LAW OF GEORGIA

JUVENILE JUSTICE CODE

Section I

Juvenile Justice Legislation and General Principles

Chapter I – Juvenile Justice Legislation and its Scope

Article 1 – Juvenile justice legislation and its purpose

1. This Code determines the characteristics of the administrative and criminal liability of minors, administrative offence proceedings and criminal procedure involving minors, and special procedures for the execution of sentences and other measures.

2. The purpose of this Code is to protect the best interests of minors, to re-socialise and rehabilitate minors who are in conflict with the law, to protect the rights of minor victims and witnesses, to prevent the secondary victimisation of minor victims and minor witnesses and to avoid the re-victimisation of minor victims, and to prevent new crimes and protect public order in the process of administration of justice.

3. This Code complies with the Constitution of Georgia, the Convention on the Rights of the Child, and universally recognised principles and norms of international law.

Article 2 – Scope of the Code, the procedure for applying the Code, the analogy of the law

1. This Code shall apply to juvenile justice procedure involving minors in conflict with the law, and minor victims and interviewees/witnesses. The regulations determined by Articles 38-48 of this Code (except for Article 42(1)(g) and Article 46) shall also apply to persons from 18 to 21 years of age if there is a reasonable belief that they committed a less serious or a serious crime under the Criminal Code of Georgia.

2. The regulations established by this Code shall apply to juvenile justice procedure. Substantive legal norms of this Code and norms of the Criminal Procedure Code of Georgia shall apply to a person who was under age when committing a delinquent act and came of age afterwards.

3. The provisions of other normative acts of Georgia shall also be applied in juvenile justice procedure if they do not contradict this Code and/or are favourable to minors.

4. The procedural rule in force during the juvenile proceedings shall be applied during juvenile justice proceedings. If a person was under age when the juvenile justice proceedings were commencing, and came of age before the proceedings were over, norms of the Criminal Procedure Code of Georgia shall apply to him/her from the stage of the proceedings when he/she came of age.

5. If there are legal deficiencies in this Code, the analogy of the law may be applicable, provided that this will not restrict the human rights and freedoms provided for by the Constitution of Georgia and international agreements of Georgia and provided that this does not contradict the best interests of minors.

6. This Code shall also apply to crimes committed abroad, or on an aircraft or a sea craft with the Georgian flag or other identification sign, unless otherwise provided for by the treaties and international agreements of Georgia.

7. According to the international agreements and treaties of Georgia, this Code may also be applicable within the territory of a foreign state.

8. When executing a motion of a court or an investigative body of a foreign state on procedural actions in juvenile justice procedure in the territory of Georgia, the legislation of the respective state may also be applied if this is provided for by the treatie and international agreements of Georgia and is in compliance with the best interests of a minor.

Law of Georgia No 750 of 4 May 2017 – website, 24.5.2017

Law of Georgia No 2390 of 30 May 2018 – website, 12.6.2018

Article 3 – Definition of basic terms for the purposes of this Code

1. Minor – a minor victim, a minor witness, or a minor in conflict with the law under the age of 18. For the purposes of administrative liability, a person is considered to be a minor if by the time of committing an administrative offence, he/she has attained the age of 16, but not 18, and for the purposes of criminal liability, if by the time of committing a crime, he/she has attained the age of 14, but not 18.

2. Minor in conflict with the law – a person under the age of 18, in relation to whom:

a) there is a probable cause that he/she has committed a crime provided for in the Criminal Code of Georgia;

b) an administrative offence report has been drawn up, stating that he/she has committed an administrative offense provided for in Articles 45 and 100^2, Article 116(9), Article 121(4), Article 123(4), Article $150(2^2)$, Article $153^3(2)$, Article $153^6(2)$, Articles 155^2, 157 and 166, Article 171(3), Article 173, 174^1(3 and 4), 174^{15}(4), Articles 175^2, 177^1 and 178, and Article 181^1(2) of the Code of Administrative Offences of Georgia;

c) a judgement of conviction or a decision on the imposition of an administrative sanction under sub-paragraph (b) of this paragraph has been delivered.

3. Minimum age of responsibility – the minimum age, which is 14 years in the case of criminal liability and 16 years in the case of administrative liability.

4. The best interests of a minor – the interests of safety, well-being, healthcare, education, development, re-socialisation and rehabilitation and other interests that are determined in accordance with international standards and the individual characteristics of the minor, and taking into account his/her opinion.

5. Juvenile justice procedure – administrative offences or criminal proceedings involving minors, including investigation of crimes, criminal prosecution, court trials, execution of imposed sentences and other measures, and the re-socialisation and rehabilitation of minors.

6. Person administering juvenile justice procedure/party to juvenile justice procedure – a judge, investigator, prosecutor, police officer, lawyer, social worker, mediator, probation officer, coordinator of a witness and a victim, the staff of a juvenile rehabilitation facility or detention facility who are parties to the juvenile justice procedure and who have completed special training in juvenile justice, and, in the case of an administrative offence under paragraph 2(b) of this Article, a person authorised to draw up administrative offence reports.

7. Diversion – a form of release from criminal liability or an alternative mechanism of criminal prosecution which aims to promote the proper development and integration of minors into society and to prevent them committing new crimes.

8. Restorative justice measures – a measure that allows minors in conflict with the law to accept their responsibility for an act committed, to remedy the consequences of a crime, and to compensate damage to and/or to reconcile with the victim.

9. Mediation – a process of dialogue between a minor in conflict with the law and a victim, which is led by a mediator and which aims to reconcile the minor and the victim and settle the conflict between them. Legal representatives of minors, psychologists, social workers and/or other persons also participate in the process of mediation. If desired, a prosecutor may also participate in the process.

10. Mediator – an impartial and independent third party, a duly qualified person, who acts as an intermediary between a minor and a victim and leads and coordinates the process of mediation.

11. Legal representative – a close relative of a minor, or a supporter, or a guardian or a custodian of a minor, who participates in juvenile justice procedure to protect the interests of the minor and who exercises the rights of the minor, except for rights which can be only exercised by minors due to the nature of these rights.

12. Procedural representative – an employee of a guardianship and custodianship authority appointed by a judge, prosecutor or investigator, or other liable person exercising representative powers on behalf of and in favour of the best interests of a minor in cases provided for by Article 50 of this Code. A procedural representative shall exercise the same rights as a legal representative.

13. Minor victim – a minor who has suffered moral or physical injury or damage to property directly resulting from an administrative offence or a crime.

14. Minor witness – a minor who may have information related to an administrative offence or a crime.

15. Secondary victimisation – damage that may be caused to a minor victim or a minor witness as a result of their involvement in juvenile justice procedure.

16. Re-victimisation – causing injury or damage to a minor victim as a result of a new administrative offence or crime.

17. Juvenile rehabilitation facility – a specially protected facility equipped with relevant infrastructure and staff to meet the special needs of minors, where minors sentenced to imprisonment are placed under permanent surveillance.

18. Re-socialisation and rehabilitation – the formation and development in minors of a sense of responsibility and respect for the rights of others, the facilitation of physical, mental, spiritual, moral or social development of minors and preparing them to find their place in society.

19. Close relative – a parent, adoptive parent, child, foster child, grandfather, grandmother, sister, brother, spouse (including a divorced spouse) of a minor.

Law of Georgia No 750 of 4 May 2017 – website, 24.5.2017

Law of Georgia No 2271 of 4 May 2018 – website, 21.5.2018

Chapter II – General Principles of Juvenile Justice

Article 4 – Priority of the best interests of minors

In juvenile justice procedure, the best interests of minors shall be considered as a priority.

Article 5 – Prohibition of discrimination

It shall be prohibited to directly and indirectly discriminate against minors and their legal representatives on the ground(s) determined by Article 1 of the Law of Georgia on the Elimination of All Forms of Discrimination.

Article 6 – Right of minors to harmonious development

In juvenile justice procedure, minors have a right to physical, mental, spiritual, moral and social development.

Article 7 – Proportionality

Measures applied against minors in conflict with the law shall be proportionate to the acts committed and appropriate for their personal needs, their age, and their educational, social and other needs.

Article 8 – Priority of applying the most lenient remedies and alternative measures

1. In juvenile justice procedure, priority shall be given to the most lenient treatment for achieving the purposes of the Criminal Code of Georgia, the Criminal Procedure Code of Georgia, the Code of Administrative Offences of Georgia, the Imprisonment Code of Georgia and this Code.

2. In the first place, the possibility of diversion of a minor or the application of a restorative justice measure shall be considered, and it shall be evaluated whether such diversion or such measure will serve the goals of the re-socialisation and rehabilitation of the minor and the prevention of new crimes better than the imposition of criminal liability and punishment.

3. Any measure applied to a minor instead of court proceedings shall contribute to the protection of the rights and legal guarantees of the minor.

Article 9 – Detention as a last resort

1. The liberty of minors shall not be restricted if the purpose of the law may be achieved by a more lenient measure.

2. The arrest, detention, and imprisonment of a minor shall be admissible only as a measure of last resort which must be applied for the possibly shortest term and be subject to a regular review.

Article 10 – Participation of minors in juvenile justice procedure

1. Minors in conflict with the law have the right to participate in juvenile justice procedure, directly and/or through a legal representative. They also have the right to be heard and have their views taken into account according to their age and level of development.

2. The lawyer of a minor in conflict with the law may, with the written consent of his/her legal representative and irrespective of the will of the minor, file a complaint or waive it if it serves the best interests of the minor.

