

**Law of Georgia  
Imprisonment Code**

**General Section  
Chapter I  
General Provisions**

**Article 1. Goals and Principles of the Legislation of Georgia on Enforcement of the Pre-Trial Detention and Deprivation of Liberty**

1. The goal of the legislation of Georgia on pre-trial detention and deprivation of liberty sentence is to execute imprisonment and deprivation of liberty sentences, to prevent new crimes and to re-socialize inmates.
2. Imprisonment and deprivation of liberty shall be performed in accordance with principles of legality, humanity, democracy, equality before the law and individualization of punishment.

**Article 2. Legislation of Georgia on Enforcement of the Pre-Trial Detention and Deprivation of Liberty**

1. The legislation of Georgia on enforcement of the pre-trial detention and deprivation of liberty is based on the Constitution of Georgia, international treaties and agreements of Georgia, the present Code, other laws and sub-legislative normative acts.
2. The legislation of Georgia on enforcement of the pre-trial detention and deprivation of liberty is in compliance with the universally recognized principles and norms of international law.
3. The enforcement of the pre-trial detention and deprivation of liberty in Georgia is implemented by the penitentiary system organs of the Ministry of Corrections and Legal Assistance.
4. The Minister of Corrections and Legal Assistance (hereinafter: “the Minister”) shall be authorized to issue orders on matters prescribed by the present Code.

**Article 3. Scope and Application of the Code**

1. The present Code establishes the rules and conditions for enforcement of the ruling of the Court on criminal law cases regarding deprivation of liberty, guarantees of legal protection of accused and convicted persons, regulates activities of bodies executing pre-trial detention and deprivation of liberty, defines rules and conditions for

participation of state bodies, civic organizations and citizens in the enforcement of the pre-trial detention and deprivation of liberty.

2. The Court's judgment, ruling, resolution and judicial order in force, as well as relevant decision of the International Criminal Court, shall be executed in accordance with rules set fourth under the present Code.
3. Imprisonment in Georgia shall imply pre-trial detention and deprivation of liberty.

#### **Article 4. Application of the Code on Pre-Trial Detention and Deprivation of Liberty in Space and According to Persons Involved**

1. The legislation of Georgia on the enforcement of pre-trial detention and deprivation of liberty shall apply to the entire territory of Georgia.
2. The legislation of Georgia on the enforcement of pre-trial detention and deprivation of liberty shall apply to citizens of Georgia as well as to citizens of foreign countries and stateless persons as established by the legislation of Georgia and international treaties.

#### **Article 5. Grounds for the Enforcement of Pre-Trial Detention and Deprivation of Liberty**

1. The relevant decision of court on imposition of the pre-trial detention shall represent the ground for the enforcement of pre-trial detention.
2. The relevant "guilty" decision in force of the court on the criminal law case, by which a person is sentenced to deprivation of liberty, shall represent ground for the enforcement of deprivation of liberty.

### **Chapter II**

#### **System of the Enforcement of Pre-Trial Detention and Deprivation of Liberty**

#### **Article 6. Enforcement System Organs of the Pre-Trial Detention and Deprivation of Liberty**

1. The enforcement system organs of pre-trial detention and deprivation of liberty are represented by the Penitentiary Department (hereinafter: "the Department") and pre-trial detention / deprivation of liberty establishments under its subordination.

2. Director of the pre-trial detention and deprivation of liberty establishment is appointed and removed from the position by the Chairman of the Department with the consent of the Minister.

#### **Article 7. Department**

1. The Department is the enforcement system body of the pre-trial detention and deprivation of liberty and the State agency-subordinated institution under the governance of the Ministry of Corrections and Legal Assistance (hereafter: “the Ministry”).
2. The Department is headed by a Chairman to be appointed and dismissed by the Minister.
3. The statute of the Department is approved by Minister.
4. A Chairman of the Department in agreement with Minister approves the staffing of the Department.
5. Expenditure plan of the Department, being the integrated accountings of the Department and establishments, shall be, in accordance with the Law on State Budget, approved by Minister at the proposal of Chairman of the Department. The expenditure of the Department forms the integral part of the expenditure of the Ministry.
6. The Department is accountable before the Minister. A Chairman of the Department shall submit to the Minister the progress report at least twice a year.
7. If so requested by the Minister, the Chairman of the Department shall make an *ad hoc* report to the Minister about the activities carried out by the Department.

#### **Article 8. Establishments Subordinated to the Department**

1. Establishments subordinated to the Department are:
  - a. Pre-trial detention establishments;
  - b. Custodial establishments;
  - c. Medical establishment for accused/convicts.
2. Establishments are set up and abolished by the Minister.
3. In case of necessity the Minister may set up a mixed type establishment.

#### **Article 9. Pre-Trial Detention Establishment**

1. The pre-trial detention establishment is a closed type, specially protected, cell type establishment which aims to isolate an accused for the purpose of ensuring execution of imprisonment.

2. Accused persons are placed in the pre-trial detention establishment, unless otherwise provided by the Georgian legislation and/or in case of existence of establishments of mixed type. Accused persons shall be isolated from convicted persons in the mixed type establishment, at least with separated living space.
3. In the pre-trial detention establishment, accused persons shall be placed in special cells which, in the interests of their or other persons' security needs and in order to meet the requirements of internal regulations of the establishment, may be subject to visual or electronic surveillance.

#### **Article 10. The Custodial Establishment**

1. The custodial establishment shall be a penitentiary establishment to enforce penalties as defined under Article 40 paragraph 1 sub-paragraphs "g" and "h" of the Criminal Code of Georgia.
2. The custodial establishments are:
  - a) Semi-open type custodial establishment;
  - b) Closed type custodial establishment;
  - c) Special custodial establishment for juveniles;
  - d) Special custodial establishment for women.

#### **Article 11. Semi-open type Custodial Establishment**

1. Semi-open type custodial establishment shall mean a specially protected establishment, provided with armed security guards, surrounded by a protecting fence, where convicts shall be subjected to permanent surveillance.
2. In the semi-open type custodial establishment convicts are placed in the dormitory accommodation which, in their or other persons' interests and in order to meet the requirements of internal regulations of the establishment may be subject to visual or electronic surveillance.
3. In the semi-open type custodial establishment convicts shall be entitled to independently move within the premises of the establishment.
4. Movement of convicts outside the dormitory accommodation during the night hours shall not be allowed.

#### **Article 12. Closed type Custodial Establishment**

1. Closed type custodial establishment shall mean a specially protected establishment, provided with equipped armed security guards, alarm system, surrounded by protecting fence, where convicts shall be subject to permanent surveillance.

2. In the closed type custodial establishment convicts shall be in special cells, which in their or other persons' interests and in order to meet requirements of internal rules of the establishment may be subject to permanent visual or electronic surveillance.

#### **Article 12<sup>1</sup>. Special custodial establishments for women and juveniles**

Special custodial establishments for women and juveniles shall be equal to the semi-open type custodial establishments unless otherwise provided by the present Code.

### **Chapter III Legal Status of Accused and Convicted Persons**

#### **Article 13. Grounds for Legal Status of Accused and Convicted Persons**

1. While enforcing the pre-trial detention and deprivation of liberty, the State shall provide protection of legal rights and freedoms, as well as for legal, social and personal safety of those accused and convicted.
2. During pre-trial detention of accused and deprivation of liberty of convicted, they shall be guaranteed rights and freedoms determined by the Constitution of Georgia, international treaties and agreements of Georgia, the present Code, legislation and sub-legislative normative acts.

#### **Article 14. Rights of Accused/convicts**

1. Accused/Convicted has the right to:
  - a) In accordance with the rule envisaged in the legislation to be provided with:
    - a.a) Living space, nutrition, personal hygiene, clothes, labour, labour and personal security;
    - a. b) Medical service;
    - a. c) Meeting with close relatives (visit), defense lawyer, consular and other diplomatic representative (in case of foreign citizens);
    - a. d.) Telephone conversations and mail correspondence;
    - a. e) Receiving and sending of parcels and money;
    - a. f) Free legal aid and legal consultations;
  - b) Receive general and professional education;
  - c) Participate in sport, cultural, educational and religious events;

- d) Receive information through press and mass media, use the literature;
- e) Perform individual activities and through the control of pre-trial detention/deprivation of liberty establishment administration shall have all necessary inventory.
- f) File request, complaint;
- g) Shall enjoy the right to walk on the fresh air at least one hour a day;
- h) Leave the pre-trial detention/deprivation of liberty establishment for a short period of time for special personal reasons.

2) Convicted persons shall be additionally authorized by the Georgian legislation to enjoy:

- a) Right to rehabilitation program;
- b) Leave the establishment for a short time.

### **Article 15. Living Conditions**

1. The living space appropriated for accused/convicts shall conform to hygienic and sanitary regulations established by the joint order of the Minister and the Minister of Health, Labour and Social Protection, and shall ensure the maintenance of health of accused/convicts.
2. The living space standard per inmate in the semi-open type establishment shall not be less than 2 sq.m., in the closed type establishment - not less than 2.5 sq.m., in special establishment for women – not less than 3 sq.m., in special establishment for juveniles – not less than 3.5 sq.m., and in the Medical establishment for accused/convicts – not less than 3 sq.m.
3. The living space per one accused in the pre-trial detention establishment shall not be less than 2.5 sq.m.
4. The living space of accused and convicted persons shall have a window providing the daylight and ventilation. Also, accused/convicted shall be provided with heating.
5. Pregnant and nursing women, juveniles, ill convicts, persons with obvious and identifiable disabilities and aged persons (females from 60 and males from 65) shall be provided with better living conditions compared to other accused/convicts.

### **Article 16. Correspondence of Accused/convicts**

1. Accused/ convicts shall have the right to send and receive an unlimited number of letters as envisaged in the present Code.
2. Delivery of the written correspondence to accused/convicts, as well as delivery of letters written by accused/convicts to addressees shall be carried out by the administration (hereinafter: “the administration”) of the pre-trial detention establishment/custodial establishment. Sending of personal letters to the addressee shall be performed at the expense of an accused/convict.
3. The administration shall at the request of an accused/convict provide the accused/convict with paper and stationery.
4. The correspondence of an accused/convict shall be subject to checking, which includes the visual examination, without reading its contents. However, in extreme cases, with well founded presumption that the dissemination of the information will create a danger to the public order, public security or rights and freedoms of other persons, the administration shall be authorized to get familiarized with the correspondence and restrict the delivery of the letter to the addressee; a sender must be immediately informed of such instance.
5. Correspondence received in a sealed envelope shall be opened in presence of an accused/convict. Such correspondence is subject of the visual examination with no enquiry of its content.
6. The Administration is prohibited to stop or inspect an application, demand and complaint sent by an accused/convict in the name of the President, Chairman of the Parliament, member of the Parliament, Court, European Court of Human Rights, international organization established based on human rights international treaty ratified by Georgia, the Ministry of Georgia, Department, Public Defender of Georgia, lawyer or prosecutor.

#### **Article 17. Right to Visit**

1. The complete isolation of accused/convict is prohibited.
2. Based on the written application of an accused/convict, he/she may be given the right to visit with close relatives (child, spouse, parent (foster parent), adopted child and his/her successors, grandchild, sister, brother, nephew/niece and their children, grandmother and grandfather, parents of grandparents (from both parental sides),

uncle (mother's and father's brother), aunt (mother's and father's sister), cousins, as well as the person with whom he/she resided and ran joint economy for the last two years before arrest/detention. An accused/convict shall be notified in written form about consent/substantiated refusal of the Director of the establishment concerned.

