is corrected as far as is possible and that future privatizations should take place within a fundamentally more structured framework. A first step towards amending the situation could be to start a small and well-monitored pilot to learn how best to implement the change towards privatized services and to learn from practice. As noted earlier, it seems that the current situation in forensic psychiatry, where in principle all services have been abruptly privatized, has a high risk of failure.

VI.a. QUALITY OF CARE

1. Privatization must go hand in hand with clear expected standards on the quality of care, safety and aspects of human rights. Minimum standards must be clearly defined for the physical environment, facilities and the supply of food and medication. Standards must define the quality required of buildings, both old and new, sanitation, the maximum number of persons per room and minimum opportunities for day time activity, including therapeutic activities, sport, work and leisure. However, we did not see any document or bylaw that stipulated such standards. This is a serious omission that must be immediately corrected. Importantly standards care and the quality criteria should apply to the all institutions – public and privately owned.

2. It is important to add that such conditions and requirements only make sense if there are adequate control mechanisms in place. A State monitoring body of qualified officials must make regular inspections, both announced and unannounced and there must be regular external monitoring, e.g. through a Societal council and/or a patient's council. None of this currently exists and must be introduced as quickly as possible.

   Particular attention must be paid to forensic mental health and compulsory treatment units. These departments are very vulnerable to arbitrary rules and lawlessness and the visiting team was confronted with human rights issues in these departments.

   The hospital managers must understand that the quality of treatment and care must be based on human interest, the professionalism of staff, compliance to good practice standards and a good quality of life for both patients and staff. Well maintained buildings, sanitation, warmth and medication are essential, but attitudes towards patients and a focus on rehabilitation and reintegration are key.

3. Treatment and rehabilitation are not only matters of medication and (obligatory) rest. It is important that life in mental health institutions should be as comparable with "normal life" as possible. Although confronted with many limitations, partly as a result of illness, patients should be stimulated to be out of their beds and participating in activities such as psychotherapy, group therapy, sport, arts and crafts, culture and leisure. The institutions must provide rooms for group and individual therapy, workshops for arts & crafts, and sports facilities in premises outside the wards where patients sleep. Again, "normal" life must be established as much as possible. Hospitals should invest in the competences of patients and shift the focus from looking at disabilities to focusing on abilities and stimulating these maximally. Specifically, the 'Social Care' wards at Qutiri should be closed and re provided in suitable community premises within the next 18 months.

4. Taking patients seriously and preparing them for a return into society demands that facilities not only be "therapeutic" in nature and practice, but also that they enable patients to get used to taking responsibilities again, to take good care of themselves and others and to use and develop their talents. For that reason it is very important to give patients the room to do "serious" work within the facility, e.g. in maintenance, food production, cooking and teaching each other skills.

VI.b. GOVERNANCE

5. A new and comprehensive structure must be put in place that ensures that sufficient energy is directed to enforcing real change and an investment is made in quality and meeting the minimum requirements set by the State. Each of the current privatized hospitals should have a medical director and a service director that supervised by the proper supervisory board where Government and private investor are included.

6. As mentioned earlier, according to the record in the Public Registry of Georgia, a governing body (supervisory board) for Quitiri hospital has been appointed. However, the purpose and functions of this supervisory board are not clear and this should be corrected. There should be clear contractual obligations (or as defined by law) as to what are they supposed to supervise, how often they have to convene meetings and what their procedures and rules must cover.

7. Much more attention should be directed towards the professional knowledge and skills of clinical personnel. Training programs should be put in place, both to upgrade the current professional competence of staff and to establish a system of continuing medical and non-medical education. However, this would only be effective if it were an integral part of a hospital development plan.

8. Each of the current privatized hospitals should have a quality board to oversee the implementation of its plan that includes stakeholders such as patients and their families, NGOs and the Public Defenders Office. The board should report in twice a year to the hospital's contract monitoring meetings.

VI.c. ECONOMIC CONSIDERATIONS

9. Each of the current privatized hospitals must present their five-year plan for the development of the service they provide, together with annual updates on progress, to the government for approval. The right balance must be found between the obligations of the state and the private investor. The state must have assurances investment will be implemented, services will be improved and sustained and the investor must have assurance that the state will buy the services for agreed prices and over a certain period of time.

VI.d. FUTURE PRIVATIZATIONS

10. All future proposed privatizations should follow a process whereby potential bidders must demonstrate that they meet specific criteria to qualify for the tendering process. Any proposed privatization should follow a tendering process where bidders outline their business models and long term plans to develop services. This should include 'blind' bidding and an objective assessment to identify the preferred provider by a panel of stakeholders.

11. The contract held with all hospitals, both state owned and private must ensure that the provider demonstrates to the ministry that they operate a service that meets a full range of financial and clinical standards. This should include the requirement to regularly submit performance figures on a full range of financial and clinical data.

12. All hospitals, both state owned and private should have these performance figures monitored in regular contract meetings with named commissioners who are responsible for ensuring standards are met or plans are in place to address non compliance.