3. If the claims of a minor and his/her legal representatives or procedural representatives are in conflict, preference shall be given to the claim serving the best interests of the minor.

4. Any action performed with the participation of a minor in juvenile justice procedure shall be appropriate for his/her ability of perception and understanding.

Article 11 – Inadmissibility of delay in juvenile justice procedure

1. Juvenile justice procedure shall be conducted without any unjustified delay.

2. The court shall hear the case of minor in conflict with the law as a top priority.

Article 12 – Previous conviction of a minor

1. The previous conviction of a minor shall be considered expunged after he/she has served the the sentence therefor, or in the case of conditional conviction, upon the expiry of the probation period.

2. The privilege under paragraph 1 of this Article shall not apply if the minor commits a crime again. In such a case, the previous conviction of the minor shall be expunged:

a) in the case of a conditional sentence – upon the expiry of the probation period;

b) in the case of a more lenient sentence than imprisonment – after six months from serving the sentence;

c) in the case of a sentence of imprisonment for a minor crime – after a year from serving the sentence;

d) in the case of a sentence of imprisonment for a serious crime – after three years from serving the sentence;

e) in the case of a sentence of imprisonment for a particularly serious crime – after five years from serving the sentence.

Article 13 – Protection of privacy of minors

1. The privacy of minors shall be protected at all stages of juvenile justice procedure.

2. Information on the previous convictions and previous administrative liability of minors shall not be available to the public. The personal data of minors may not be disclosed or published, except as provided for by the Law of Georgia on Personal Data Protection.

Article 14 – Individual approach to minors

1. When making decisions with respect to minors, account shall be taken of their individual characteristics: age; level of development; conditions of life, upbringing and development; education; health status, family situation, and other circumstances which allow the assessment of the nature and behaviour of minors and identification of their needs.

2. At any stage of juvenile justice procedure, a person administering juvenile justice procedure shall treat a minor with special care.

Article 15 – Procedural rights of minors

1. At any stage of criminal proceedings, accused or convicted or acquitted minors and minor victims shall enjoy the right to free legal aid. At any stage of criminal proceedings, minor witnesses shall enjoy this right if they cannot afford a lawyer.

[1. At any stage of criminal proceedings, an accused/convicted/acquitted minor and a minor victim shall be provided with the free legal aid, unless a defence lawyer (defence by agreement) hired by the minor participates in the proceedings. At any stage of criminal proceedings, a minor interviewee/witness shall enjoy this right if he/she is unable to pay, or is an interviewee/witness with respect to any offence under Chapters XIX, XX and XXII and Articles 144^1–144^3 of the Criminal Procedure Code of Georgia.

1^1. An accused or a convicted person from 18 to 21 years of age shall enjoy the right to free legal aid. ***(Shall become effective from 1 January 2019)]***

2. At any stage of criminal proceedings minors shall also enjoy the following rights:

a) the right to receive information in a form that is appropriate for their development;

b) the right to receive an interpreter's services free of charge, if necessary;

c) the right to be accompanied by a legal or procedural representative;

d) the right to consular assistance;

e) other rights provided for by the legislation of Georgia.

Law of Georgia No 2390 of 30 May 2018 – website, 12.6.2018

Section II

Persons Administering Juvenile Justice Procedure and Parties to the Procedure

Chapter III – Persons Administering Juvenile Justice Procedure

Article 16 – Specialisation in juvenile justice

1. Only persons specialised in juvenile justice shall administer juvenile justice proceedings, except as provided for by Article 120(8), Article 121(2) and Article 171(2) of the Criminal Procedure Code of Georgia. Procedural actions in relation to a minor interviewee/witness participating in the proceedings against a person of full age shall be performed only by persons specialised in juvenile justice. If a procedural action has been performed in relation to minors by a person who is not specialised in juvenile justice, the minor shall immediately notify a person specialised in juvenile justice, who shall continue the process, and the person who is not specialised in juvenile justice shall be immediately dismissed from the juvenile justice proceedings.

2. Persons under Article 3(6) of this Code, except for persons authorised to draw up administrative offence reports in the case of administrative offences under paragraph 2(b) of the same Article, shall have completed special training on the methods of interaction with minors and other related matters.
3. The standard of specialisation of persons administering juvenile justice procedure and participants of such process shall be determined by an ordinance of the Government of Georgia, and in the case of judges, by a decision of the High Council of Justice of Georgia.

Law of Georgia No 2390 of 30 May 2018 – website, 12.6.2018

Article 17 – Hearing juvenile cases in court

1. In district (city) courts, cases of minors in conflict with the law shall be heard by judges specialised in juvenile justice, or if a case is heard by a panel of judges, at least two members of which, including the chairperson of the panel, shall be specialised in juvenile justice.

2. In courts of appeal and the Supreme Court of Georgia, cases of minors in conflict with the law shall be heard by the Chamber of Appeals, at least two members of which, including the chairperson of the Chamber, shall be judges specialised in juvenile justice.

3. When hearing a case where a victim is of minor age, the panel of judges in a district (city) court or the Chamber of Appeals in courts of appeal and the Supreme Court of Georgia shall include one judge specialised in juvenile justice.

Article 18 – Investigators and prosecutors specialised in juvenile justice

1. Juvenile cases shall be investigated by investigators specialised in juvenile justice.

2. Prosecutorial activities in juvenile cases shall be carried out by prosecutors specialised in juvenile justice.

Article 19 – Police officers specialised in juvenile justice

1. Only police officers specialised in juvenile justice shall administer juvenile cases within the system of the Ministry of Internal Affairs of Georgia.

2. Only authorised representatives of the Ministry of Internal Affairs of Georgia specialised in juvenile justice shall perform actions in relation to minors, as provided for by the Law of Georgia on Police.

Article 20 – Lawyers specialised in juvenile justice

1. Juvenile cases shall be administered by lawyers specialised in juvenile justice, who shall, together with other documents provided for by law, present a document certifying their specialisation in juvenile justice. The form of such document is approved by the Georgian Bar Association.

2. There is a permanent group of lawyers specialised in juvenile justice available in the Legal Aid Service, which provides legal assistance to minors on their first request in the shortest possible time in cases provided for by law.

Article 21 – Other persons specialised in juvenile justice

A social worker, mediator, probation officer, coordinator of a witness and a victim, the staff of a juvenile rehabilitation facility and the staff of a respective detention facility, who are specialised in juvenile justice, shall participate in juvenile justice proceedings. In cases provided for by this Code, a psychologist specialised in juvenile justice shall also participate in juvenile justice proceedings.

Law of Georgia No 2271 of 4 May 2018 – website, 21.5.2018

Law of Georgia No 2390 of 30 May 2018 – website, 12.6.2018

Chapter IV – Minor Witnesses and Minor Victims

Article 22 – Application of the rights and obligations of minor witnesses to minor victims

Minor victims shall be granted all the rights and shall have all the obligations of minor witnesses provided for by this Code.

Article 23 – Parties participating in juvenile justice proceedings for protection of the interests of minor witnesses

1. A procedural action for the prevention of secondary victimisation and re-victimisation, in which a minor interviewee/witness is involved, shall be attended by his/her legal representative. The minor interviewee/witness may have a defence lawyer during the procedural action. In the case under Article 15 of this Code, a minor interviewee/witness cannot may enjoy the right to free legal aid. Considering the best interests of a minor, a psychologist shall also be involved in the procedural action on the initiative of a judge, when a case is heard in a court, and on the initiative of the prosecution, when a case is at the investigation stage. A psychologist shall assess the needs of a minor and shall provide him/her with psychological support during the procedural action.

2. At any stage of proceedings, a legal representative of a minor witness shall be entitled:

a) to be informed about the charges brought against the accused minor;

b) to be informed about the relationship between the minor witness and the accused minor;

c) upon request, to obtain information about pre-trial restrictions imposed on the accused minor, and about the release of the accused or convicted minor from a detention or prison facility, unless this poses a real danger to the accused or convicted minor.

3. The judge during a trial, or the prosecutor at the stage of investigation, may prohibit the legal representative of a minor witness from attending procedural actions only if this is necessary for the best interests of the minor.

4. A coordinator of a witness and a victim may, by the decision of a prosecutor, be involved in a criminal case to which a minor witness or a minor victim is a party.

5. A prosecutor shall make the decision to involve a coordinator of a witness and a victim in a criminal case based on the interests of a minor witness or a minor victim.

6. When a coordinator of a witness and a victim becomes aware of his/her involvement in a criminal case, he/she must immediately contact a minor witness and a minor victim through their legal representative. A minor witness, a minor victim and their legal representative may refuse to cooperate with the coordinator of a witness and a victim.

7. A coordinator of a witness and a victim shall:

a) after a preliminary consultation with a prosecutor, provide a minor witness and a minor victim, under the procedure established by this Code, in the presence of, or through a legal representative and/or a lawyer, with the necessary information about the progress of the investigation and the court hearing;

b) communicate to a minor witness and a minor victim, in the language understandable to them, their rights and duties, and explain to them the legal procedures for investigation and court hearing;

c) during the investigation, be present at an investigative action and a procedural action conducted involving a minor witness and a minor victim, to provide emotional support to the witness/victim;

d) during the court hearing, be present at the interrogation of a minor witness and a minor victim in the courtroom, and at the examination of evidence involving them, to provide emotional support to the witness/victim;

e) provide a minor witness and a minor victim, in the presence of, or through a legal representative and/or a lawyer, with information about the necessary legal, psychological, medical and/or other services and, when needed, assist in contacting an appropriate body/organisation.