3. The control of visits contemplated by paragraph 2 of the present Article shall be executed without offending the honor and dignity of an accused/convict.
4. The visit with accused/convicts should take place only based on the consent of latter.
5. The administration of respective establishment shall be informed about the visit in written form 5 days prior to the visit. The person envisaged in the paragraph 2 of the present Article shall submit the certificate proving the relationship of being the close relative of the accused/convict to the administration.
6. Upon receipt of the written request on the visit, but not later than 5 days, the administration of the relevant establishment shall organize such visit, except cases, when the substantiated refusal reason exists of which the applicant shall be informed on the same day.
7. Short visits are organized for the period of one to two hours. The short-term visit is carried out only under the visual supervision of the attending representative of the administration, except for cases prescribed by the legislation.
8. The long-term visit shall imply living with the juvenile convicted person for a term from 1 to 2 days at the establishment in the specifically allocated room, without presence of the administration.
9. The long-term visits are not granted to convicts placed in the quarantine regime.
10. An accused person shall enjoy only the right to the short-term visit, in accordance with requirements of the legislation of Georgia.
11. Upon the written request of an accused person the short term visit can be substituted by the phone conversation. The rules for substitution of the short visit with the telephone conversation are defined by internal regulations of the establishment.
12. Upon the written request of convict the short term leave can be substituted by the short term visit, and the short-term visit and the short-term leave with the telephone conversation. The rules for substitution of visits shall be defined by internal regulation of the establishment.
13. The foreign national accused/convict shall be entitled to unlimited meetings with the consulate representative of the country of nationality or authorized diplomatic representative, who combines defense of his/her interests in Georgia. A citizen of a foreign country and a stateless accused/convict shall be authorized to have relationships (correspondence) with the diplomatic and consulate representation of his/her country. Citizens of those countries, which do not have diplomatic or consulate representation in Georgia, shall be authorized to have relationships with diplomatic and consulate representations of the countries, which will take the responsibility to their defense, or inter-state bodies, which defend interests of inmates.



## **Article 18. Legal Aid**

1. An accused/convict shall have the right to meet with lawyer without any limitation or intervention. The staff of the pre-trial detention establishment/custodial establishment may observe and record the meeting visually through the remote visual surveillance equipment, but without listening.
2. Every accused/convict shall have the right to meet with the lawyer according to the rule prescribed by the legislation of Georgia.
3. Meetings with the persons stipulated in paragraphs 1 and 2 shall not be included in the number of visits prescribed by the present Code.

## **Article 19. Telephone Conversation. Receipt and Transfer of Package, Money**

1. An accused/convict has the right to telephone conversations according to the rules defined by the present Code. The telephone conversation between accused and convicted persons placed in pre-trial/detention facilities, is prohibited.
2. Telephone conversations is performed at the expense of an accused/convict and under control of the administration.
3. An accused/convict has right to receive or transfer package, money from and to close relatives and by the consent of the administration also to other individuals. The received money shall not be handed to a convict in cash, but deposited to his/her account or with his/her consent deposited to the personal account of the accused/convict's close relative.

## **Article 20. Mass Media**

1. An accused/convict shall have access to the press and mass media. As a rule, the radio and TV programs are broadcasted at pre-trial detention and custodial establishments. Also, the access to Intranet is provided.
2. An accused/convict, except those who in solitary confinement cells, shall have the right to listen to radio and watch TV at free from work time, except night hours. In accordance with restrictions of the relevant facility and with the consent of the administration of the establishment, an accused/convict or a group of accused/convicts may have personal receivers or TV sets, if their use does not violate internal regulations of the establishment and calm atmosphere of other accused/convicts. They may buy such items at their own expense or receive them from their close relatives.
3. Terms and conditions for use of items stipulates in paragraph 2 of the present Article, shall be defined by the internal regulations of the pre-trial detention/custodial establishment. In case of violation of such rules, the administration shall be

authorized to remove the items from accused/convicts and transfer them to close relative of accused/convicts.

4. An accused/convict may at his/her own expense and in reasonable quantity subscribe to scientific, popular scientific, religious, fiction literature, newspapers and magazines, receive writing devices, except for the prohibited items determined by the order of the Minister.

#### **Article 21. Personal Hygiene of An Accused/convict**

1. An accused/convict shall have an opportunity to satisfy his/her natural physiological needs and exercise his/her personal hygiene without abuse of honor and human dignity.
2. As a rule, an accused/convict shall be provided an opportunity of shower twice a week and barber service at least once a month. The administration shall not require an accused/convict to completely remove hair unless such request is imposed by the doctor or hygienic necessity.

#### **Article 22. Clothes and Bedding of an Accused/convict**

1. In case if an accused/convict does not have his/her personal clothes, the administration shall provide him/her with special seasonal uniform, which shall not abuse human dignity.
2. In case of necessity a convicted person shall be provided with working uniform.
3. An accused/convict shall have a bed and bed linen for personal use, which shall be delivered to him/her clean and undamaged. The administration of establishment shall provide cleanness of the bed linen.
4. The administration may provide special clothes to a convicted person that shall not abuse human dignity. An accused/convict are obliged to wear the special clothes.

#### **Article 23. Nutrition of Accused/convicts**

1. In the pre-trial detention and custodial establishments food shall contain all necessary components for life and health of humans. Reducing of caloric value for punishment purposes of an accused/convict shall not be allowed.
2. The nutrition standards shall be determined by the joint order of the Minister and the Minister of Health, Labour and Social Protection.
3. The administration shall provide an accused/convict with food three times per day.
4. Pregnant and nursing women, juveniles, the ill, persons with obvious and identifiable disability and aged persons (females from the age of 60 and males from 65) shall be provided with appropriate food for their condition.

5. An accused/convict shall have the right to purchase additional food products and personal items in the shops on the territory of the pre-trial detention/custodial establishment with the money earned by him/her while working in the pre-trial detention/custodial establishment, or transferred to his/her personal account by close relatives or other persons. Spending of personal money for purchase of food products and personal necessities shall be allowed only within the limits prescribed by Order of Minister and only by cashless settlements.
6. At the consent of the Chairman of the Imprisonment and Custodial Department an accused/convict shall have the right to receive additional food and personal items in a form of postal packets.
7. An accused/convict shall be provided with clean drinking water in unlimited amount.

#### **Article 24. Right to Healthcare of Accused/convicts**

1. An accused/convict shall have the right to use necessary medical services. In case necessary, an accused/convict shall have access medication/medical remedies allowed in the establishment for pre-trial detention/deprivation of liberty. If so requested, an accused/convict shall be authorized to purchase at own expense more expensive or similar medication and medical remedies, than those procured by the relevant establishment. In case of a reasonable request, with the permission of the Chairman of the Department, an accused/convict is authorized to invite a personal doctor at own expenses.
2. Upon admission to the pre-trial detention and custodial establishment an accused/convict shall undergo medical examination; the relevant report shall be drawn up to be kept in his/her personal files.

#### **Article 25. Outdoor Exercise**

1. A convict, who serves his/her sentence in a closed type custodial establishment, is placed in a cell type dormitory, does not work in an open air, is entitled to outdoor exercise for a period of time in open air established by the present Code.
2. An accused/convict shall enjoy their outdoor exercise during daytime, within the territory of the pre-trial detention/custodial establishment specially allocated for these purposes. The outdoor exercise may be terminated pre-term in the case of violation of the requirements of regulation of the pre-trial detention/custodial establishment by an accused/convict.

#### **Article 26. Temporary Leaving the Custodial Establishment in Special Personal Cases**

1. The administration may permit a convict in special personal cases to leave temporarily the custodial establishment if the reliable information is received on death of the close relative or grave illness of such.
2. In special personal cases in order to receive the right to leave the custodial establishment, a convicted person or his/her defender, legal representative, close relative shall file the petition with the Director of the establishment. The petition shall include the motivation for leaving the establishment and indicate the place where a convict will spend time while outside the establishment (destination place).
3. The term for such leave from the establishment shall not exceed 3 days, including travel time.
4. The temporary leave shall be included in the overall term of a sentence.
5. Based on decision of the Chairperson of the Department, the permission to temporarily leave from the establishment shall be granted based on submission of the Director of the establishment, taking into account personality of the convict and gravity of a committed crime. In case of the positive decision, the Chairperson of the Department shall define the number of escorting officers. Escort shall be carried out from the establishment to the destination and back.
6. The convict's leave expenses shall be covered by a convict or his/her family, except expenses, related to transportation due to participation in an investigative or other procedural activities.
7. The rules and conditions for temporary leave from the establishment shall be defined by the Minister.

#### **Article 27. Leaving the Territory of a Custodial Establishment for a Short Period**

1. If no disciplinary sanctions or administrative imprisonment is imposed on a convict who is placed in a semi-open type establishment may enjoy the right to short leave from the custodial establishment twice a year. Juveniles, pregnant women and women with children under the age of 3, may enjoy the right to short leave three times a year. The short leave shall not exceed 5 days, including travel time.
2. The short-term leave shall be granted based on the order of the Chairperson of the Department. A convict may be given the short-term leave after he/ she served:
  - a. At least half of the term of the sentence imposed for commitment of the crime of lesser gravity;
  - b. At least two thirds of the term of the sentence imposed for the commitment of the grave crime;
  - c. At least three fourth of the term of the sentence imposed for the commitment of the especially grave crime;

3. The juveniles may be granted the short-term leave if they served:
  - a. One third of the term of the sentence imposed for the commitment of the crime of lesser gravity;
  - b. Half of the term of the sentence imposed for the commitment of the grave crime;
  - c. Two thirds of the term of the sentence imposed for the commitment of the especially grave crime.
  
4. A convict, serving sentence in the closed type establishment, may be granted the short term leave outside the establishment by the Chairperson of the Department, if conditions prescribed by paragraphs 1 and 2 of the present Article are met and if, in addition, a convict is placed in the closed type establishment due to:
  - a. Enrollment with the logistics services;
  - b. Reasons of personal safety;
  - c. Transmittable infectious disease.
  
5. In special cases, by the decision of the Chairperson of the Department, regardless of terms indicated in paragraphs 2 and 3 of the present Article, a convicted person may be granted a short term leave from the establishment.
  
6. In order to receive the right to leave the custodial establishment, a convicted person, his/her defender/legal representative or close relative shall file the petition with the Chairperson of the Department. The petition shall include the motivation for leaving the establishment and indicate the place where a convict will spend time while outside the establishment (hereinafter: “the destination place”).
  
7. The following shall be taken into consideration during review of the petition:
  - a. Personality of a convict;
  - b. Family status;
  - c. Gravity of the committed crime;
  - d. Destination place;
  - e. Other important circumstances, which positively or negatively characterize a convict.
  
8. During review of the petition on the short-term leave from the establishment, the Chairman of the Department may apply following measures:

- a. Bail – not less than GEL 2000;
  - b. Personal guarantee;
  - c. Electronic surveillance (monitoring) devices.
9. It is allowed to use joint measures for the right on the short-term leave from the establishment.
10. The term of the short-term leave shall be included into the overall term of a sentence.
11. In case of the short-term leave, a convict shall present him/herself to the Probation Bureau on the 1<sup>st</sup> day, where he/she will report time of the beginning of the short-term leave. If due to objective reasons, a convict fails to return on established day, the Probation Bureau shall be authorized to extend the leave for not more than 2 days.
12. All the expenses related with the short-term leave, except those for electronic surveillance, shall be borne by a convict or his/her close relative.
13. In case of motivated rejection of the petition on short-term leave by the Chairperson of the Department, it shall be possible to appeal to the court through the simple administrative procedure.
14. Rules for short-term leaving of the custodial establishment, rules for guaranteed measures of the short-term leave of the custodial establishment and rules for execution of short-term leave from the establishment shall be defined by the Minister.

**Article 28. Guaranteed Measures for the Short-Term Leave from the Custodial Establishment – Bail and Personal Guarantee**

1. Bail represents the monetary sum. Such sum, as form of guarantee for the short-term leave from the custodial establishment, shall be deposited to the account of the establishment by the lawyer/legal representative, member of the convict's family or other person on his/her behalf on a written statement given to the establishment regarding relevant behavior and timely return to the establishment. The relevant

document shall be developed on receipt of the bail; one copy of the document is given to the payer of the bail.