13. All hospitals, both State owned and private should be free to innovate and develop their business and services, providing they are meeting the performance management requirements of their contract. Reports from the Public Defenders Office on their inspections of hospitals must clearly be fed into this contract monitoring process.

14. Additional forensic wards that can care for both high and medium secure patients should be commissioned (by private tendering if necessary) in the regions of Batumi and Tbilisi. This should enable a reduction in the number of forensic beds at Qutiri. No one provider should be allowed to have a monopoly on the forensic or any other type of specialized service.

15. Georgia's health strategies and written mental health concept are good documents that need to be borne out with consistent work plans. The Ministry must re visit its five year strategy and ensure that plans focus on the development of community services and not just the maintenance and expansion of inpatient beds.

VII Plan of Action

Given that the privatization of Qutiri and Batumi hospitals already happened, it is in our view now important to embark on a program to ensure that patients, their families and Georgian society benefit from this change of ownership. This should include the following elements:

1. Freezing the process of privatization until all the important preconditions and an adequate legal framework are in place.
2. The legal framework should include a detailed list of requirements, both with regard to material conditions and standards of care. Furthermore, this should specify sanctions that will follow in the case of non-compliance. Also there must be pre-set qualification requirements for the investor or at least the management team of the establishments to be privatized (with medical expertise).
3. Adequate governmental and non-governmental control mechanisms should be put in place, including oversight of the implementation of the recommendations of this report, the development of societal and patient councils and a mechanism for patients to submit complaints when they feel their rights have been violated.
4. A monopoly on care should be avoided at all cost. In the case of forensic psychiatric care this implies that at least one other facility should be opened giving the government the ability to limit or discontinue the use of a facility where the care offered is not of the required quality.
5. Absolute transparency is necessary, both with regard to the framework within which privatized mental health institutions function and with regard to ownership, business plans and profits.

Annex 1 Experts

The views expressed in this report represent personal expert opinion of all the experts involved.

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Gavin Garman is the Deputy Director of Nursing for Devon Partnership NHS Trust (UK). He has worked in psychiatric services for 21 years. He is a mental health nurse with a doctorate in Psychology and has lectured on forensic psychology at Reading University (UK). He has worked as an Expert for the CPT in visiting psychiatric institutions in Turkey and has also worked with NGOs in Croatia and Moldova. He visited Georgia, including Qutiri and Batumi hospitals in 2016 to provide training to nursing staff as part of a Council of Europe project. He is currently involved in a project to improve forensic psychiatric services in Ukraine. Gavin has published on women's secure care, patient involvement, the management of forensic psychiatric organizations and psycho-spiritual care.

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Mindaugas Plieskis MD PhD

Mindaugas Plieskis is a medical doctor and holds a PhD in Public Health. He has extensive experience across the different Governmental institutions in Lithuania. He has worked in State Patient Funds (compulsory health insurance) of Lithuania and oversaw the control of health care services and financial compliance at a National level. He was the General Director of the State Medicines Control (Medicines regulatory body) in Lithuania and was the Member of the Board at the European Medicines Agency in London. He also held the position of the State Secretary of the Ministry of Health of Lithuania with general oversight responsibilities over the institutions under the Ministry of Health, including the highly specialized hospitals. He spend more than 5 years in Brussels with the Permanent Representation of Lithuania to the European Union working in the European Council and covering the areas of public health, cross-border care, pharmaceuticals, medical devices, food safety etc. For the last three years, he has worked with the global pharmaceutical company Johnson & Johnson where he is responsible for Medical and Scientific Affairs in the Baltic local operating company of J&J and also scouts for potential breakthrough innovations across the Baltics for the Johnson & Johnson Innovation Center in London.[25]

Jos Poelmann

Jos Poelmann has been chair of the executive board of a Dutch (forensic) Mental Health Service organization for a period of 18 years. In addition he was a member of the board of the Dutch Association of Mental Health and Addiction Care. He had a masters-degree in Social Sciences (1974) and worked for 6 years in youth-care as a psychotherapist. He was subsequently deputy prison governor for 6 another years and director of an institute for persons with severe conduct and personality disorders before he entered his last function. Since 2000 Poelmann has been partner in projects that deal with institutional care in Ukraine, as well as providing an advisory role in several Eastern European countries. At the moment Poelmann is active as a consultant in healthcare, mostly in Dutch Ministry of Foreign Affairs funded (PUM) missions in Africa and Asia.

[25]Disclaimer: Johnson & Johnson has no involvement in this report, nor provided any support for the experts or this project. Mindaugas Plieskis is the employee of Johnson & Johnson, but was not paid by the Johnson & Johnson whilst working on this report (unpaid leave).

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Van Voren has written extensively on Soviet issues and, in particular, issues related to mental health and human rights, and published a dozen books. His most recent ones are *On Dissidents and Madness* (2009), *Cold War in Psychiatry* (2010; Russian edition 2017) and *Undigested Past – the Holocaust in Lithuania* (2011). He has written chapters on issues of human rights and mental health in a dozen teaching manuals and books.

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