8. A judge, when a case is heard in a court, and a prosecutor, when a case is at the investigation stage may, considering the best interests of a minor, prevent the legal representative of a minor interviewee/witness, who is participating in the same proceedings as an interviewee/witness, from attending the interview/interrogation of the minor interviewee/witness.

Law of Georgia No 2271 of 4 May 2018 – website, 21.5.2018

Law of Georgia No 2390 of 30 May 2018 – website, 12.6.2018

Article 24 – Measures to protect minor witnesses

To protect the best interests of minor witnesses, a judge may, on his/her own initiative or on the motion of a minor witness, his/her legal representatives, or a lawyer or prosecutor, deliver a decision:

a) on interrogation of the minor witness by using a device that alters the image and/or voice of a witness, or interrogation behind a non-transparent screen, or interrogation remotely;

b) on interrogation of the minor witness before a court hearing with the participation of the lawyer of the defendant and with a video recording of the interrogation process;

c) on the partial or full closure of a court hearing;

d) on the temporary removal of the defendant from the courtroom if the minor witness refuses to give testimony in the presence of the defendant or if the existing circumstances suggest that the minor witness might refrain from telling the truth in the presence of the defendant, or that secondary victimisation of the minor witness might occur. In this case, the participation of the lawyer of the defendant in the court hearing is compulsory.

Article 25 – Right to compensation for injury and damage and the right to claim compensation

After the judgement is pronounced, the court shall inform a minor victim and his/her legal representative of the outcome of the court hearing and explain to them the right to compensation for injury and damage and the right to claim compensation as determined by the legislation of Georgia.

Section III

General Rules of Juvenile Justice Procedure

Chapter V – General Rules of Juvenile Justice Procedure

Article 26 – Determination of minority

1. If there is uncertainty about the age of a person, an investigator, prosecutor or judge shall, pursuant to a motion of a party or on his/her own initiative, immediately pass a resolution or issue a ruling on the determination of the minority the person.

2. The age of a person shall be determined on the basis of any available evidence, including official documents, a report based on a medical or social examination, information obtained from parents or other persons, or other information.

3. If it is determined that a person is of minor age, but his/her probable or exact age is not certain, it shall be presumed that the person is under the age of 14 for the purposes of criminal liability and under the age of 16 for the purposes of administrative liability, until otherwise proven.

4. If the probable age of the minor has been determined, the lower band of the probable age of the minor shall be taken into account when deciding on imposing criminal/administrative liability.

Article 27 – Individual assessment reports

1. The individual characteristics of a minor referred to in paragraph 14 of this Code shall be taken into account on the basis of an individual assessment report.

2. In the process of individual assessment, the agency under paragraph 6 of this Article shall study the level of development; the conditions of life, upbringing and development; education; health status; the family situation; and other circumstances which will enable an assessment of the nature and behaviour of a minor and the identification of his/her needs.

3. An individual assessment report shall include the special needs of a minor, the risk of commission of a crime or an administrative offence and, accordingly, the measures recommended to facilitate the proper development of the minor and his/her integration into society.

4. The preparation and consideration of an individual assessment report is required at the following stages of criminal proceedings:

a) determination of a diversion measure;

b) sentencing;

c) individual planning of a custodial sentence;

d) execution of a non-custodial sentence;

e) consideration of the issue of release on parole.

[4[1]. An individual assessment report must also be prepared and considered when a case meets the legislative criteria for diversion, although a prosecutor does not make the decision on the diversion of a minor. ***(Shall become effective from 1 January 2019)***]

5. By a resolution of the prosecutor, an individual assessment report may also be prepared and considered at the stage of deciding on the exercise of other discretionary powers, provided that the course and time limits of the criminal proceedings allow for it.

6. At the stages provided for by paragraph 4(a), (b) and (d) of this Article, an individual assessment report shall be prepared by the National Agency of Execution of Non-custodial Sentences and Probation (the National Probation Agency), a Legal Entity under Public Law under the Ministry of Corrections of Georgia, and at the stages provided for by paragraph 4(c) and (e) of this Article, an individual assessment report shall be prepared by the Penitentiary Department.

7. The methodology, procedure and standard for the preparation of individual assessment reports at the stages provided for by paragraph 4 of this Article shall be determined by a joint order of the Minister of Justice of Georgia, the Minister of Internal Affairs of Georgia and the Minister of Corrections of Georgia.

[6. At the stages provided for in paragraph 4(a), (b) and (d), and paragraph 4^1 of this article, an individual assessment report shall be prepared by the Legal Entity under Public Law operating under the Ministry of Justice of Georgia – the National Agency of Execution of Non-custodial Sentences and Probation ('the National Probation Agency'), and at the stages provided for in paragraphs 4(c) and (e) of this Article, an individual assessment report shall be prepared by the state sub-agency institution within the system of the Ministry of Justice of Georgia – the Special Penitentiary Service ('the Penitentiary Service').

7. The methodology, procedure and standard for the preparation of individual assessment reports at the stages provided for in paragraphs 4 and 4^1 of this Article shall be determined by a joint order of the Minister of Justice of Georgia and the Minister of Internal Affairs of Georgia. ***(Shall become effective from 1 January 2019)]***

8. Individual assessment reports shall be taken into account at any stage of juvenile justice procedure, if necessary. When preparing an individual assessment report at each subsequent stage of criminal proceedings, the information contained in a previous individual assessment report shall be taken into account.

9. At the stage provided for by paragraph 4(b) of this Article, an authorised person of the National Probation Agency shall carry out an individual assessment on the basis of an application by the judge.

10. When carrying out an individual assessment at the stages under paragraph 4(a) and (b) of this Article, the representative of the National Probation Agency may meet with an accused minor without obstruction, and may obtain information necessary for an individual assessment from all natural persons, and governmental and non-governmental institutions.

Law of Georgia No 2390 of 30 May 2018 – website, 12.6.2018

Law of Georgia No 3131 of 5 July 2018 – website, 11.7.2018

Article 28 – Defending minors

1. The legal representative of a minor may independently choose and retain a lawyer, taking into account the best interests of the minor.

2. If an accused or convicted or acquitted minor does not have a lawyer, the person administering the juvenile justice procedure shall immediately apply to the Legal Aid Service with a request to appoint a lawyer for the minor.

Article 29 – Persons entitled to attend court hearings of juvenile cases or procedural actions

1. Cases of minors in conflict with the law shall be reviewed in closed court hearings.

1^1. A coordinator of a witness and a victim shall be present at a closed court hearing during the examination of evidence involving a minor witness and a minor victim if so desired by the minor witness and the minor victim.

2. A procedural action performed in relation to a minor shall be attended by his/her legal representative, and in cases determined by this Code, a lawyer of the minor shall also be present, except as provided for in Article 120(8), Article 121(2) and Article 171(2) of the Criminal Procedure Code of Georgia.

2^1. A coordinator of a witness and a victim shall be present at a procedural action to be conducted involving a minor witness and a minor victim if so desired by the minor witness and the minor victim.

2^2. Considering the best interests of a minor, if needed, the judge, when a case is heard in a court, and the prosecution, when a case is at the investigation stage, shall ensure the involvement of a psychologist in a procedural action performed in relation to a minor. The psychologist shall assess the needs of the minor and shall provide him/her with psychological support during the procedural action.

3. The judge during a trial, or the prosecutor at the stage of investigation, may prohibit the legal representative of a minor in conflict with law from attending procedural actions only if this is necessary for the best interests of the minor.

Law of Georgia No 2271 of 4 May 2018 – website, 21.5.2018

Law of Georgia No 2390 of 30 May 2018 – website, 12.6.2018

Article 30 – Interpreter and other services in juvenile justice procedure

1. A minor may use the services of an interpreter free of charge if he/she does not understand or does not have an adequate knowledge of the language of the proceedings and/or he/she cannot speak that language, except as provided for by Article 120(8), Article 121(2) and Article 171(2) of the Criminal Procedure Code of Georgia. In such cases, an interpreter shall attend all procedural actions.

2. The minor may meet with the interpreter before the court hearing or procedural action to determine whether they can understand each other.

3. Minors with disabilities involved in juvenile justice procedure shall use free of charge all the services they need in order to be informed about the case and to participate in the proceedings.

Article 31 – Right to consular assistance

1. A foreign minor in conflict with the law may be assisted by representatives of diplomatic missions or consular posts of his/her country at any stage of the juvenile justice procedure.

2. If an arrested or detained minor is a foreign citizen, the Ministry of Foreign Affairs of Georgia shall be notified about the arrest or detention of the minor in the shortest possible time and in any case before interrogation. The Ministry of Foreign Affairs of Georgia shall immediately notify the diplomatic mission or consular post of the respective state about the arrest or detention of the minor.

3. If a minor is a citizen of a country without a diplomatic mission or consular post in Georgia, or if he/she is a person with international protection or a stateless person, he/she shall be granted an opportunity, through the Ministry of Foreign Affairs of Georgia, to contact the diplomatic mission of a country which shall protect his/her interests, or any local or international organisation whose objective is to protect such minors.

Law of Georgia No 55 of 1 December 2016 – website, 15.12.2016

Article 32 – Separating juvenile cases from joint cases

1. If a minor is charged with a crime, charges for which are also brought against an adult, the case of the minor shall be separated if possible, and the minor shall be tried separately from the adult, provided this does not substantially hinder the complete and objective investigation of the case.