2. Chairman of the Department shall take into account personality of the payer of the bail and his/her financial condition.
3. In case of approval of the motion by the Chairman of the Department, the bail shall be paid within 3 days to the account of the custodial establishment.
4. Prior to payment of the bail, the payer shall be warned about consequences that may arise due to failure to fulfill written statement-obligations.
5. If a convicted person, being in the short-term leave regime from the custodial establishment, for inadequate reason fails to fulfill terms of the short-term leave and avoids return to the establishment after expiration of the established deadlines or has committed a new crime, legally prescribed measures shall apply against such convict in pursuance to the legislation of Georgia and the amount of bail shall be transferred to the State budget of Georgia.
6. In case of observance of deadlines, precise fulfillment of obligations in good faith thereof, the bail amount shall be returned to the payer within 2 weeks.
7. In case of personal liability, the lawyer/legal representative of a convict, close relative or other person on behalf of a convict, shall assume the written obligation to provide relevant behavior of the convict and his/her return to the custodial establishment in established deadlines.
8. The number of guarantors shall be determined by the Chairman of the Department; as an exception the number of guarantors may be one most reliable person.
9. The personal guarantee may be chosen only based on petition and consent of guarantors as well as consent of a convict. Each guarantor shall provide a written statement on guarantees; such statement shall be attached to the personal file of the inmate.
10. In case of failure to fulfill obligations of the personal guarantee, the guarantor shall not justify such failure by only stating that could not control behavior of a convict, except the case when he/she proves existence of the force majeure.

11. If a convict commits an act, for elimination of which the guarantee was applied, then the fine in amount of not less than GEL10 000 shall be imposed on each guarantor as established by the Law.

#### **Article 29. Material Liability of an Accused/convict**

1. An accused/convict, being in the establishment of pre-trial detention/custodial establishment, who during his/her sentence causes material damage to the State, a legal or physical person shall bear the material liability:
  - a) For damage caused in the course of fulfillment of work – in amount envisaged by Labour Legislation;
  - b) For damages caused through the course of other action – in amounts envisaged by the Civil Law;
2. An accused/convict shall be liable to reimburse the damages caused to the pre-trial/custodial establishment, the expenses related with the suppression of his/her escape, also the medical expenses related with the treatment of self-injury committed with a view to avoid discharge of imposed obligations.
3. In the case of failure to voluntarily compensate damages by accused/convict, it will be examined through civil proceedings. The erroneously paid amount shall be returned to an accused/convict and transferred to his/her personal account.
4. Immediate medical treatment of a person damaged on the territory of the pre-trial detention/custodial establishment, due to a conduct of an accused/convict, is carried out on the State expenses.

#### **Article 30. Obligations of Accused/convicts**

1. An accused/convict, based on his/her legal status, shall comply with the rules and conditions of serving a pre-trial detention and custodial sentence as prescribed by the legislation of Georgia, carry out their duties and legal requirements established by the administration.
2. An accused/convict shall:
  - a) Observe regulation of the pre-trial detention/custodial establishment and legal requirements of the administration;
  - b) Maintain personal hygiene; keep his/her clothing, bed and living space clean and tidy;



c) Work on the workplace allotted by the administration of the establishment under the conditions established by the present Code and the regulation of the establishment.

#### **Chapter IV**

#### **Monitoring of the Execution of the Pre-Trial Detention and Deprivation of Liberty**

#### **Article 31. Audit and Monitoring of the Bodies of the System of Enforcement of the Pre-Trial Detention and Custodial Sentences**

Internal audit and monitoring of the Department, pre-trial detention and custodial establishment is carried out by the relevant unit of the Ministry within the scope of their competence.

#### **Article 32. Special Preventive Group**

The special preventive group, in accordance with the rules envisaged in the Organic Law of Georgia “on Public Defender of Georgia”, shall exercise supervision over activities of the Department, pre-trial detention and custodial establishments aimed at combating and prevention of torture, inhuman treatment and punishment.

#### **Chapter V**

#### **Admission and Proceedings of Personal Files of an Accused/Convict**

(24.09.2010 N 3619 to come into force from September 30, 2010)

#### **Article 33. Grounds for Placement of an Accused/Convict in the Pre-Trial Detention/Custodial Establishment**

1. A court’s decision on the imposition of pre-trial detention as a preventive measure and the identity card of an accused shall be required for the placement of an accused in a pre-trial detention establishment.
2. A court’s verdict of guilty, under which a person concerned was sentenced to deprivation of liberty and the identity card of a convict, shall be required for the placement of a convict in a custodial establishment.

#### **Article 34. Notification about the Place of Enforcement of the Pre-Trial Detention and Custodial Sentence**

1. The administration of a pre-trial detention establishment is required to notify an investigator, prosecutor, court and a close relative of an accused about the admission no later than within 3 days.
2. The administration of a custodial establishment shall notify the court that had issued a verdict and a close relative of a convict about the admission of a convict in the custodial establishment no later than within 3 days.

### **Article 35. Registry of Accused/convicts**

1. An accused placed in a pre-trial detention establishment in accordance with the present Code is registered in the registry of accused persons. The convicted person sent to a custodial establishment in accordance with the present Code is registered in the registry of convicts. The rules for proceedings of registries is determined by the Minister.
2. It is required to take photos and fingerprints of an accused upon placement of such in a pre-trial detention establishment. The photos and the negatives thereof, as well as the fingerprint chart, the verbal portrait according to the card is maintained in the personal file of an accused, which shall be transferred to relevant custodial establishment in the case of conviction of an accused concerned.

### **Article 36. Personal File of an Accused/Convict**

1. A personal file of an accused/convict shall be maintained from his/her arrest until release. After release the personal file is kept the archive of a pre-trial detention/custodial establishment. The procedure of maintaining personal files, the list of documents to be attached thereto and the term of their storage in the archive is determined by the Minister.
2. A personal file shall contain the data about the incentives of an accused/convict and disciplinary responsibility.
3. Filling in of a personal file is a subject to control and supervision of the administration.
4. In the case of transfer of an accused/convict to the other pre-trial detention/custodial establishment, the personal file shall be forwarded to the respective establishment.
5. An accused/convict has right to familiarize himself/herself with his/her personal files. The right to familiarize oneself with a personal file shall also be enjoyed by a specially authorized person. The list of such persons is approved by the Minister.

## **Chapter VI Release from Serving a Sentence**

### **Article 37. Grounds for Release from a Custodial Establishment**

1. A convict shall be released from a custodial establishment:
  - a) After serving a sentence;
  - b) In the case of parole;
  - c) In the case of substitution of the remaining part of the sentence by a less grave sentence ;
  - d) Due to the alteration or reversal of a sentence commensurate with the procedure, envisaged by law;
  - e) Due to amnesty or pardoning;
  - f) Due to illness or old age, in cases, envisaged by the Georgian legislation;
  - g) Due to postponing of enforcement of the judicial verdict.
  
2. The list of serious and incurable illnesses, which represents grounds for the release of a convict from serving a sentence is approved by the Minister of Health, Labour and Social Protection of Georgia.

#### **Article 38. General Rules for Release**

1. A convict eligible for release is released under the present Code the day before the expiration of the sentence. When the day of release coincides with a holiday or a weekend, a convict shall be released on a previous working day. Upon release, he/she shall be provided with an adequate reference.
2. Personal belongings and clothes, kept with the administration of the establishment shall be returned to a released person.
3. If a released person has no cloths or they are not suitable for the season concerned, the administration of the custodial establishment shall provide him/her with adequate cloths free of charge.
4. A convict shall acquire the right to fully dispose of the amount accumulated on his/her deposit account upon his/her release.
5. Administration of the establishment has the responsibility to inform a convict one month in advance about the date when he/she shall be eligible to apply local council of the Ministry for early release and commutation of sentence.

#### **Article 39. Release from Serving a Sentence Due to Illness or Old Age**

1. For the release of a convict due to his/her illness or old age, a convict, his/her legal representative or a Director of a custodial establishment shall apply to the joint Standing Commission of the Ministry and the Ministry of Labour, Health and Social Protection of Georgia commensurate with the procedure, established by law, requesting the release of a convict on the grounds of a medical certificate.

2. The rules for setting up of the joint Standing Commission of the Ministry and the Ministry of Labour, Health and Social Protection of Georgia, the operational procedures and powers thereof are specified by the regulation, which is approved by a joint order of the Ministers and the Minister of Labour, Health and Social Protection of Georgia.

#### **Article 40. Early Conditional Release from Serving a Sentence**

1. Conditional release shall be granted if a convict factually served:
  - a. At least half term of the sentence for lesser gravity crime;
  - b. At least two thirds of the term of the sentence for the grave crime;
  - c. Three fourth of the term of the sentence for the especially grave crime;
  - d. Three fourth of the term of the sentence, which was imposed on the person, previously released on parole, but the parole was abolished based on the paragraph 6 of the present Article;
2. Conditional release of a juvenile convict shall be granted only if a convict factually served:
  - a. One third of the term of the sentence for a crime of lesser gravity;
  - b. Half of the term of the sentence for the grave crime;
  - c. Two thirds of the term of the sentence imposed for the especially grave crime.
3. The term factually served by a convict shall not be less than 6 months.
4. Conduct of a person released on parole is overseen by the authorized probation service, and conduct of the military servant is overseen by the management of the military detachment.
5. If during the remaining term, a convict:
  - a. Systematically and/or roughly violated and avoided performance of obligations imposed on him/her, the court shall be authorized to rule on annulment of parole and enforcement of the remaining term of sentence concerned;
  - b. Committed a crime by negligence, the court shall be authorized to take a decision of abolishment or continuation of the parole;
  - c. Committed a deliberate crime, the court shall impose a sentence in accordance with the procedure prescribed by Article 59 of the Criminal Code of Georgia. Punishment for crime committed by negligence shall be imposed based on the same procedure, if the court rules on abolishment of the parole.
6. The convict maybe released from serving the life imprisonment if he/she actually served 25 years of the term.
7. For the convict released on parole from serving sentence imposed based on the paragraph 3 of Article 73 of the Criminal Code of Georgia, envisaging community work, the eligible parole term shall constitute the one, described in the paragraph 3 of the mentioned Article; the calculation is as follows: 2 days of community work – 1 day of custody.

#### **Article 41. Local Councils of the Ministry**

1. Local Council of the Ministry (hereinafter: “Council”) represents the body in charge of reviewing issues in relation to parole granting and commutation of sentences.
2. Number of members and territorial jurisdiction of the councils is determined by the Ministerial Order. The Minister approves a regulation of the Council.
3. Members of the Council shall be appointed by the Ministerial Order in consent with the Standing Commission of the Ministry. A member of the Council can be a person who has the relevant education and professional experience, as well as business and moral features relevant to perform duties of the Council.
4. The Council member shall be independent in discharging his/her obligations and shall obey only the Constitution of Georgia, international treaties, agreements and the present Code.
5. The Council member shall be appointed for a term of 6 months. Repeated appointment of the member shall be allowed. The member of the Council may be dismissed from the position by the Ministerial Order, with the consent of the Commission in case one of the following grounds exist:
  - a. Resignation;
  - b. Court’s decision on recognition of a person incapable, lost or with limited capabilities;
  - c. Entry into the force of the court’s decision on guiltiness of the Council member;
  - d. Expiration of the term of the member of the Council prescribed by the present Article;
  - e. Death;
  - f. Failure to discharge functions for a period of 1 month.
  - g. Changing or quitting position while being appointed/approved as the member of the Council.
  - h. Dishonest or unduly performance of duties by the Council member
6. Session of the Council at the establishment located within the territorial jurisdiction, may be conducted with use of video communication.

#### **Article 42. Decision on a Conditional Early Release or Commutation of Sentence**

1. A convict, his/her lawyer, legal representative, close relative or the Director of the relevant establishment may file the parole application or application on changing sentence into a less grave punishment and relevant documentation with the Council.
2. The Council reviews applications with oral hearing or/and without it with observance of administrative procedures rules. Without the oral hearing, the Council shall make decision over the refusal to application or allowing oral hearing of the case based on the review criteria set forth by the Minister.

3. The Council shall take into consideration a conduct of a convict during serving the term of a sentence, facts of committing crimes in the past, personality of a convict, family conditions, gravity of a committed crime; the Council shall see if the goal of the punishment is achieved as well as other circumstances, which may affect the decision of the Council.
4. The Council, only by oral hearing, shall make a decision on early release of a convict on parole or changing a sentence into a less grave sentence. The decision shall contain basic circumstances and data of the convict.
5. Decision of the Council on rejection of the parole or substitution of a sentence can be once appealed at the court through the administrative procedure.
6. If the Council takes a decision on rejection the parole request or substitution of a sentence, the repeated application on the same issue can be filed and reviewed in 6 months, except when the remaining term does not exceed 6 months and/or there is no any special circumstance. Review of a parole application for juveniles shall take place every 3 months.

**Article 43. Authority of the Council on Substitution of the Remaining Term of a Sentence with Community Work**

1. In case of existence of conditions prescribed by the paragraphs 3-7 of Article 73 of the Criminal Code of Georgia, the Council is authorized to take the motivated decision on substitution of the remaining term of a sentence with the community work.
2. The Council reviews such applications with oral hearing or/and without it with observance of administrative procedures rules. Without the oral hearing, the Council shall make decision over the refusal to application or allowing oral hearing of the case based on the review criteria set forth by the Minister.
3. A convict, his/her lawyer/legal representative, close relative or Director of custodial establishment may address the Council with the request on substitution of the remaining term of a sentence with community work. Such application shall be accompanied by the consent of the authorized officer of the community work place.
4. The petition shall contain the following: type of community work, rules and conditions of a sentence service, place of community work (geographical location, name of the institution and activity), indication of the place where a convict will stay in the free of work time – in the place of sentence service or elsewhere, name of a contact person in the place of community work, who will directly conduct supervision over a convict during community work, a consent of such person as well as other circumstances important for the decision making process.
5. The Council shall take into consideration a conduct of a convict during serving the term of a sentence, facts of committing crimes in the past, personality of a convict, family conditions, gravity of a committed crime; the Council shall see if the goal of

the punishment is achieved as well as other circumstances, which may affect the decision of the Council.

- 5<sup>1</sup>. The Council, only by oral hearing, shall make a decision on substituting the remaining term of a sentence with community work .The decision shall contain basic circumstances and data of the convict.
6. Decision of the Council on rejection of the substitution of remaining term of a sentence with community work can be once appealed at the court through the administrative procedure.

#### **Article 44. Standing Commission of the Ministry**

1. The Standing Commission of the Ministry exercises general supervision over the Council activities. It also reviews and decides other issues envisaged under the present Code.
2. The Standing Commission of the Ministry comprises of 7 members. They are:
  - a. By the rule of rotation – one representative of the parliamentary majority and one representative out of parliamentary majority, one representative of the High Council of Justice of Georgia and one representative of the non-governmental sector;
  - b. Three employees of the system of the Ministry.
3. The nominee of the non-governmental representative in the Standing Commission of the Ministry is presented by the Coordination Council of the Ministry for approval by the Minister. Authorities and activities of the Coordination Council of the Ministry is defined by the Ministerial Order.
4. The Minister shall approve the composition of the Standing Commission from the non-governmental sector and three employees of the system of the Ministry. The Secretary of the High Council of Justice appoints the representative of High Council of Justice of Georgia to the Commission.
5. Members of the Standing Commission of the Ministry, who are nominated to the Commission by the parliamentary majority/minority and the Coordination Council, as well as the member of the High Council of Justice shall be subject to rotation after expiration of each 1 year.
6. The Commission elects the Chairperson of the Standing Commission through the open voting out of members of the Commission; rotating members of the Commission may not be elected as Chairperson of the Commission.
7. The Commission periodically, but not less than once in three months, shall review reports of the Council of the Ministry on decisions regarding parole and commutation of sentence. The Commission, on its initiative, may request any case reviewed by the Council, where a convict's request for parole or commutation of sentence was rejected. It may take its own decision on the case concerned. The decision of the Commission can once be appealed to the Court through the administrative procedure.

8. Authorities of the Standing Commission of Ministry and rules of its activities is defined by the regulation of the Commission approved by the Minister.

**Article 45. Obligations of the Administration of the Custodial Establishment on Release of a Convict**

No later than three months prior to the expiration of the custodial sentence the administration of the relevant custodial establishment shall notify the local self-government authorities, according to the place of residence of a convict concerned, about the release of a convict, his/her place of residence, capacity for work and qualification.

**Chapter VII  
Enforcement of a Custodial Sentence  
General Provisions**

**Article 46. Place of Enforcement of a Custodial Sentence**

1. A convict sentenced to imprisonment shall serve his/her sentence in a custodial establishment located on the territory of Georgia, except cases envisaged under the international treaties of Georgia.
2. The type of the custodial establishment shall be specified by the Chairman of the Department in accordance with norms of the present Code.
3. A convict shall serve his/her sentence in a custodial establishment located in the nearest proximity to the place of residence of his/her family members or a person with whom he/she lived, except for the cases, when the aforementioned deems impossible by reason of overcrowding of the establishment concerned. In exceptional cases a convict may be transferred to other custodial establishment due to his/her health status, personal security or/and with his/her consent.

**Article 47. Transfer of a Convict to Serve a Sentence**

1. No later than 20 days following the imposition of a custodial sentence by the court, the Chairman of the Department shall make a decision about the type of the custodial establishment in which a convict will have to serve a sentence.
2. The administration of a pre-trial detention establishment shall transfer a convict for serving a custodial sentence no later than 20 days following the receipt of the copy of the decision of the Chairman of the Department.
3. The procedure and conditions of transfer of a convict to a custodial establishment is defined by the Minister.
4. Within 3 days from the receipt of a convict, the administration of a custodial establishment is obliged to notify a close relative or other person as requested by the convict.



#### **Article 48. Leaving a Convict in a Pre-Trial Detention Establishment**

1. A convict, who was sentenced to serve his/her sentence in the custodial establishment, may be left in the pre-trial detention establishment for providing maintenance work in compliance with determined procedure in case of his/her written consent. The convict enjoys same rights as convicts in the semi-open type custodial establishment which can be exercised in the pre-trial detention establishment. The Minister determines rules and terms of his/her movement within the territory of the pre-trial detention establishment.
2. Leaving a convict in the pre-trial detention establishment with a convict sentenced for a less grave crime for the purpose of providing maintenance work shall be formed by the order of a Director of the establishment. In case of convicts sentenced for a grave or especially grave crime, also in case of recidivism and dangerous recidivism shall be formed by the order of a Chairperson of the Department under submission of a Director of the establishment.

#### **Article 49. The Procedure of Admission a Convict into a Custodial Establishment**

1. A convict shall be admitted to the custodial establishment by the administration thereof commensurate with the procedure, envisaged by regulation of the establishment, approved by the Minister.
2. A convict shall be immediately informed in writing, in the understandable language to him/her about his/her rights and the rules of treatment of convicts by staff, the rules of obtaining information and filing request, disciplinary and other complaints.

#### **Article 50. Allocation of Convicts Separately**

1. As a rule, the following persons shall be placed separately in custodial establishments:
  - a. Women;
  - b. Juveniles;
  - c. Convicts sentenced for the first time;
  - d. Persons recognized as victims of crimes envisaged by Articles 143<sup>1</sup> or/and 143<sup>2</sup> of the Criminal Code of Georgia;
  - e. Persons, whose life and health may be endangered due to past official activities;
  - f. Particularly dangerous persons, whose personal features, criminal influence, the crime motive, consequences of an unlawful actions or the behavior in a pre-trial detention establishment poses serious jeopardy to the security of the establishment and safety of humans.
2. Persons suffering from unmanageable contagious diseases are placed separately in medical units of the pre-trial detention/custodial establishments.

3. The Minister, in agreement with the Minister of Health, Labour and Social Protection of Georgia, may provide for a different procedure of separation.

#### **Article 51. Transfer of a Convict to another Same Typed Custodial Establishment**

1. A convict may be transferred to another same typed establishment for serving a sentence further by the decision of the Chairperson of the Department solely due to the illness of a convict, with a view to ensuring his/her security, reorganization, liquidation of the establishment, overcrowding or other significant well-grounded circumstances.
2. The procedure and condition of transfer of a convict is specified by the order of the Minister.

### **Chapter VIII**

#### **Regulation of a Pre-Trial Detention/Custodial Establishment**

#### **Article 52. Regulation of a Pre-trial Detention/Custodial Establishment**

1. The following requirements shall be stipulated in the regulation of a pre-trial detention/custodial establishment:
  - a. Isolation and protection of accused/convicts;
  - b. Permanent supervision over accused/convicts;
  - c. Fulfillment of imposed duties the accused/convicts;
  - d. Protection of the rights and lawful interests of accused/convicts;
  - e. Safeguarding personal security of accused/convicts and personnel;
  - f. Separation of various categories of accused/convicts commensurate with the procedure envisaged by the Code;
  - g. Rules for admission of accused/convicts to the establishment;
  - h. Rules of conduct of accused/convicts during work and rest;
  - i. List of works and activities, where occupation of convicts shall not be allowed;
  - j. List and amount of allowed subjects and items;
  - k. Rules for withdrawal of prohibited things/items that are not allowed to be used;
  - l. Rules for search, checking, visits, correspondence and sending-receipt of parcels/transfers;
  - m. List of food, personal items and hygienic remedies, purchase of which is allowed by a accused/convict in the selected by the establishment shop;
  - n. Rules for participation in religious rituals and meetings with ecclesiastics;
2. With a view of compliance with the regulation of a pre-trial detention/custodial establishment, it shall be admissible to conduct search of accused/convicts and places where they are kept, as well as to inspect their belongings. Personal search of accused/convicts shall be conducted by a person of the same sex.

3. The administration of a pre-trial detention/custodial establishment shall be required to inspect the belongings, clothes and means of transport of the persons who enter or leave the pre-trial detention/custodial establishments.
4. Money or other valuables seized from an accused/convict shall be deposited with the administration of the pre-trial detention/custodial establishment in accordance with the procedure established by regulation of the establishment.
5. The regulation of the pre-trial detention/custodial establishment, as well as the regulation of the mixed type institution shall be approved by the Minister.

#### **Article 53. Daily Routine of the Pre-Trial Detention/Custodial Establishment**

The Chairman of the Department approves daily routines (schedules) of pre-trial detention/custodial establishment on a basis of the proposal of the Director of establishment.

#### **Article 54. Technical Devices for Control and Surveillance**

1. The administration shall be entitled to use audio, visual, electronic and other means of technical surveillance in accordance with the established procedure under the Georgian legislation with a view to prevention of escapes and other crimes and offences and obtaining necessary information concerning behavior of accused/convicts.
2. The administration shall give prior notice to accused/convicts about the application of technical facilities of control and surveillance means, except for the cases envisaged by the Georgian legislation.

#### **Article 55. Investigation of Committed Crimes in a Pre-Trial Detention/Custodial Establishment and Operational-Investigation Activities**

1. The crimes committed in a pre-trial detention/custodial establishment shall be investigated in accordance with the procedure envisaged by the Criminal Procedural Code of Georgia.
2. Pursuant to the legislation of Georgia operational-investigation measures shall be undertaken within pre-trial detention/custodial establishment which aims the maintenance of personal security of the personnel of the establishment and other persons, also accused/convicts; disclosure of the crimes committed in the establishment; prevention of the violation for the established rules of serving sentences; prevention of a crime at the stage of preparation; search in the established order for accused/convicts, who escaped from the establishments; co-operation with the other authorized authorities within their terms of competence.
3. The persons found guilty in the commitment of the crimes within a custodial establishment shall be transferred to a pre-trial detention establishment.

## **Article 56. Safeguarding a Pre-Trial Detention/Custodial Establishment and Accused/Convicts**

1. The pre-trial detention/custodial establishment and accused/convicts shall be safeguarded by the services of external guard; the regulation of the service of external guard is approved by the Minister.
2. The external guard is a person with the status of a military servant. Any conscript may join the external guard service, whose term of service shall be specified by the Law of Georgia on Conscript and Military Service.
3. Discharging military service shall be regarded as passing mandatory military service by a conscript and shall be undertaken in accordance with the Law of Georgia on Conscript and Military Service. The procedure for the selection of persons for the recruitment in special guard service is specified by the order of the Minister.
- 3<sup>1</sup>. Competencies of external guard do not apply to the internal security system.
4. The social and legal protection of the personnel of external guard service is guaranteed by the Law of Georgia on the Status of a Military servant.
5. In special cases the Chairperson of the Department shall be entitled to create enhanced guard groups within the framework of the pre-trial detention/custodial establishment.