2. Minors shall enjoy the guarantees established by this Code.

Article 33 – Summoning accused minors

1. Accused minors shall be summoned through their legal representatives or the director of a facility where the accused minor has been placed, and minor witnesses or minor victims shall be summoned through their legal representatives.

2. A copy of the notice to summon the accused minor shall be served upon or sent to his/her lawyer or legal representative.

Article 34 – Restriction of the use of force, special remedies and firearms against minors

1. Force and special remedies may not be applied during the arrest, the bringing to court, or the enforcement of pre-trial restrictions or sentences in relation to a minor, except when in arresting a minor all other remedies have been applied, to prevent self-injury or injury to others, and those remedies were ineffective, and when a legitimate aim defined by law cannot be achieved by other, less harmful remedies.

2. In cases provided for by paragraph 1 of this Article, only physical force, a handcuff and other restraining means may be applied as force and special remedies and a baton, a restraining net, tear gas and/or a water cannon may also be used to prevent group disobedience and/or mass disorder, to repel an attack and to apprehend an armed person.

3. Force and special remedies against a minor:

a) shall be applied for the shortest possible time;

b) shall be applied to achieve a legitimate aim defined by law, and, accordingly, be proportionate to the circumstances;

c) shall not be applied in a degrading and humiliating manner.

4. Firearms may not be used against a minor, unless he/she is armed and immediately poses a direct and imminent threat to the life or health of a third person and other remedies cannot prevent this threat. Firearms may not be used when minors escape from detention or prison facilities.

5. A person that has applied force and/or special remedies on the basis of the provisions of this Article shall immediately notify his/her direct supervisor of and, if necessary, the director of a respective facility. The direct supervisor of the person shall immediately ensure the medical examination of the minor.

6. A person that has applied force and/or special remedies shall immediately draw up a protocol on this as determined by the legislation of Georgia. Information on the force and/or special remedies applied by the person, and the justification for using such force and/or special remedies and other data shall be included in the protocol.

7. Each case of application of force and special remedies shall be recorded in the official registration book of the respective facility, which shall be made available for minors, and their legal representatives and lawyers, and for the court and the body carrying out monitoring as determined by the legislation of Georgia.

8. Only persons with special authorisation who have completed appropriate training may apply special remedies.

Law of Georgia No 949 of 1 June 2017 – website, 20.6.2017

Section IV

Release of Minors from Criminal Liability and Pre-trial Juvenile Justice Procedure

Chapter VI – Release of Minors from Criminal Liability

Article 35 – Release of minors from criminal liability due to the expiry of the period of limitation

A person shall be released from criminal liability for a crime committed during his/her minority if:

a) one year has passed after committing the crime, for which the maximum sentence does not exceed two years of imprisonment as provided for by the relevant article or paragraph of the article of special part of the Criminal Code of Georgia;

b) three years have passed after committing any other minor crime;

c) five years have passed after committing a serious crime;

d) 12 years have passed after committing a particularly serious crime.

Article 36 – Releasing minors from the sentence due to the limitation of the judgement of conviction

A convicted minor shall be released from the sentence if the final judgement of conviction has not been enforced:

a) within one year, in the case where the minor is convicted of a crime for which the maximum sentence does not exceed two years of imprisonment as provided for by the relevant article or paragraph of the article of the special part of the Criminal Code of Georgia;

b) within three years, in the case where the minor is convicted for any other minor crime;

c) within five years, in the case where the minor is convicted of a serious crime;

d) within seven years, in the case where the minor is convicted of a particularly serious crime.

Article 37 – Diminished responsibility of minors

Minors who were in a state of diminished responsibility at the time of committing a crime may be released from criminal liability.

Article 38 – Diversion

1. If there is a probable cause that a minor has committed a minor or a serious crime, the possibility of applying diversion shall be considered in the first place and it shall be evaluated whether diversion can ensure the re-socialisation and rehabilitation of the minor and the prevention of a new crime.

2. The prosecutor may make a reasoned decision as determined by this chapter not to initiate a criminal prosecution or to terminate an already initiated criminal prosecution and to apply diversion.

3. When the prosecutor makes a decision to apply diversion, or the court reviews the case on the application of diversion on its own initiative or on the reasoned motion of a party, account shall be taken of the best interests of the minor, the nature and gravity of the offense, the age of the minor, the degree of guilt, the expected punishment, any injury or damage caused by the minor, the preventive effect of criminal prosecution, the behaviour after the commission of the crime, any previous crimes, and the individual assessment report prepared according to Article 27 of this Code.

Article 39 – Authorised agency for making decisions on diversion

1. The prosecutor shall make decisions on diversion prior to pre-trial hearings.

2. Diversion may also be applied after the court hearings. For applying the diversion, the court may, on its own initiative or on the basis of a reasoned motion of a party, deliver a reasoned decision at a pre-trial hearing or at a hearing on the merits in a court of first instance and return the case to the prosecutor, who will offer diversion to the accused minor and shall decide on applying diversion in the event of the minor's consent. Before making the decision, the court shall also hear the position of the other parties.

3. Where making a decision on imposing diversion, the prosecutor may conclude an agreement with the minor about diversion or about diversion and mediation. The procedure for imposing diversion or a diversion and mediation programme on minors, and the terms and conditions of an agreement to be concluded between the parties, shall be determined by an order of the Minister of Justice of Georgia. The maximum duration of this agreement shall be one year.

4. If the minor is refused diversion, a protocol of interview shall be drawn up, stating the reason for refusal. The protocol shall be signed by the prosecutor and the minor and/or his/her legal representative.

5. If the prosecutor refuses the minor diversion, the minor's legal representative or lawyer may apply to the superior prosecutor for the imposition of diversion.

Law of Georgia No 2390 of 30 May 2018 – website, 12.6.2018

Article 40 – Preconditions for the imposition of diversion

Diversion may be imposed on a minor if all the following circumstances obtain:

a) there is sufficient evidence for a probable cause that the minor has committed a minor or serious crime;

b) the minor has no previous convictions;

c) the minor has not participated in a diversion-mediation programme before;

d) the minor confesses to the crime;

e) in the belief of the prosecutor/judge and taking into account the best interests of the minor, there is no public interest in initiating criminal prosecution or continuing an already initiated criminal prosecution;

f) the minor and his/her legal representative have given an informed written consent to the application of diversion.

Article 41 – Guarantees of minors in the case of imposing diversion

1. Before a decision on imposing diversion is made, the minor, and his/her legal representative, and his/her lawyer, shall be

provided with detailed information about the nature of diversion, the procedure for diversion, its duration, and the consequences of failure to comply with theconditions and measures of diversion.

2. It shall be explained to the minor orally and in writing that consent to diversion is voluntary and he/she may refuse diversion at any stage.

3. The confession to a crime by a minor in the course of diversion and any information gained about the minor in the course of diversion may not be used against him/her in court.

Article 42 – Diversion measures

1. Diversion or a diversion and mediation agreement may provide for the following measures:

a) a written warning;

b) a restorative justice measure, including involvement in a diversion and mediation programme;

c) the full or partial compensation for injury or damage caused;

d) the transfer to the State of property obtained by illegal means;

e) the transfer to the State of the weapon of crime and/or object withdrawn from civil circulation;

f) the imposition of obligations on the minor;

g) the placement of the minor in foster care.

2. Several diversion measures may be applied to the minor simultaneously. Diversion measures shall be determined on the basis of the individual assessment report, as established by the legislation of Georgia.

3. Diversion activities shall be reasonable and proportionate to the crime committed. No obligation may be imposed on the minor in the course of diversion which encroach on his/her dignity and honour, or excludes him/her from regular educational processes and basic work, or causes harm to his/her physical and/or mental health.

4. It shall not be permitted to impose stricter diversion measures than the minimum sanctions provided for by law for the committed crime.

Article 43 – Written warning to a minor

A written warning to a minor means explaining to the minor the injury and damage caused by his/her actions and the consequences of committing a crime again.

Article 44 – Restorative justice measures

Restorative justice measures may include the involvement of a minor in a diversion and mediation programme, and performance of unpaid community service, and/or any other programmes that help redress the consequences of the crime committed by the minor.

Article 45 – Imposing obligations on a minor

1. Minors may be prohibited:

a) from visiting certain places and/or person(s);

b) from changing a place of residence;

c) from leaving home during a specific period;

d) from leaving the country or an administrative unit without permission;

e) from performing other acts which might hinder their re-socialisation and rehabilitation.

2. Minors may be obligated:

a) to start or resume study in an educational institution with the assistance of a specialised state agency;

b) to start working with the assistance of a specialised state agency;

c) to participate in educational, correctional and/or medical treatment programmes;

d) to spend leisure time in a specific manner;

e) to fulfil other obligations that will facilitate their re-socialisation and rehabilitation and prevent them committing a new crime.

3. The National Probation Agency shall supervise the measures under this Article.

Article 46 – Placement of a minor in foster care

1. Placement of a minor in foster care shall mean transfer of a minor for a certain period of time to a foster family, away from home and separately from the parents if leaving the minor at home with his/her parents poses a risk of committing another crime by the minor.

2. The parents of a minor may also be involved in the implementation of diversion measures under paragraph 1 of this Article if this does not contradict the best interests of the minor.

Law of Georgia No 750 of 4 May 2017 – website, 24.5.2017

Article 47 – Performance of a diversion agreement and a diversion and mediation agreement

If a minor fulfils the obligations under a diversion agreement or a diversion and mediation agreement, the prosecutor shall decide to stop the investigation of the criminal case.