## **Article 57. Security Measures in Establishments**

1. In order to avoid self damage, as well as damage of other persons and property, it shall be allowed to use handcuffs and strait-jackets against accused/convicts, separation from other inmates, temporary transfer to other pre-trial detention or custodial establishment, placement in a solitary confinement for not more than 24 hours. Application of security measures shall stop immediately upon elimination of the threat, for elimination of which the measure concerned was used.
2. Use of handcuffs and strait-jackets shall be allowed only based on the Director's decision and in case when other measures proved to be ineffective. The Director shall inform medical staff about use of handcuffs and strait-jackets. Handcuffs and strait-jackets shall not be used for women or juveniles.
3. Handcuffs may be used during transfer of an accused/convict from one establishment to another in order to avoid his/her escape.
4. If an accused/convict commits an assault or any other willful action, endangering the life and/or health of a staff member of a pre-trial detention/custodial establishment or any other person, the staff of a pre-trial detention/custodial establishment shall be entitled to use firearm, when it is impossible to suppress the aforementioned actions. Used force shall be proportionate to the legal purpose and danger, created by an accused/convict to others.

5. In the case of an escape from a pre-trial detention/custodial establishment, as an exception, and in case of extreme necessity, an officer of the establishment shall be entitled to use firearms, if other means prove to be ineffective to suppress the action in question. Used force shall be proportionate to the legal purpose and danger, created by escape of an accused/convict to public. The used force shall be minimal, necessary for stopping the escaped person. Use of firearms shall be prohibited in the case of an escape of women and juveniles.
6. Other conditions and circumstances of applying security measures in a pre-trial detention/custodial establishment shall be regulated by the regulations of the respective establishment which shall not conflict the norms set forth under the present article.
7. Following the application of any security measure, the administration of the establishment shall conduct the medical examination of an accused/convict together with the medical personnel of the establishment; results of such examination shall be duly recorded in a respective report.
8. The responsibility for the implementation of security measures and observance of regulation is vested with the Director of the establishment concerned.

#### **Article 58. Special Conditions in a Pre-Trial Detention/Custodial Establishment**

1. In the case of natural disasters, announcement of emergency situation or martial State in the country, epidemics of diseases, causing threat to life, or mass riots as well as if the establishment is damaged and will not be suitable for goals established by the Law, the special conditions may be introduced in the establishment.
2. The special conditions shall be introduced by the Chairperson of the Department in written agreement with the Minister, but no more than for a period of 15 days. In case necessary, such term may be extended for another 15 days based on the consent of the Minister.
3. In the case of imminent threat to life and health of accused/convicts, personnel or other persons, the Director of the establishment shall be entitled to independently apply the special conditions envisaged by paragraph 1 of the present Article.
4. The Director shall be required to immediately notify the Chairperson of the Department about the aforementioned, who shall make a decision on the maintenance or cancellation of special conditions within 24 hours following the receipt of notification, based on the written consent of the Minister.
5. When during the maintenance of special conditions it is impossible to otherwise localize the created situation or to implement the operational-preventive measures within the establishment for seizure of prohibited items, substances and foodstuff, and when the

serious risk of group or mass riots exists, the guard of the establishment may be reinforced by the special subdivisions of the Ministry of Internal Affairs based on relevant application of the Minister and upon decision of the Minister of Internal Affairs.

6. The procedure and terms for the introduction of special conditions is specified by the order of the Minister.

#### **Article 59. Scheme of Additional Security Measures**

In the case of mass riots in a pre-trial detention/custodial establishment and the declaration of emergency situation or Martial State in the country the Department shall develop scheme of additional security measures for the prevention of assaults, escapes and other offences, which shall be subject to approval by the Minister in agreement with the Ministry of Internal Affairs of Georgia.

#### **Article 60. The Right to Access the Territory of Pre-trial Detention/Custodial Establishment**

1. The right to access the pre-trial detention/custodial establishment without a special authorization shall be enjoyed by:
  - b) The President of Georgia;
  - c) The Chairperson of the Parliament of Georgia and a Member of the Parliament duly authorized by the former;
  - d) Duly authorized persons of the prosecutor's office;
  - e) Public Defender of Georgia;
  - f) Duly authorized high officials of the Ministry;
  - g) Members of Special Prevention Group.
2. Rules for issuance of the special permit to the pre-trial detention/custodial establishment is established by the order of the Minister.
3. It is prohibited to carry audio-visual and other types of fixation into the territory of pre-trial/custodial establishment without a special authorization. The authorizations is issued by the Chairman of the Department.
4. Photographing, filming and video recording of accused/convicts and recording interviews with them shall be admissible only under the written consent of accused/convicts.

### **Special Section Chapter IX**

## **Semi-open type Custodial Establishment**

### **Article 61. The Semi-open type Custodial establishment**

1. As a rule, the following persons shall serve their sentence in the semi-open type custodial establishment: person who is sentenced for commitment of a less grave or grave crime and the term of sentence does not exceed up to 10 years; a convicted person who is transferred from the different type establishment as prescribed by the present Code; a woman sentenced to the deprivation of liberty.
2. Other persons also may serve sentences in the semi-open type custodial establishment, in consideration of their personal characteristics.
3. The living space per convict in the semi-open type custodial establishment shall not be less than 2 sq.m.
4. Transfer of a convict from the semi-open type custodial establishment to the closed type establishment shall be carried out due to safety reasons, risk of epidemic diseases, infectious disease of a convict, permanent violation or regulation of the semi-open type establishment or in case of other reasons, envisaged under the paragraph 1 of Article 58 of the present Code. With the grounds, envisaged in the Article (except for systematic violation of the regulation of the custodial establishment), when transferring convict to the closed type establishment, the rules applied in the semi open type establishment will apply to him/her, it is allowed to carry out those rules in closed type institution.

### **Article 62. Conditions of Serving a Sentence in the Semi-open type Custodial Establishment**

1. A convict serving a sentence in a semi-open type custodial establishment is placed in a dormitory specially allocated for this purpose.
2. A convict is authorized to:
  - a. Spend the amount of money every month from personal account, within the limits prescribed by the order of the Minister, with the aim to buy foodstuff and items of prime necessity in the shop located on the territory of the establishment.
  - b. Enjoy two short-term visits per month;
  - c. 3 times per month have telephone conversations at his/her own expenses, each conversation shall not exceed 15 minutes;

- d. Independently move on the territory of the establishment in accordance with the rules prescribed by its regulation.
3. In the semi-open type custodial establishment, upon permission of the Director of the establishment, a convict may have the right to avail and use own TV and radio sets, except for the night hours.
4. Upon decision of the administration of the establishment the correspondence of a convict may be examined, except for the cases defined by paragraph 6 of Article 16 of the present Code.

### **Article 63. Incentives for Convicts Serving a Sentence in the Semi-open type Custodial Establishment**

In case of excellent behavior and honest attitude to the work, the administration of a semi-open type custodial establishment is authorized to apply the following forms of encouragement towards a convict:

- a. Expression of gratitude;
- b. Preterm removal of the disciplinary sanction;
- c. Additional short visit;
- d. Additional short-term leave from the establishment;
- e. Use of a personal radio receiver or TV set.

## **Chapter X Closed Type Custodial Establishment**

### **Article 64. Closed Type Custodial Establishment**

1. As a rule, a person convicted for the first time for committing particularly grave crimes of forethought and sentenced by the court to deprivation of liberty for the term of more than 10 years, persons convicted for repeatedly committing deliberate crimes, a person sentenced to life imprisonment, in case of criminal recidivism, as well as convicts transferred from another type of custodial establishment in accordance with the rules of the present Code shall serve a sentence in the closed type custodial establishment.



2. The living space per convict in the closed type custodial establishment shall not be less than 2.5 sq.m.
3. Due to good behavior and honest attitude to the work, due to security reasons, infectious disease of the convict and other reasons, envisaged under Article 58 of the present Code, convicts may be transferred from the closed type custodial establishment to the semi-open type custodial establishment.

#### **Article 65. Conditions of Serving a Sentence in a Closed type Custodial Establishment**

1. A convict serving a sentence in a closed type custodial establishment is placed in a detention cell. A convict shall be authorized to:
  - a. Spend the amount of money from personal account, within the limits prescribed by the order of the Minister, with the aim to buy the foodstuff and items of prime necessity in a shop located on the territory of the establishment;
  - b. Enjoy one short-term visit per month;
  - c. Twice per month have telephone conversations at his/her own expenses, each conversation shall not exceed 15 minutes;
2. The correspondence of a convict placed in the closed type custodial establishment is examined by the administration of the establishment, except for the cases defined by paragraph 6 of Article 16 of the present Code.

#### **Article 66. Incentives for a Convict Serving a Sentence in the Closed type Custodial Establishment**

In case of exemplary behavior and honest attitude towards the work, the administration of the closed type custodial establishment shall be authorized to apply following forms of encouragement towards a convict:

- a) Expression of gratitude;
- b) Application to a Chairman of the Department on transfer to the semi-open type custodial establishment;
- c) Pre-term abolishment of disciplinary penalty;
- d) Additional 15 minutes telephone conversation per month;

- e) Filing petition by the Director of the establishment on parole release;
- f) Use of a personal radio receiver, TV set or computer;
- g) Additional short visit.

## **Chapter XI**

### **Specificities of Serving a Sentence by Juvenile Convicts**

#### **Article 67. Specificities of Placement of Juveniles in the Establishment**

1. A convicted person who has not reached the age of eighteen before the placement in the establishment is placed in the special juvenile establishment.
2. Juvenile convicts are placed in the establishment being approximated to the semi-open type custodial establishments.

#### **Article 68. Keeping a Reached a Full Age Convict in the Establishment with Juvenile Convicts**

1. In order to re-socialize, acquire general education and undergo vocational training, a juvenile convict, who has reached the age of 18, may upon his/her own application and upon decision of the Director of the establishment be retained for serving a sentence in the same establishment, where he/she was serving a sentence until reaching the maturity but not exceeding the age of twenty.
2. The conditions of serving a sentence, nourishment and living standards stipulated for juvenile convicts shall apply to a convict, who has reached full age and has been retained to serve a sentence in the establishment with juvenile convicts.

#### **Article 69. Transfer of a Convict from the Special Juvenile Establishment to a Custodial Establishment**

1. A convict in the full age, who in consideration of his/her personality and behavior is not eligible for a parole or cannot be retained at the juvenile establishment, shall be transferred to the semi-open type custodial establishment for further serving a sentence.
2. For the purpose of further serving a sentence, all convicts having reached the age of 20, shall be sent to semi-open type custodial establishments.

#### **Article 70. Conditions for Serving a Sentence at the Special Establishment for Juveniles**

1. At the establishment for juvenile convicts, a convict shall be placed in a dormitory with no less than 3.5sq.m. per convict.
2. A juvenile convict has the right to:
  - a. Enjoy four short-time visits per month;
  - b. Have a long-term visit once every three months, and as a form of incentive – one additional long-term visit per year with the length of 1 to 2 days;
  - c. Monthly spend the amount of money from personal account, within the limits prescribed by the order of the Minister, with the purpose of buying food products and items of prime necessity in the shop located on the territory of the establishment;
  - d. Independently move on the territory of the establishment in accordance with the rules prescribed by regulation;
  - e. Five times per month have telephone conversations at his/her own expenses, each conversation shall not exceed 15 minutes;
  - f. Avail and use personal TV and radio receiver except for night hours.

#### **Article 71. Organizing the Learning and Educational Process**

1. For the purpose of re-socialization of convicts and their preparation for independent life a unified learning-educational process shall be organized, which is aimed at development of convict's general skills, acquiring general or vocational education.
2. The learning process at the juvenile establishment shall be in compliance with the current educational standards of the country.
3. The learning process is regulated by joint order of the Minister and the Minister of Education and Science of Georgia.

### **Chapter XII Specificities of the Serving Sentences by Female Convicts**

## **Article 72. Specificities of the Execution of the Deprivation of Liberty by Female Convicts**

1. Female convicts shall serve sentences in the semi-open type custodial establishment.
2. The standard living space per inmate shall be at least 3sq.m.
3. If necessary a special unit for pregnant women and for children is arranged at the custodial establishment. If so requested by mother, with the permission of guardian, trustee and consent of the administration, a mother and a child under three years of age may be provided conditions for living together.
4. If requested by guardian and trustee authorities, the administration may prohibit a mother from having contacts with underage children.
5. Female convicts shall be entitled to 3 short visits a month.
6. Four telephone conversations during a month shall be performed at the expense of the convicted, each up to 15 minutes.
7. Free movement on the territory of the establishment in accordance with the rules prescribed by its regulation.

## **Chapter XIII**

### **The Procedure of Enforcement of the Pre-Trial Detention**

#### **Article 73. The Procedure for Enforcement of the Pre-Trial Detention**

A person towards whom the pre-trial detention was applied as a preventive measure is placed at the pre-trial detention establishment in accordance with the rule prescribed by the Criminal Procedural Code of Georgia.

#### **Article 74. The Conditions of Being in the Pre-Trial Detention**

1. The sanitary-hygienic conditions of pre-trial detention establishment shall meet the standards set by the existing legislation of Georgia.

2. Persons in the pre-trial detention establishment shall be placed in cells.
3. The standard of living space per accused in the pre-trial detention establishment shall be at least 2.5sq.m.
4. If necessary, the administration of the establishment or by the decision of an investigator, prosecutor or the court shall place persons accused for committing the same criminal offence separately.

#### **Article 75. Admission to Pre-Trial Detention**

1. To place an accused person in the pre-trial detention establishment, the decision of the court on application of pre-trial detention as a preventive measure, identity card or other identification document with photograph shall be required.
2. Upon admission of an accused to the pre-trial detention establishment an accused shall be photographed and fingerprinted. Photos and their film negatives, as well as fingerprint file, a sketch based on the file is kept in personal files of an accused.
3. The administration of the establishment sends an accused person's fingerprint file to the central or respective regional service or unit of the National Bureau for Forensic Examination within 7 days after fingerprinting.
4. Upon admission to the pre-trial detention establishment an accused person and his/her personal belongings is thoroughly checked and the respective report drawn up. An accused shall be checked by an employee of the same sex of the pre-trial detention establishment.
5. Upon admission to the pre-trial detention establishment a person shall undergo medical examination by doctor of pre-trial detention establishment and relevant report drawn up. If bodily injuries are discovered with an accused the administration shall immediately inform the prosecutor thereof.
6. A competent person of the pre-trial detention establishment shall immediately inform an accused about his/her rights and obligations in a language which he/she understands.
7. Within no later than 24 hours upon admission of an accused to the pre-trial detention establishment, the information related to an accused shall be sent to the Bureau of Information of the Ministry of Internal Affairs.

#### **Article 76. Taking Out and Transfer of an Accused Person**

1. The procedure of taking out and transfer of an accused person from the pre-trial detention establishment is approved by the Minister.
2. The administration of the pre-trial detention establishment while transferring the accused shall immediately notify an investigator, prosecutor and judge and also his/her close relative.
3. Doctor of the establishment shall medically examine an accused in case of his/her taking out or transfer and respective medical certificate drawn up.

#### **Article 77. Visits of an Accused**

1. An accused is entitled to at most 4 short visits a month. This right may be restricted based on the decree of an investigator or prosecutor.
2. For the purposes of an investigation and safety, an employee of the establishment visually looking at the short visit of an accused shall be entitled to immediately terminate it.

#### **Article 78. Short-term Leave of an Accused Regarding Special Personal Circumstances**

1. If there is a reliable information received regarding the death or serious illness of a close relative of an accused, also if it is necessary for an accused to participate in the procedural activities, an investigator or prosecutor shall be entitled to permit short-term leave of an accused for up to two days. The costs of short-term leave shall be paid by an accused, except for those expenses that are related with the participation in procedural activities.
2. The procedure of short-term release of an accused is approved by the Minister.

#### **Article 79. Conditions of an Accused in the Pre-Trial Detention Establishment**

1. An accused placed in the pre-trial detention establishment shall be allowed to:
  - a) Purchase food products at the establishment's shop with the money transferred to his/her personal account by close relatives or other persons. Spending his/her personal

money for purchase of food products shall be allowed only within the limits prescribed by order of Minister and only by cashless settlements;

- b) Wear personal clothes and if he/she does not have any, the clothing appropriate to the season provided by the administration of the establishment;
- c) Subject to monitoring by the administration, have maximum 15 minutes telephone conversation three times a month at his/her own expenses, unless this right is restricted under the well reasoned decisions of investigator or prosecutor;
- d) Read books from the library, newspapers and magazines;
- e) With the permission of the administration have his/her own radio or TV.

2. The right established by the sub-paragraph c of the first paragraph of the present Article may be limited by the motivated decision of the investigator or prosecutor.

3. An accused shall be released in accordance with the procedure prescribed by the Criminal Procedural Code of Georgia.

## **Chapter XIV**

### **Disciplinary Liability of Accused/convicts**

#### **Article 80. Disciplinary Violation**

1. The act shall be considered a disciplinary violation, if it violates regulation of the establishment, creates threat to order and safety and does not bare signs of crime, namely:
  - a. Violation of sanitary-hygienic standards;
  - b. Violation of fire safety rules;
  - c. Showing resistance to staff of the establishment and other persons in fulfillment of their duties;
  - d. Performance of deliberate acts, which create threat to life of other persons' life and/or health, dignity of other persons and breach of their privacy;

- e. Damaging/destroying property of the establishment or other persons, including change of the appearance;
- f. Violating determined by the establishment restriction of movement and crossing borders without permission;
- g. Performing activities on the territory of the establishment with the purpose of receiving income, without permission of the administration;
- h. Interference in functioning of devices/systems on the territory of the establishment, arbitrary change of appearance in design or functions of the premises without permission to do so;
- i. Manufacturing, possession or use of prohibited items on the territory of the establishment;
- j. Noise or other action, causing violation of order and disturbing normal functioning of the establishment;
- k. Provide information from a cell to cell by illegal means or outside of the establishment;
- l. Violation of regulation of establishment, daily schedule and other legally established standards by the Georgian legislation.

#### **Article 81. Disciplinary Sanctions**

1. The result of the disciplinary violation shall be the disciplinary responsibility of an accused/convict. Sanctions imposed for the disciplinary violation shall be proportionate to a committed act.
2. Imposition of the disciplinary sanctions against an accused/convict shall be permitted only based on due disciplinary proceedings and after proving the fact of committing such violation.
3. In case of the group violation, the sanctions shall be imposed individually.
4. If circumstances of the disciplinary violation lead to application of security measures as prescribed under the Article 58 of the present Code, then such measures shall be



used before commencement of disciplinary proceedings described in the present Chapter.

### **Article 82. Types of Disciplinary Sanctions**

1. Types of disciplinary sanctions are:
  - a. Warning;
  - b. Reprimand;
  - c. Restriction of the right to work for no more than 6 months;
  - d. Restriction of use of permitted times for no more than 6 months;
  - e. Restriction of receipt of transfers and parcels for no more than 6 months;
  - f. Transfer to the cell type premises for the term up to 6 months;
  - g. Placement in the solitary confinement cell for a term of up to 20 days;
2. Sanctions described in sub-paragraphs “f” and “g” of paragraph 1 of the present Article shall not be imposed on pregnant women, mothers of underage children and an accused/convict above the age of 65.
3. Sanctions described in sub-paragraph “g” of paragraph 1 of the present Article shall not be imposed on a juvenile accused/convict.

### **Article 83. Rights of an Accused/convict Charged with Commitment of Disciplinary Violations**

An accused/convict charged with commitment of disciplinary violations has the right to:

- a. Be informed of charges and grounds in understandable for him/her language;
- b. Have sufficient time and possibility to prepare defense;
- c. Have oral hearing of his/her case and use legal assistance, including by rules established by the Georgian Law “on Legal Aid” in cases described in the Article 82 paragraph 1 sub-paragraphs “f” and “g”, if so requested by an accused/convict;
- d. Request attendance of witnesses at disciplinary review and question witnesses;

- e. Use free interpretation services, if he/she does not understand language of proceedings.

#### **Article 84. Disciplinary Proceedings**

1. Director or designated by him/her person shall review disciplinary cases.
2. The right to give testimony, present evidence, file motion, make statements in native language and use interpreter's services, appeal to the resolution on imposition of the disciplinary sanction, and shall be explained to an accused/convict.
3. An accused/convict shall provide explanations on the violation concerned, and in case of refusal to do so, the relevant minutes shall be drawn.
4. The person in question, a witness and a victim shall have a right to submit written testimonies and/or comments, which shall be attached to the resolution on imposition of disciplinary sanctions.
5. During oral hearing, an accused/convict shall have a right to sitting and making records;
6. During imposition of disciplinary sanctions against an accused/convict, personality and behavior of the person in question shall be considered, as well as circumstances, in which the violation thereof was committed; testimony of an accused/convict about the fact of violation. After review of the case, the Director or designated by him/her person shall take a decision based on evaluation of evidence.
7. An accused/convict has a right to be represented by a lawyer at the hearing being held on sanctions described in the Article 82 paragraph 1 sub-paragraphs "f" and "g". Before commencement of the hearing, an accused/convict shall be informed about the right to be represented by the lawyer, which, in case of the consent, shall be performed within 3 hours. If the lawyer fails to appear within established time limits, the public lawyer shall be appointed. If an accused/convict refuses to attend the hearing, the written document reflecting such refusal shall be developed and signed by an accused/convict.

8. The oral sitting on imposition of the disciplinary sanction may continue without oral hearing and the decision can be made, if an accused/convict violates order by his/her behavior, fails to attend the hearing or otherwise creates obstacles to the case hearing.

#### **Article 85. Resolution on Imposition of the Disciplinary Sanction**

1. Director of the establishment or designated by him/her person are authorized to issue a resolution on imposition of the disciplinary sanction. The legal-administrative act of the Director on granting authority to other person may not be appealed separately.
2. Disciplinary sanctions shall be imposed within ten days after establishing the fact of violation.
3. The resolution on imposition of disciplinary sanctions shall contain the following:
  - a. Last name and first name of the authorized official;
  - b. Date, time and place of drawing the resolution;
  - c. Registration number;
  - d. Data on violator (last name, first name, date of birth, etc.);
  - e. Place of violation, time and description of the violation, as well as time of establishment of such fact. If establishment of the time of the violation in question is impossible, the time of establishment the fact of violation shall be considered the time of commitment of such.
  - f. Data on witness, victim, if any exists;
  - g. Description of evidence, if any exists, which is necessary for taking a decision.
4. Use of interpretation services shall be indicated in the resolution on imposition of disciplinary sanctions;
5. A resolution on imposition of disciplinary sanctions shall be legal, motivated and fair. The imposed disciplinary sanction shall be proportionate to the nature and gravity of a committed violation. The decision/resolution shall be drawn in a written form providing information on appeal procedure.

6. One copy of the resolution shall be given to an accused/convict or his/her lawyer immediately upon publication.
7. Materials of the case shall be attached to the personal file of an accused/convict.
8. Enforcement of the sanction shall start in 1 month after its imposition.

#### **Article 86. Appealing of the Disciplinary Sanction**

1. An accused/convict has a right to appeal the decision on imposition of disciplinary sanctions to the Court within 10 working days in compliance with the administrative procedure. The appealing process shall not suspend enforcement of the resolution on imposition of the disciplinary sanction.
2. Transfer of an accused/convict to the medical institution due to worsening of health conditions or other specific condition, shall lead to postponing of the enforcement of the decision until return of an accused/convict to the establishment.