Article 48 – Failure to perform a diversion agreement or a diversion and mediation agreement

1. The implementation of diversion measures shall be supervised by a representative of the institution referred to in Article 45(3) of this Code. Where a minor fails to comply with diversion measures intentionally, a social worker shall notify the prosecutor, and the prosecutor, based on this and other circumstances, after hearing the views of the minor, his/her legal representative and the social worker, shall cancel or keep in force the decision on imposing diversion, or shall change the diversion measures and/or shall extend the duration of the diversion agreement.

2. Where the decision on imposing diversion is cancelled, a prosecutor may, with a reasoned resolution, cancel the decision not to initiate a criminal prosecution or to terminate an already initiated criminal prosecution, or initiate or resume a criminal prosecution with a new reasoned resolution.

3. Where the decision on imposing diversion is cancelled, acts undertaken by a minor to comply with the diversion measures shall be taken into account when sentencing the minor.

Chapter VII – Arrest of Minors; Investigation and Criminal Prosecution

Article 49 – Notification upon the arrest of a minor

1. A person who has arrested a minor, an investigator, and a prosecutor, shall take all necessary steps upon the arrest of the minor to immediately contact his/her parents, and, if this is impossible, other close relatives and/or any other person named by the minor.

2. A person who has arrested a minor, an investigator, and a prosecutor shall, upon bringing him/her to a law enforcement authority, immediately notify the legal representative of the minor of his/her arrest and place of detention, and explain the reason for the arrest of the minor and the rights under Article 38(2) of the Criminal Procedure Code of Georgia.

3. If the legal representative of a minor cannot be reached, the competent employee of a police establishment or other law enforcement authority shall immediately notify the guardianship and custodianship authority.

Article 50 – Participation of a procedural representative in the process

1. A guardianship and custodianship authority shall, on the application of an investigator, or a prosecutor, or a judge, nominate an employee as a candidate for a procedural representative. The investigator, or the prosecutor, or the judge shall appoint the candidate nominated by the guardianship and custodianship authority, or other reliable person, as a procedural representative in the following situations:

a) if the legal representative of the minor cannot participate in the process within one hour after the minor has been brought to a law enforcement authority;

b) if the minor does not reside with his/her legal representative and/or refuses to contact his/her legal representative or refuses the participation of the latter in the process;

c) if the legal representative acts against the best interests of the minor;

d) if the minor is a victim of or an eyewitness to a crime committed by the legal representative;

e) if the legal representative is charged with the commission the same crime;

f) if the legal representative is inaccessible.

2. In the case of a domestic crime, a person who is supposedly abusive or whose impartiality is in doubt because of the nature of the relationship between the person and the abusive member of the family, or in other cases of conflict of interest, may not be involved as a legal representative of a minor in criminal proceedings, and may not read or be provided with the testimony given by the minor (protocol of interview, explanation).

3. Another reliable person shall be appointed as a procedural representative, taking into account the minor's opinion.

4. A procedural representative may:

a) express his/her opinion on the needs of the minor to the official of the body administering the procedure;

b) keep in contact with close relatives, or a lawyer or friends of the minor;

c) inform the minor about health care, or psychological or social services, and available means of receiving these services;

d) provide information to the minor about his/her procedural status, the importance, duration and form of testimony, and the interrogation procedure;

e) notify the minor about the time and place of the hearing, and about other relevant actions and available measures of defence;

f) provide information to the minor on the procedure for appealing the procedural decision delivered against him/her;

g) perform other actions to assist the minor.

Article 51 – Conditions of the placement of arrested minors in a remand prison

Arrested minors shall be placed in a remand prison separately from persons of full age. Female and male minors shall also be placed separately from each other.

Article 52 – Interviewing and interrogating minors

1. Unless otherwise provided for by this Code, the procedure determined by the Criminal Procedure Code of Georgia shall apply but the provisions of Article 114(2) and (4) and Article 332 of the same Code shall not be taken into account when interviewing and interrogating a minor.

2. A minor may be interviewed/interrogated if he/she is able to verbally or in some other form convey information that is important for the case.

3. A minor shall be interviewed/interrogated in the presence of his/her legal representative and a lawyer. In the case provided for in Article 15(1) of this Code, a minor interviewee/witness shall enjoy the right to free legal aid during the interview/interrogation. A person performing a procedural action during interviewing/interrogating a minor shall, considering the best interests of the

minor, ensure the involvement of a psychologist. The psychologist shall assess the needs of the minor and shall provide him/her with psychological support during the interview/interrogation. If a minor is an interviewee/witness with respect to a case of sexual exploitation and sexual violence or a victim of the sexual exploitation and sexual violence, an audio or video recording may be made during his/her interview/interrogation. The audio or video recording of the testimony given by the minor may be played (demonstrated) at a court hearing.

4. A minor under 14 years of age may be interviewed/interrogated only with the consent and in the presence of his/her legal representative. A legal representative may express his/her opinion and, with the permission of the court, clarify a question asked to a person under 14 years of age. An interviewee/witness under 14 years of age shall be explained of his/her duty to tell only the truth but shall not be informed about the imposition of criminal liability for refusing to testify and for giving a false testimony.

5. When determining an appropriate time for breaks during the interrogation of a minor, the judge shall take into account the age, and the level of development of the minor, and other circumstances. If a minor is a witness with respect to a case of sexual exploitation and sexual violence or a victim of the sexual exploitation and sexual violence, the number of interrogations shall be as limited as possible and shall be determined by the need to achieve the goals of criminal proceedings.

6. A minor may not be interviewed/interrogated from 22:00 to 08:00.

7. A minors shall be provided with appropriate food and drinking water at least every four hours, from 08:00 to 22:00, and with the right to unlimited use of a toilet.

8. A procedural action, in which a minor victim is involved, shall be attended by his/her legal representative and lawyer. A person performing a procedural action shall, considering the best interests of a minor, also ensure the involvement of a psychologist in the procedural action. The psychologist shall assess the needs of the minor and shall provide him/her with psychological support during the interview/interrogation. A coordinator of a witness and a victim shall be present at the procedural action if so desired by the minor victim.

9. A procedural action, in which a minor interviewee/witness is involved, shall be attended by his/her legal representative. A minor interviewee/witness shall have the right to have a lawyer during the procedural action. In the case provided for in Article 15(1) of this Code, a minor interviewee/witness may enjoy the right to free legal aid during. A person performing a procedural action shall, considering the best interests of a minor, also ensure the involvement of a psychologist in the procedural action. The psychologist shall assess the needs of the minor and shall provide him/her with psychological support during the interview/interrogation. A coordinator of a witness and a victim shall be present at the procedural action if so desired by the minor witness.

10. A judge, during a court trial, and a prosecutor, at the stage of investigation, may, by a ruling/resolution prohibit a legal representative of a minor interviewee/witness or a minor victim from attending a procedural action only if this is necessary for the best interests of the minor.

11. A minor interviewee/witness and a minor victim may not be interviewed/interrogated with respect to a domestic crime, violence against women and/or domestic violence, and in issuing a protective or restraining order, and in making a decision by a social worker to separate a minor who had been exposed to violence, a minor victim of violence against women and/or domestic violence may not be interviewed/interrogated (explanations may not be obtained from him/her), in the presence of his/her abusive parent (parents) or another legal representative.

Law of Georgia No 4679 of 18 December 2015 – website, 29.12.2015

Law of Georgia No 5453 of 22 June 2016 – website, 12.07.2016

Law of Georgia No 769 of 4 May 2017 – website, 25.5.2017

Law of Georgia No 2271 of 4 May 2018 – website, 21.5.2018

Law of Georgia No 2390 of 30 May 2018 – website, 12.6.2018

Article 53 – Factors related to the conduct of certain investigative activities

1. Search and other investigative activities involving the internal examination of the body of a minor or the removal of an object from the body of a minor may only be conducted on the basis of a court ruling, except when the life or health of the minor is endangered. In such cases, the procedure under Article 112(5) of the Criminal Procedure Code of Georgia shall apply.

2. The removal of an object from the body of a minor shall be carried out in a facility holding a licence/permission for medical activities, with the participation of a certified doctor or nurse of the same sex as the minor, and in the presence of a legal representative of the minor, and of a lawyer if requested by the minor.

3. Search and other investigative activities that require the partial or full removal of clothing of a minor may be conducted only on the basis of a court ruling, in the presence of a legal representative of the minor, and of a lawyer if requested by the minor, except when there is an urgent need provided for by Article 112(5) of the Criminal Procedure Code of Georgia.

4. In cases provided for by paragraphs 1 and 3 of this Article, the person conducting investigative activities shall be of the same sex as the minor.

5. The issues provided for by paragraphs 1 and 3 of this Article shall be decided by a judge without an oral hearing, not later than 12 hours after the relevant motion is filed.

6. The ruling of a judge shall indicate:

a) the date of and place where the ruling was drawn up;

b) the name of the issuing court, the name and surname of the judge;

c) the person who filed the motion with the court;

d) the minor in respect of whom the investigative activities are to be conducted;

d) the facts of the alleged crime;

f) the justification for the need to conduct investigative activities;

g) items, articles, substances or other objects which were found and seized during search or seizure, and their generic characteristics;

h) the right to use proportional coercive measures in the case of resistance;

i) the term of validity of the ruling;

j) the person or agency that shall execute the ruling;

k) the signature of the judge (including electronic signature).