#### **Article 87. Guarantees of an Accused/Convict during Application of the Disciplinary Liability**

1. Sanctions shall not be imposed twice for the same disciplinary violation.
2. Disciplinary sanctions shall not be humiliating and impairing self-respect and dignity.
3. The disciplinary sanction shall not be imposed if after the commitment of the violation 1 year has passed.
4. If the violation is not repeatedly committed within 6 months after enforcement of the sanction, such sanction shall be annulled. If, however the sanction described in the Article 82 paragraph 1 sub-paragraphs “f” and “g” is imposed, the sanction shall be annulled if the violation is not repeatedly committed during 1 year after enforcement of such sanction.
5. Pre-term abolishment of the disciplinary sanction may be made by the Director of the establishment or by the designated person, if the goal of the sanction is achieved.

#### **Article 88. Placement in the Solitary Confinement Cell**

1. Placement in the solitary confinement cells shall be imposed only in specific cases.

2. An accused/convict, placed in the solitary confinement cell shall be deprived of the right to visits, telephone conversations, purchase of food. He/she shall have a right to daily 1 hour outside walk.
3. In order to ensure safety protection of an accused/convict in the solitary confinement cell, he/she shall enjoy all rights established under the present Code.
4. The solitary confinement cell shall be lightened, provided with ventilation; the accused/convict shall have a chair and a bed. He/she shall be entitled to receiving reading materials if so requested.
5. Placement of an accused/convict in the sensor isolation conditions shall not be allowed.
6. The administration shall inform the medical personnel about placement of a person in such cell. The person in the solitary confinement cell shall be daily specially observed by the medical personnel. If necessary, duration of the confinement may be reduced based on the doctor's conclusion.

#### **Article 89. Prevention of the Disciplinary Violation**

1. The administration shall take relevant measures for the purpose of disciplinary measures prevention and avoidance of such.
2. Regulation of the establishment, detailed list of disciplinary violations and relevant sanctions shall be accessible to all accused/convicts.

### **Chapter XV Administrative Imprisonment of Convicted Persons**

#### **Article 90. Responsibility for Commitment Repeated Disciplinary Violation during the Term of the Disciplinary Sanction**

1. If a convicted person repeatedly committed the defined by the present Code disciplinary violation during the term of the disciplinary sanction, the administrative imprisonment may be imposed for the term not exceeding 60 days and nights.

2. Administrative imprisonment imposed on one person during 1 year shall not exceed 90 days and nights.
3. The administrative imprisonment shall not apply to pregnant women and juvenile convicts.
4. Director of the establishment or designated by him/her person are authorized to issue a decision on imposition of the administrative imprisonment. Delegation of authority under this paragraph shall be performed based on the individual administrative-legal act.
5. Resolution on imposition of the administrative imprisonment shall contain the following:
  - a. Last name and first name of the authorized person;
  - b. Date, time and place of drawing the document;
  - c. Registration number;
  - d. Reference of the normative act and individual administrative-legal act, based on which the authorized official carries out the above mentioned authority;
  - e. Data on violator (last name, first name, date of birth, etc.);
  - f. Place, time (year, month, date, hour, minutes) and description of the violation. If it is impossible to define time, the time of commitment of the violation shall be considered the time of establishment of the fact of violation;
  - g. Information on witness, victim, if any exists;
  - h. Reference to other evidence, if any exists, necessary for taking the decision;
  - i. Petition on imposition of the administrative imprisonment, without indication of the term of the sanction.
6. During issuance of the resolution on imposition of administrative imprisonment, the right to get familiarized with the resolution, give testimony, present evidence, file petition, appeal on the resolution on imposition of the administrative imprisonment, make statements in native language and use interpretation and/or lawyer's (defender's) services shall be explained to a convict.

7. Use of interpretation and/or lawyer's (defender's) services shall be indicated in the resolution on imposition of administrative imprisonment.
8. The violator, witness or the victim shall have the right to present written testimonies and/or comments, which shall be attached to the resolution on imposition of the administrative imprisonment.
9. One copy of the resolution on imposition of administrative imprisonment shall be given to a convict immediately after issuance of the resolution thereof.
10. The resolution on imposition of the administrative imprisonment shall be submitted to the authorized court according to location of the establishment within 24 hours. The burden of proof shall rest with resolution issuing authority.
11. The resolution on imposition of the administrative imprisonment shall be solely considered by the judge within 48 hours after submission of the resolution thereof. The motivated decision shall be immediately taken after review of the case. Postponing the arrival at the motivated decision to a different time shall be impermissible.
12. The court shall review the case in accordance with the rules established by the Administrative Procedural Code of Georgia. Article 26<sup>2</sup> of the Administrative Procedural Code of Georgia shall not be used during the review of the case.
13. The principles of equality and adversary shall be maintained during the review of the case in question. A convict shall enjoy all rights established by the Administrative Procedural Code of Georgia. He/she has the equal right to present evidence, participate in examination of such, summon witnesses, and provide testimony, file petitions and request refusal, express personal opinion on any case related issue. The convict shall enjoy the right of speaking native language and use interpretation services and/or lawyer's (defender's) services. If the convict is unable to hire a lawyer (defender), the court shall appoint the lawyer (defender) at the state expenses.
14. Time used to present the convict to the court hearing shall be included into the overall term of sentence as well as the time used for arrival at the decision of the first instance court.

#### **Article 91. Court Decision (Ruling) on Imposition of the Administrative Imprisonment**

1. Assumption shall not be used as grounds for taking a court decision on imposition of the administrative imprisonment. It shall be taken only with the condition that during the court hearing the fact of commitment of the violation was established based on fully reliable and true evidence.
2. The court decision (ruling) on imposition of administrative imprisonment shall be legal, motivated and fair.
3. The court decision (ruling) shall be deemed legal, if it is made with observance of the Constitution of Georgia and other legal requirements.
4. The court decision (ruling) may be considered motivated if its conclusions base on unity of evidence presented and reviewed during the court hearing.
5. The court decision (ruling) may be considered fair if the imposed administrative imprisonment is proportionate to the personality of violator and gravity of the violation.

**Article 92. Issues under the Competence of the Court during Imposition of the Administrative Imprisonment**

1. During imposition of the administrative imprisonment, the court shall decide following issues consequently:
  - a. If a person committed the act envisaged by present Code;
  - b. If such act is illegal;
  - c. If a person shall be charged with commitment of this act;
  - d. If imprisonment shall be imposed on a person and to what extent;
  - e. Decision on material evidence.
2. In reviewing the case of a person charged with commitment of multiple violations, the court shall decide issues listed in the paragraph 1 of the present Article separately and as a whole.
3. The court shall be authorized to review the issue of imposition of the administrative imprisonment of a person charged with multiple violations as a whole by issuing the judgment based on the petition or personal initiative.



4. In cases, listed in the paragraph 3 of the present Article, all issues listed in the paragraph 1 of the present Article, shall be decided separately for each person.

#### **Article 93. Appealing against the Decision (Ruling) of the First Instance Court**

1. Decision (ruling) of the first instance court may be appealed in the Appeal Court by the parties or their representatives in accordance with procedures established under the Administrative Procedural Code of Georgia within 7 days after receipt of the copy of the decision (ruling). The received appeal shall be immediately forwarded to the Appeal Court and opposing party.
2. The Appeal Court shall review the appeal by the collegium of three judges in the open court hearing. The Appeal Court shall review and decide the case for the 1<sup>st</sup> instance Court in accordance with the rules and deadlines, established by this law.
3. Decision (ruling) of the Appeal Court is final and is not subject to appeal.

#### **Article 94. Arrangement of Related Issued on the Enforcement and Control**

1. The enforcement of the decision (ruling) of the court shall be ordered by the deciding court. The enforcement and control shall rest with the Department.
2. Rules for serving the administrative imprisonment are defined by the order of a Minister.
3. Term of the administrative imprisonment is not included in the overall term of sentence.

### **Chapter XVI**

#### **Procedures for Review of Requests and Complaint**

#### **Article 95. Request and Rules for its Filing**

1. By the means of request an accused/convict may request rights, granting of which falls under the competence of the administration.
2. An accused/convict may file individual or collective request in writing. The request may be confidential.

3. The request shall be registered at the chancellery of the establishment and the registration number shall be given to an accused/convict.
4. An accused/convict shall be authorized to address the Director of the establishment or his/her designated official, who shall respond to the request within 5 days.
5. The administration shall accompany requests of accused/convicts on early conditional release or transfer to a different establishment to the recommendation of an accused/convict.
6. Refusal shall be well-motivated. Such refusal cannot be appealed.

#### **Article 96. The Right to File a Complaint**

1. Act (action or omission) of the staff of the penitentiary system, legal act, decision and other violations of rights determined by the present Code, may be a basis for filing a complaint.
2. An accused/convict may file individual or collective claims. The complaint may be filed in a written form.
3. A complaint may be filed within 3 months after disclosure of the act concerned.
4. An accused/convict's lawyer, legal representative or close relative has the right to file a complaint as well if:
  - a. They have a reasonable doubt about violation of an accused/convict's rights;
  - b. Health condition of an accused/convict does not allow him/her to file a complaint personally.

#### **Article 97. Informing an Accused/Convict on the Right to File a Complaint**

1. Immediately upon admission of an accused/convict in the establishment, the staff in charge shall provide possibility for him/her to read written information about his/her rights and obligations, including rules for filing complaints and appeal procedure prescribed by the Law.
2. An illiterate accused/convict shall be orally provide with such information; the authorized staff shall draw a relevant report about it; the report shall be signed by an accused/convict.

3. Information shall be provided to juvenile accused/convict in an understandable for him/her format.

#### **Article 98. Addressee of the Complaint**

1. An accused/convict shall have the right to address with the compliant the Director of the establishment, however, the complaint regarding acts of the Director shall be filed with the Chairperson of the Department or the Special Preventive Group.
2. It shall be inadmissible for the person in question or his/her subordinate to review a complaint. Such complaints shall be reviewed by superior bodies.

#### **Article 99. Rules for Filing a Complaint**

1. In order to identify the addressee or solve other technical issues, an accused/convict shall have a right to request consultation of the Social Service staff member.
2. An accused/convict may invite assistance of the lawyer in drafting the complaint. Lawyer's expenses shall be covered in accordance with legally established rules.
3. The complaint may be in a form of a letter or filled out form.

#### **Article 100. Complaints' Box of Accused/Convicts**

1. The complaints' box shall be placed on the territory of the establishment, accessible for all accused/convicts. Several such boxes may be placed on the territory of the establishment.
2. The sign "complaints' box" shall be made on the box.
3. The box shall be sealed.
4. The box shall be locked and sealed by the Director of the establishment or by Social Service staff member in presence of the Director or Deputy Director.
5. The box shall be open at the end of each day by the Social Service staff member in presence of the Director or designated by the Director person.
6. Envelopes in the box shall be visually examined. An envelope number shall be registered.

7. The Social Service of the administration shall register complaints. A Social Service staff member shall account complaints.
8. In case of damage of the complaints' box, in shortest possible period, but not later than in 3 days, the box shall be repaired or a new box shall be installed.

#### **Article 101. Language of a Complaint**

1. An accused/convict, who does not speak state language of Georgia, may use interpreter's free service if he/she does not understand language of proceedings.
2. Reply shall be written in the state language of Georgia, and if necessary, procedure, described in the paragraph 1 of the present Article may apply.

#### **Article 102. Rules for Sending a Complaint**

1. The administration shall send a complaint to the addressee within 48 hours after receipt of such complaint.
2. Director or designated by him/her person shall immediately receive complaints filed in their name. The administration shall be in charge of delivering such complaints.
3. No later than the following day after sending complaints, registration numbers of complaints and codes of envelopes shall be exposed on the complaints' box.
4. Non-confidential claim shall not be sent to a person or direct subordinate of a person, whom a complaint regards.

#### **Article 103. Duration for Review of Complaints**

1. The director of the establishment or designated by him/her person shall review a complaint within 5 days. In special cases, the duration of a complaint's review may be extended for not more than 1 month; the applicant shall be immediately informed about it in oral or written form.
2. The Chairman of the Department shall review a complaint within 10 working days after receipt of a complaint. The Chairperson shall be authorized to extend review

duration up to 1 month and the applicant shall be immediately notified in oral or written form on this matter.

3. Complaints shall be reviewed within legally prescribed duration except cases stipulated in paragraphs 1 and 2 of the present Article.

#### **Article 104. Confidential Complaints**

1. An accused/convict shall be authorized to file a confidential complaint if he/she so wishes.
2. A complaint is considered as confidential if it is placed in a sealed envelope and the addressee is indicated.
3. The administration shall not ensure confidentiality of complaints which do not indicate the addressee.

#### **Article 105. Complaints on Inhuman and Degrading Treatment**

1. Complaints on torture, inhuman and degrading treatment shall be considered as a special case and shall be reviewed immediately.
2. The Director or designated person of the establishment and/or Special Preventive Group shall be informed within 24 hours about such complaints.

#### **Article 106. Results of Complaints**

1. Results of the complaints' review shall be communicated to an accused/convict within 5 days after receipt of a complaint; decisions shall be attached to the personal file of an accused/convict.
2. Well-motivated answers shall be given to each requests listed in the complaint.
3. In case of the negative decision, an accused/convict shall receive the well-motivated answer.

#### **Article 107. Appeal of the Decision**

The results of the complaint can be appealed at the court through the administrative procedure.

### **Article 108. Assistance to File Complaints**

1. In case of a request of an accused/convict, the administration shall provide a complaining person with the sufficient amount of items necessary for filing a complaint including paper, envelopes for confidential complains, writing devices, etc.
2. Punishment of an accused/convict for the reason of filing a complaint is inadmissible.
3. The administration shall provide a resolution of problems of an accused/convict. A non-confidential complaint, which can be addressed at the site, shall be resolved by the body and a person to whom a complaint was sent, without awaiting results of the review.

### **Article 109. Analysis of Requests/Complaints**

Once every 6 months the Department reviews and analyzes requests/complaints received within the establishments; the relevant report is drawn and be submitted to the Chairperson of the Department and the Minister.

## **Chapter XVII Labour of Accused/Convicts**

### **Article 110. General Principles of Accused/Convicts' Labour Activities**

1. Labor activity of accused/convicts shall be carried out in accordance with the present Code and established procedure stipulated by the labour legislation. An accused/convict shall not be forced to perform work breaching human dignity and honor.
2. Accused/Convicts shall be involved in labour within premises of the custodial establishment, if the establishment has opportunities of employment for accused/convicts. Accused/Convicts shall work only within premises of the custodial establishment.
3. An accused/convict may also be employed by the governmental or other non-governmental institution, established within the premises of the custodial establishment.

4. The list of jobs and positions not allowed for employment of convicts shall be stipulated by the internal rules of the custodial establishment.
5. An accused/convict shall be remunerated for the work performed, in accordance with the labour legislation of Georgia. The rules and conditions of the remuneration of the accused/convict are envisaged in the Georgian legislation.
6. Remuneration of an accused/convict shall be made on the bank account. Accused/Convict will be entitled to use the salary after the release. He/she is authorized to transfer this money to his/her close relative or other persons.

#### **Article 111. Enterprises within Premises of the Custodial Establishment**

1. Accused/Convicts may be employed in accordance with the Law of Georgia on Entrepreneurs by the enterprises set up within premises of the custodial establishment.
2. Only accused/convict shall be employed by the enterprise set up within premises of the custodial establishment. As an exception, if the specificity of the business requires performance of work with qualification that convict lacks or if training of competent accused/convict is impossible in restricted time, as well as if performance of work is related to systematic removal from premises of the custodial establishment, an outside person (not convict) may be invited to the enterprises on the basis of the employment contract.
3. Employment of an accused/convict by the enterprise shall be carried out in accordance with the procedure prescribed by the existing legislation with the organizational support of the custodial establishment. An accused/convict has the right to choose appropriate work from the types of employment proposed by the administration.
4. A contract between enterprise and the Department shall be concluded, which will provide the enterprise assumed to adhere to requirements of the internal regulation of the custodial establishment where the enterprise operates. The same obligation shall be assumed by an accused/convict to be included in the labour contract concluded with the enterprise.

## **Article 112. Working Conditions**

1. An employer and the administration of the establishment shall create safe working conditions for life and health of accused/convicts. Working hours, labour protection, safety and industrial sanitary rules shall be stipulated in accordance with the labour legislation of Georgia.
2. A juvenile accused/convict shall work during free time from study and the hours of study and work shall not exceed 8 hours per day.
3. Overtime work as well as work on holidays and weekends shall be allowed only with accused/convict's consent. Working hours shall not exceed 8 hours a day.
4. An accused/convict may work outside the establishment. The procedures on the work of an accused/convict outside the establishment is determined by the Minister.

## **Chapter XVIII Education of Convicts**

### **Article 113. Education of Accused/Convicts**

1. The administration of the custodial establishment is under obligation to create conditions for general and vocational education of accused/convicts.
2. The administration of the custodial establishments shall arrange a library in the establishment containing educational literature as well as national and international legislation regarding enforcement of custodial sentences in the language understandable for accused/convicts.

### **Article 114. General Education of Accused/Convict**

1. An accused/convict shall be allowed to get full general education in accordance with the procedure stipulated under the joint Order of the Minister and the Minister of Education and Science of Georgia.
2. The establishment is obliged to provide a juvenile accused/convict with elementary and basic education.



3. An accused/convict who does not speak the State language of Georgia shall be provided with opportunity to learn it.
4. General education shall be provided at the custodial establishment in accordance with the program approved by the Minister of Education and Science of Georgia which shall ensure achievement of objectives set by national educational plan. The terms of organization of educational environment and hourly schedule under the national educational plan shall not apply to this educational program.
5. General education at the custodial establishment shall be financed under the program approved by the Minister of Education and Science of Georgia with the procedure different from the Law of Georgia on General Education.

#### **Article 115. Vocational Training of Accused/Convict**

1. At the custodial establishment accused/convicts shall be provided with the conditions to get vocational training.
2. In the course of vocational training of accused/convicts, preference shall be given to professions which are eligible for conducting in the frame of the respectful custodial establishment.
3. Qualification acquired through vocational training at the custodial establishment shall be certified by Certification Body in accordance with the procedure prescribed by the Law of Georgia on Professional Education.

### **Chapter XIX Rehabilitation Programmes of Convicts**

#### **Article 116. Re-Socialization of Convicts**

1. Re-socialization of a convict shall mean instilling into a convict the sense of respectfulness towards society, other persons, moral standards and traditional rules of coexistence and sense of responsibility.
2. The following are the main means of re-socialization of a convict:
  - a) Serving a sentence in accordance with the prescribed procedure;
  - b) Implementation of rehabilitation programs;
  - g) Pedagogical activity with juveniles;

- d) Employment of convicts;
- e) Acquisition of the general and vocational education;
- v) Relation with the public.

3. The means of re-socialization of convicts shall be applied commensurate to the type of sentence, gravity of committed offence, personality of a convict, his/her mental state and conduct.

### **Article 117. The Objectives of Rehabilitation Programmes**

1. Rehabilitation activity shall be implemented in relation to a convict at the custodial establishment which aims at the following:

- a) To build in a convict the respectfulness towards the law, other people, work, traditional rules and standards of coexistence;
- b) Create normal psychological atmosphere between convicts at the custodial establishment;
- g) Raise educational and professional level of convicts;
- d) Preparation of convicts for release;
- e) Rehabilitation of persons with different addictions.

2. Participation of convicts in rehabilitation programs will be considered when assessing the degree of his/her correction and while applying incentive measures.

### **Article 118. Organization of Rehabilitation Programmes**

1. Organization of the rehabilitation programs shall be provided by the administration of the custodial establishment.
2. For the purpose of rehabilitation of convicts, the Ministry cooperates with the governmental agencies and other organizations.
3. Daily schedule of the establishment shall contain the time of participation of convicts in rehabilitation programmes.
4. Convicts shall participate in rehabilitation programmes with their consent.
5. Rehabilitation work with a convict shall be carried out considering his/her personal characteristics and nature of a committed offence.
6. To organize rehabilitation programmes of convicts the relevant logistical support and if necessary invitation of specialists shall be provided at the custodial establishment.

## **Chapter XX Medical Services**

### **Article 119. Medical Service of Accused/Convicts**

Medical service of accused/convicts shall be provided in accordance with the medical service requirements established in the country in the field of healthcare.

**Article 120. Control of the State of Health of an Accused/Convict**

1. An accused/convict undergoes medical examination immediately upon admission to the establishment.
2. The state of health of an accused/convict is checked at least once a year. Ill accused/convict shall be provided with emergency treatment.

**Article 121. Treatment in the Establishment**

1. Doctoral-medical unit shall be set up in each establishment.
2. If it is not feasible to provide treatment for an accused convict in doctoral-medical unit, he/she will be transferred to the Medical Establishment of the Department or to the civil hospital.

**Article 122. Psychiatric Aid to Convicts**

1. Based on the ambulatory examination, if it will be identified that the convict against whom the legal proceedings have been finalized will have signs of psychiatric disorder and the Ministry's Psychiatric Commission will decide to impose coercive psychiatric treatment in hospital, administration of the establishment shall apply to the competent Forensic Establishment on a basis of the conclusion of the Ministry's Psychiatric Commission for conducting the court-psychiatric examination.
2. The administration of the custodial establishment is liable to apply to the court in 48 hours for imposing coercive psychiatric treatment based on the conclusion of the Ministry's Psychiatric Commission if the latter identifies the necessity of imposing coercive psychiatric treatment.
3. The competence and rule of conduct of the Ministry's Psychiatric Commission is determined by the Order of the Minister.

## **Chapter XXI Transitional Provisions**

### **Article 123. Rights to Visits of an Accused before 1 January 2014**

An accused has the right to enjoy no more than 4 short visits per month with the permission of an investigator or prosecutor.

### **Article 124. Correspondence and Telephone Conversations of an Accused Person before 1 January 2014**

An accused person shall be entitled to maintain correspondence and on his/her own expenses make telephone calls – three times a month, not exceeding 15 minutes each, with the permission of the investigator, prosecutor or court.

### **Article 125. Measures to be taken for the Enforcement of the Code**

1. Within two months upon entering the present Code into force the Minister shall ensure issuance of the normative acts envisaged in the present Code.
- 1<sup>1</sup>. Within two months upon entering the present Code into force the Minister shall determine persons eligible to enjoy right of entering pre-trial/custodial establishments without prior permission.
2. Within two months upon the present Code enters into force the Minister and the Minister of Labor, Healthcare and Social Protection of Georgia shall ensure issuance of joint order “on the setting of the food ratios of accused and convicted persons”.
3. Within two months upon the present Code enters into force the Minister of Education and Science of Georgia shall ensure approval of the programme on the general education for the custodial establishment.
4. The Local Council of the Ministry is the successor in title of the Standing Commission of the Ministry.
5. The Local Council of the Ministry shall administer cases within the proceedings of the Ministry.
6. Authorized state bodies shall undertake measures in order to gradually approximate standards of living space with international standards with consideration of availability of the State’s funds.

## **Chapter XXII Final Provisions**

### **Article 126. Invalidated Normative Acts**

Upon enactment of the present Code the following shall become invalid:

- a) The Law of Georgia on Imprisonment dated 22 July 1999 (Legislative Gazette and Statute book of Georgia N38(45) 1999, article 182);
- b) #309 Decree of the President of Georgia from 3 August 2004 on “Granting access to the penitentiary establishments without special permission”.

#### **Article 127. Enactment of the Code**

1. The present Code shall come into force from 1 October 2010, except Article 70 paragraph 2 sub-paragraph “b”, Article 77 paragraph 1, Article 79 paragraph 1 sub-paragraph “c” and paragraph 2.
2. Article 70 paragraph 2 sub-paragraph “b” of the present Code shall come into force from 1 January 2012.
3. Article 77 paragraph 1 and Article 79 paragraph 1 sub-paragraph “c” and paragraph 2 of the present Code shall come into force from 1 January 2014.

The President of Georgia

Mikheil Saakashvili