7. If a minor disagrees with the presence of his/her legal representative during the investigative activities provided for by paragraphs 1 and 3 of this Article, or if the presence of a legal representative is impossible, a procedural representative of the same sex as the minor shall be present during the investigative activities.

Section V

Hearing juvenile cases in court and pre-trial preventive measures

Chapter VIII – Hearing juvenile cases in court

Article 54 – First presentation of a minor in the court

The prosecutor shall file a motion to impose a pre-trial preventive measure with a magistrate's court according to the place of investigation in the shortest possible time, but not later than 48 hours after the arrest of a minor.

Article 55 – Right to fair and prompt trial

1. Prior to the pre-trial hearing, a minor may be charged for a single crime for a period of not more than six months, unless he/she is charged for another crime before this period expires.

2. The hearing of a juvenile case in a court of appeal shall be held within two weeks after the recognition of the appeal as admissible. The court of appeal shall deliver a judgement in an oral hearing within one month after the recognition of the appeal as admissible.

3. The hearing of a juvenile case in a court of cassation shall be held within two weeks after the recognition of the appeal as admissible in the court of cassation. The court of cassation shall deliver the final judgement on the cassation of the appeal within

three months after the recognition of the appeal as admissible in the court of cassation.

Article 56 – Participation of minors in court hearings

1. To facilitate the participation of minors in hearings, the court shall:

a) ensure that the case is reviewed according to the minor's ability of perception and understanding;

b) announce breaks between the hearings at reasonable intervals, taking into account the age, health, and development of the minor and other circumstances.

2. A juvenile case may not be heard in court without the presence of the minor, except when he/she refuses to appear in court and an adjournment of the hearing would make it impossible to review the case within a reasonable time.

Article 57 – Admissibility of a guilty plea by a minor

When deciding the issue of a guilty plea by a minor, the court shall take into account, together with other relevant circumstances, the ability of the minor to perceive and understand, the length of interrogation, and the fear of uncertainty or possible detention.

Article 58 – Restriction of the right to attend the procedure of examination of the evidence

1. On the basis of a motion made by a party or on its own initiative the court may issue a ruling to have the minor taken out of the courtroom if such ruling serves the best interests of the minor. The duration of absence of the minor at the court hearing shall be as short a period as possible.

2. Upon a ruling on having a minor taken out of the courtroom, the judge shall explain to the parties their right to appeal the ruling at the same court hearing, whereupon the process of examination of the evidence shall be suspended.

3. After the minor returns to the courtroom, the court shall explain to the minor, in an appropriate form and to a relevant extent, the content of the evidence examined in his/her absence.

4. Irrespective of the court ruling to have the minor taken out of the courtroom, the lawyer of the accused minor and his/her legal representative shall always be present at the court hearing.

Article 59 – Other factors related to hearing cases of minors in a court

1. If a judgement of conviction is delivered against a minor, the court shall pronounce that the minor has been found guilty and the circumstances under Article 272, Article 273(1), Article 274(1)(a-c) and (2) of the Criminal Procedure Code of Georgia shall be included in the judgement. In addition, upon pronouncement of the judgment of conviction, the chairperson of the court shall state the date of the sentencing hearing. The sentencing hearing shall be held not later than seven days after the judgment of conviction is pronounced.

2. At the sentencing hearing, the judge shall deliver one of the decisions under Article 269(3)(a-c) of the Criminal Procedure Code of Georgia, as a result of which the judge shall, based on the decision delivered, include in the judgement of conviction the circumstances under that Article and under Articles 273 and 274 of the Criminal Procedure Code of Georgia.

2^1. If a plea bargain is confirmed, issues under paragraphs 1 and 2 of this article shall be considered at the same hearing.

3. Jury trials are not conducted in cases with defendants who are minors.

Law of Georgia No 2390 of 30 May 2018 – website, 12.6.2018

Chapter IX – Pre-trial Preventive Measures

Article 60 – Pre-trial Preventive Measures

1. The pre-trial preventive measures that may be imposed on an accused minor are: transfer of the minor for supervision, an

agreement on not leaving the place of supervision, and on good behaviour therein, a personal guarantee, and bail and detention.

2. Together with the pre-trial preventive measures, one or more measure(s) may also be imposed on an accused minor under Article 199(2) of the Criminal Procedure Code of Georgia.

Article 61 – Transfer for supervision

1. The purpose of the transfer of a minor for supervision, either to his/her parent, or other close relative, or guardian, or custodian, or the administration of a specialist children's establishment, is to acquire a written undertaking, from the persons above or from the administration, that the accused minor will appear before the investigator, and/or the prosecutor, and/or the court, and that he/she will behave properly.

2. A minor may be transferred for supervision as determined by paragraph 1 of this Article only with the consent of the minor and the person to whose supervision the minor will be transferred. The person may refuse to supervise the minor at any time if he/she decides that he/she cannot ensure the proper behaviour of the minor.

3. A person supervising a minor shall be informed, at the moment of signing the written undertaking, of the type and measure of possible punishment for the charges brought against the accused minor, and the liability that will be imposed on the person supervising if the minor under his/her supervision violates the obligation to behave properly.

4. In the case of failure to comply with undertakings related to the supervision of a minor, the court may, based on a motion of a party, impose on a person supervising a minor a fine from GEL 100 to GEL 500, unless such failure was caused by factors beyond the control of the person supervising.

Article 62 – Agreement on not leaving the place of supervision and on proper behaviour

An agreement on not leaving the place of supervision and on proper behaviour may be applied to a minor in the case of the commission of a minor crime or a negligent offence.

Article 63 – Bail

The amount of bail shall be determined in consideration of the gravity of the committed crime and financial condition of the accused minor. Bail may be set for any amount of money.

Article 64 – Detention

1. The detention of an accused minor, as a measure of last resort, may be applied only if all the following circumstances obtain:

a) imprisonment is the form of punishment provided for the alleged crime;

b) detention is the only means of preventing the accused from absconding, or preventing the obstruction of justice, or of taking of evidence, or the commission of a new crime by the accused minor;

c) the purpose of the detention of a minor exceeds the minor's right to liberty.

2. If an accused minor is in custody, the overall period of pre-trial detention shall not exceed 40 days after his/her arrest. After this term expires, an accused minor shall be released. If no pre-trial hearing has been held within this period, the pre-trial hearing shall be held as determined by the Criminal Procedure Code of Georgia.

3. If detention has been imposed on an accused minor, the judge shall, on his/her own initiative, consider the issue of keeping the detention in force at the first pre-trial hearing, irrespective of whether a party has filed a motion on changing or revoking the detention. Thereafter, the judge shall, based on his/her own initiative, consider the issue of keeping the detention in force at least once in every 20 days. When considering the issue of continuing, changing or revoking detention, the burden of proof shall be on the prosecutor.

4. The overall time of detention of an accused minor shall not exceed six months.

Section VI

Chapter X – Objectives and Types of the Sentences, Conditional Sentence

Article 65 – Objective of a sentence

The objective of a sentence imposed on a minor is the re-socialisation and rehabilitation of the minor and the prevention of new crimes.

Article 66 – Types of sentences

The types of sentences are:

a) a fine;

b) house arrest;

c) the deprivation of a right to carry out an activity;

d) community service;

e) (Deleted – 1.6.2017, No 949);

f) fixed-term imprisonment.

Law of Georgia No 949 of 1 June 2017 – website, 20.6.2017

Article 67 – Primary and additional sentences

1. The fixed-term imprisonment may be imposed on a minor only as a primary sentence.

2. A fine, the deprivation of a right to carry out an activity, house arrest and community service may be imposed both as primary and additional sentences.

3. Only one additional sentence may be imposed together with a primary sentence.

4. One or several measures under Article 42 of this Code may be imposed on a minor together with the sentence(s).

Law of Georgia No 949 of 1 June 2017 – website, 20.6.2017

Article 68 – Fine

1. A fine may be imposed on a minor only if he/she has an independent income from lawful activities.

2. When a fine is imposed on a minor, the minimum amount of fine established by the Criminal Code of Georgia shall be reduced by half.

Article 69 – House arrest

1. The definition of house arrest is an obligation upon a minor to stay at the place of his/her residence during specified times of the day and night.

2. House arrest shall be imposed on a minor for a period of six months to one year.

3. House arrest may be imposed on a minor in the case of the commission of a minor crime.

4. House arrest shall be imposed on a minor in a manner that its execution does not obstruct the performance of remunerated work or education.

5. House arrest is generally enforced by using a means of electronic monitoring. The National Probation Agency may decide not to use a means of electronic monitoring.

Article 70 – Deprivation of a right to carry out an activity

A minor may be deprived of a right to carry out an activity for a period of one to three years.

Article 71 – Community service

1. Community service shall be imposed on a minor for a period of 40 to 300 hours. The daily duration of community service shall not exceed four hours.

2. If imprisonment is replaced by community service, or if a plea bargain is concluded by the parties, community service may be imposed for a longer term. Community service as an additional sentence may be imposed for a shorter term.

3. Community service shall be imposed on a minor in a manner that its execution does not obstruct the performance of a remunerated work or education.

4. When imposing community service on a minor, it is desirable that the minor is assigned to work at a place where he/she can acquire the experience and skills necessary to become a member of society.

5. Community service as an additional sentence may also be imposed on a minor in the case when this sentence is not provided for by the respective article of the Criminal Code of Georgia.

Article 72 – (Deleted)

Law of Georgia No 949 of 1 June 2017 – website, 20.6.2017

Article 73 – Fixed-term imprisonment

1. Fixed-term imprisonment may be imposed on a minor if he/she has committed a serious or a particularly serious crime, if he/she has avoided serving a non-custodial sentence, and/or a judgment of conviction has been delivered against him/her in the past.

2. For minors aged between 14 and 16, the imposed sentence shall be reduced by one third. In addition, the final sentence shall not exceed 10 years.

3. For minors aged between 16 and 18, the imposed sentence shall be reduced by one fourth. In addition, the final sentence shall not exceed 12 years.

4. Paragraphs 2 and 3 of this Article shall apply irrespective of the circumstances provided for by Article 76 of this Code.

Article 74 – Conditional sentence

The court may hold that the imposed sentence be considered as conditional if a minor, who has no previous convictions for intentional crimes, has committed a less serious or serious crime.

Chapter XI – Sentencing Minors

Article 75 – General principles of sentencing minors

1. When imposing a sentence on a minor, the judge shall take into account the best interests of the minor and an individual assessment report in the first place.

2. When imposing a non-custodial sentence, the judge may impose on a minor one or more obligations provided for by Article 45 of this Code together with the non-custodial sentence. In such cases, no obligation shall be imposed on the minor which it is highly improbable will be fulfilled or which exceeds the mental and physical abilities of the minor.

3. For the purpose of the execution of a non-custodial sentence, with the consent of a minor and his/her legal representative, electronic monitoring may be imposed for up to one year. This shall not apply in the case provided for by Article 68(5) of this Code.

4. The procedure and methods for imposing electronic monitoring shall be determined by an order of the Ministry of Corrections of Georgia.

Article 76 – Imposing on a minor a lesser sentence than provided for by law

The judge may impose on a minor a sentence which is less than the minimum provided for by law or a more lenient sentence if no judgement of conviction has been delivered against the minor in the past and there are mitigating circumstances which make it expedient to impose a more lenient sentence than provided for by law.

Chapter XII – Execution of Non-custodial Sentences

Article 77 – Execution of non-custodial sentences

1. The execution of a sentence provided for by Article 66(a) shall be ensured by the National Enforcement Bureau, a Legal Entity under the Public Law, as determined by the Law of Georgia on Enforcement Proceedings, while the execution of sentences provided for by Article 66 (b-e) shall be ensured by the National Probation Agency as determined by the Law of Georgia on the Procedure for the Execution of Non-Custodial Sentences and Probation.

2. If a minor reaches the age of majority prior to beginning a sentence of community service or while serving such a sentence or other non-custodial sentence or conditional sentence, he/she shall continue serving the sentence as determined in the judgement against the minor. In such cases, the respective provisions of this Code shall apply.

3. In the case of violation by a minor of a regime determined by the Law of Georgia on the Procedure for the Execution of Non-Custodial Sentences and Probation, an authorised person of the Bureau of Execution of Non-Custodial Sentences and Probation shall draw up a protocol of warning that will be directly delivered to the minor or sent by mail (if sent by mail, a respective entry shall be made).

4. A minor shall be exempted from an obligation to pay the fees determined by the Law of Georgia on the Procedure for the Execution of Non-Custodial Sentences and Probation.

5. If a minor avoids serving a non-custodial sentence, a conditional sentence or fails to comply with any obligations attached thereto, the judge may, based on the consideration of the referral of the National Probation Agency and respective materials, decide to confirm the non-custodial sentence, the conditional sentence, or the obligations, or to amend them, within seven days after the referral is submitted. The judge shall consider the referral with the participation of the probation officer and legal representative of the minor. The judge may invite and interrogate witnesses based on the initiative of a party.

6. If a minor avoids paying a fine, the judge shall, based on the consideration of the referral of the National Probation Agency and respective materials, decide to keep the fine unchanged or to change it, within two weeks after the referral is submitted. The judge shall consider the referral with the participation of the representative of the National Enforcement Bureau a Legal Entity under Public Law and the legal representative of a minor. The judge may invite and interrogate witnesses based on the initiative of a party.

7. If a minor commits a minor crime or a serious negligent crime while serving a non-custodial sentence and/or conditional sentence, the court shall decide on the issue of keeping the non-custodial sentence and/or conditional sentence in force, and if a minor commits an serious or particularly serious intentional crime, the judge shall decide on the imposition of the restriction of liberty.

8. If a sentence determined by the judgement is replaced with a different sentence, when delivering the new sentence, and in consideration of the already served sentence, the following shall be considered as commensurate to each other: one day of home arrest, five hours of community service, a fine of GEL 50, and one day of the fixed-term imprisonment.

9. If the non-custodial sentence and/or conditional sentence is changed, the court shall be guided by this Code.

10. The complete file of a minor, against whom a non-custodial sentence and/or conditional sentence was imposed, shall be stored for not more than 10 years in the archive of the National Probation Agency and shall be destroyed after the expiry of this period.

Law of Georgia No 949 of 1 June 2017 – website, 20.6.2017

Article 78 – Appealing the change of a non-custodial sentence, a conditional sentence or an obligation

A minor, or his/her legal representative or lawyer, may appeal the decision on changing the non-custodial, the conditional sentence or an attached obligation, within one month after it has been delivered. The judgement of a court of appeal shall be final. In this case, the relevant provisions of Chapter XXV of the Criminal Procedure Code of Georgia shall be applied, taking into account the special time limits determined by this Code for the review of juvenile cases.

Section VII

Detention, Imprisonment and Care for Minors after Release from the Sentence and Conditional Sentence

Chapter XIII – Conditions of Minors in Detention and Prison Facilities

Article 79 – Placement of a minor in a detention and prison facility

1. An accused minor who has been detained as a pre-trial restriction shall be placed in the juvenile section of a detention facility, and a convicted minor who has been sentenced to imprisonment shall be placed in a juvenile rehabilitation facility. Services in detention and prison facilities where accused or convicted minors are placed shall meet the requirements for the health care of minors and shall respect the dignity of minors.

2. To protect the best interests of minors, detention and prison facilities shall have sufficient, qualified and trained personnel (paediatrician, doctor, nurse, psychologist, psychiatrist, social worker, etc.).

3. In a juvenile rehabilitation facility, minors shall be placed in a special accommodation unit where it is possible to carry out visual and/or electronic surveillance according to Article 54 of the Imprisonment Code.

Article 80 – Factors related to the enforcement of imprisonment in a juvenile rehabilitation facility

On the basis of the special need for the protection and care of minors as defined by treaties and international agreements ratified by the Parliament of Georgia, the Minister of Corrections of Georgia shall define:

a) the procedure and conditions for the enforcement of imprisonment in a juvenile rehabilitation facility;

b) the structure and the rules of operation of a juvenile rehabilitation facility;

c) the procedure for individual sentence planning for convicted minors;

d) the procedure for the application of incentives and other measures to convicted minors;

e) the procedure for the imposition of disciplinary measures on convicted minors;

f) the procedure for proceedings related to the claims and complaints of convicted minors;

g) the procedure for organising a rehabilitation process for convicted minors;

h) the procedure and conditions for applying security measures and special measures against convicted minors;

i) the procedure for keeping registers and maintaining personal files of convicted minors.

Article 81 – Placing convicted minors separately

1. The following persons shall be placed separately from each other:

a) accused and convicted minors;

b) female and male minors.

2. Minors may not be placed together with persons of majority age, except as provided for by paragraph 4 of this Article.

3. To ensure a safe environment for minors in a juvenile rehabilitation facility, minors shall be placed according to their age groups, the seriousness of the crime committed, their physical and mental development, and other characteristics based on the best interests of minors.

4. Irrespective of the rule under paragraph 1(b) of this Article, minors of opposite sex may participate together in rehabilitation, educational, sports and other activities.

5. Female convicted minors shall be placed in the juvenile section of a special facility for women and shall be subject to the same conditions as for convicted minors in juvenile rehabilitation facilities.

Article 82 – Medical treatment of minors

1. An accused or convicted minor shall be provided with regular medical examinations, required medical treatment, preventive medical services, and special medical items.

2. If a medical examination reveals signs of violence against the minor, the examiner shall immediately notify the legal representative of the minor and the director of the facility where the accused or convicted minor has been placed.

Article 83 – Living and nutritional conditions of minors

1. Accused or convicted minors shall be provided with improved living and nutritional conditions as compared to other accused or convicted persons.

2. Accused or convicted minors shall be provided with nutritional conditions corresponding to their status.

3. In a juvenile rehabilitation facility, convicted minors may move independently throughout the premises of the facility, as established by a daily routine and according to the individual sentence plan.

Article 84 – Organising educational and rehabilitation programmes for minors

1. An accused or convicted minor shall have an opportunity to receive complete general education as determined by a joint order of the Minister of Corrections of Georgia and the Minister of Education and Science of Georgia.

2. Elementary and basic education shall be provided to accused or convicted minors.

3. To provide accused or convicted minors with general education and to develop general skills, and to provide convicted minors with professional education, a juvenile rehabilitation facility shall organise the educational and rehabilitation process.

4. A convicted minor shall have access to such opportunities of professional training that will help him/her in employment after leaving the juvenile rehabilitation facility.

4^1. A convicted minor shall enjoy the right to receive education at the first stage of academic higher education (Bachelor's degree) under the procedure established by the Imprisonment Code.

5. The education process in a juvenile rehabilitation facility shall comply with the standards of education existing in the country.

6. The documents certifying the education acquired by an accused or convicted minor when in detention (diploma, certificate, school certificate, etc.) shall not contain information that would make it possible to identify the previous conviction or to identify a minor as a former convict.

7. There shall be special programmes for convicted minors with cognitive or learning difficulties, and for minors with no education. Their studies shall be conducted according to an individual education programme.

8. The education process in a juvenile rehabilitation facility shall be regulated by a joint order of the Minister of Corrections of Georgia and the Minister of Education and Science of Georgia.

Law of Georgia No 949 of 1 June 2017 – website, 20.6.2017

Article 85 – Working opportunities of a minor

1. An accused or convicted minor may perform remunerated work.

2. An accused or convicted minor shall work after his/her studies, and the combined time of work and education shall not exceed eight hours a day.

3. A juvenile rehabilitation facility shall facilitate performance of remunerated work by a convicted minor. A convicted minor may work outside a juvenile rehabilitation facility.

4. An accused or convicted minor may only perform the work that facilitates his/her professional training and employment after release, and that does not impede his/her education.
5. A convicted minor placed in a juvenile rehabilitation facility may not be employed to perform general maintenance duties.

Law of Georgia No 949 of 1 June 2017 – website, 20.6.2017

Article 86 – Sport and recreation

1. An accused or convicted minor shall be provided with daily sport and recreational activities and a right to walk. They shall have access to appropriate equipment and space for this purpose.

2. Appropriate recreational and physical training programmes shall be provided for minors, including minors with disabilities.

Article 87 – Contact with family and the outside world

1. A convicted minor has a right to regular and frequent contact with his/her family and the outside world. Namely, a convicted minor may:

a) enjoy 4 short visits a month, and 2 additional short visits a month as an incentive;

b) enjoy 4 long visits a year, and 6 additional long visits a year as an incentive;

c) enjoy 5 telephone conversations a month at his/her own expense, each lasting for not longer than 15 minutes, and as an incentive, unlimited telephone conversations at his/her own expense;

d) enjoy 4 video visits a month, and 2 additional video visits a month as an incentive;

e) receive correspondence, parcels and remittances without limit. However, the receipt of parcels and remittances may be restricted in accordance with Article 92(1)(e) of this Code;

f) use his/her own TV and radio set;

g) spend the money available on his/her personal account, within the monthly limit provided for by an order of the Minister of Corrections of Georgia, to purchase food products, articles of prime necessity and other items in the shop located in the territory o a juvenile rehabilitation facility;

2. An accused minor may enjoy not more than 4 short visits a month. He/she may, under the control of the facility, also have 3 telephone conversations at his/her own expense, each lasting for not longer than 15 minutes, and receive correspondence and parcels without limit. These rights may be restricted by a resolution of an investigator or a prosecutor or by a ruling of a court, based on the best interests of the minor.

3. For the purposes of sub-paragraphs (a) and (b) of this Article, a minor may meet any other person with the permission of his/her legal representative and the director of the Penitentiary Department, except for the persons under Article 17(2) of the Imprisonment Code.

4. When a minor exercises the rights under paragraphs 1 and 2 of this Article, a detention facility and a juvenile rehabilitation facility shall ensure unhindered contact and the personal privacy of the minor.

Law of Georgia No 949 of 1 June 2017 – website, 20.6.2017

Article 88 – Short-term release of a convicted minor from a prison facility

1. A convicted minor may enjoy the right to short-term release from the prison facility three times a year. The period of short-term release shall not exceed five days, which includes the time of travel to the place of destination.

2. A convicted minor shall be granted the right to short-term release from a prison facility after he/she has actually served:

a) at least one third of the term of imprisonment imposed for committing a minor crime;

b) at least half of the term of imprisonment imposed for committing a serious crime;

c) at least two thirds of the term of imprisonment imposed for committing a particularly serious crime.

Article 89 – Temporary transfer of a minor to a different facility

1. An accused or convicted minor may be temporarily transferred to a different facility based on an order of the director of the Penitentiary Department and only if this is necessary for his/her security or the security of other minors.

2. Upon the transfer of an accused or convicted minor to a different facility:

a) he/she shall undergo a medical examination;

b) the legal representative shall be informed of the minor's whereabouts;

c) he/she shall be granted the right to a telephone conversation of not more than 15 minutes.

Article 90 – Keeping a convicted minor in a juvenile rehabilitation facility or transfer of a convicted minor to a prison facility of another type

1. A convicted minor shall serve the sentence in a juvenile rehabilitation facility according to the individual sentence plan.

2. A convicted minor who has attained the age of 18 shall be transferred for the remainder of the sentence to a semi-open type prison facility or a low risk prison facility.

3. To re-socialise a convicted minor, or to provide general education and vocational training, a convicted person who has attained the age of 18 may, upon his/her personal application, be kept to serve his/her sentence in the same facility where he/she was serving the sentence before reaching the age of majority. The decision on this matter shall be made by the director of the Penitentiary Department based on the petition of the director of the facility.

4. A convicted minor who has attained the age of 18 may be kept in a rehabilitation facility until the age of 21.

5. The conditions for serving a sentence, and the nutritional and living standards that are provided for convicted minors shall apply to convicted minors who have attained the age of 18 and continued to serve their sentence in a juvenile rehabilitation facility.

6. A convicted person who has attained the age of 21, or a convicted person who has been kept in a juvenile rehabilitation facility in order to be provided with general education and vocational training, and who received general education and completed vocational training before attaining the age of 21, shall be transferred, to serve the remainder of the sentence, to a semi-open type prison facility or a low risk prison facility.

Article 91 – Incentives for convicted minors in a juvenile rehabilitation facility

1. In the case of exemplary conduct, participation in educational programmes and/or an honest attitude towards work by a convicted person placed in a juvenile rehabilitation facility, the director of the facility may apply the following forms of motivation with respect to him/her:

a) the expression of appreciation;

b) the early removal of an imposed disciplinary sanction;

c) allow the right to an additional short visit;

d) allow the right to an additional long visit;

e) allow the right to an additional video visit;

f) allow the right to an additional telephone conversation;

g) allow the right to an additional short-term release from the facility;

h) allow the right to receive as a parcel or by post those items, substances and/or articles that a convicted minor may not, as a rule, keep in a prison facility but which are not prohibited;

i) allow the right to play computer games;

j) allow the right to use audio and video devices;

k) allow the right to an exceptional short visit – by decision of the director of the facility with the consent of the director of the Penitentiary Department.

2. The Minister of Corrections of Georgia shall define the types and quantities of items, substances and/or articles provided for by paragraph 1(h) of this Article.

Law of Georgia No 949 of 1 June 2017 – website, 20.6.2017

Article 92 – Types of disciplinary measures for minors

1. If a convicted person placed in a juvenile rehabilitation facility commits a disciplinary violation, t director of the facility may apply the following types of a disciplinary penalty to him/her:

a) a warning;

b) a reprimand;

c) a restriction of the right to use permitted items (except for necessary food products and medication prescribed by a doctor) for up to one month;

d) a restriction of the right to use the shop located in the territory of the facility for one month;

e) a restriction of the right to receive parcels and remittances for up to one month;

f) a restriction of the right to telephone conversations for up to one month, provided that in the case of model behaviour the convicted minor may, within two weeks of the imposition of the restriction, apply to the director of the juvenile rehabilitation facility for removal of the restriction;

g) transfer to a cell type accommodation for up to six months in a one year.

2. An accused/convicted minor may not be placed in a solitary cell.

3. The rights under paragraph 1(c-f) of this Article may not be restricted for longer than three months in a one year period.

4. Disciplinary detention may not be applied to a convicted minor as a disciplinary penalty.

Law of Georgia No 949 of 1 June 2017 – website, 20.6.2017

Article 93 – Disciplinary proceedings

1. The case of a disciplinary violation of an accused or convicted minor shall be reviewed by an oral hearing, except when the accused or convicted minor breaches the order or otherwise interferes with the course of the hearing, or does not appear at the hearing or refuses to participate in it. This fact shall be recorded in the protocol of disciplinary proceedings.

2. During the oral hearing, an accused or convicted minor shall have the right to sit, take notes and give verbal explanations.

3. An accused or convicted minor shall have the right to be represented by a lawyer in disciplinary proceedings. Prior to an oral hearing, the accused or convicted minor shall be informed of the right to contact a private lawyer and, in the case of the relevant consent, this right shall be exercised within six hours after the accused or convicted minor has been notified of this right. If the lawyer fails to appear within the established period of time, a public defender shall be appointed for the accused or convicted minor.

Article 94 – Informing an accused or convicted minor of the right to file a complaint

1. An accused/convicted minor placed in a detention facility/prison facility must immediately be allowed by an authorised person of the facility to read information about his/her rights (including the right to file a complaint) and duties and the appeals procedure determined by law.

2. An illiterate accused/convicted minor shall be provided with this information verbally, after which the authorised person shall prepare a relevant report. The report shall be signed by the accused or convicted minor.

3. An accused or convicted minor shall be provided with the information in a form understandable to him/her.

Law of Georgia No 949 of 1 June 2017 – website, 20.6.2017

Article 95 – Release on parole

1. A convicted minor may be released on parole only if he/she has actually served:

a) at least one third of the term of imprisonment imposed for committing a minor crime;

b) at least half of the term of imprisonment imposed for committing a serious crime;

c) at least two thirds of the term of imprisonment imposed for committing a particularly serious crime.

2. In cases provided for by paragraph 1 of this Article, the term of imprisonment actually served by a convicted minor shall be not less than three months.

3. Not later than three months prior to the date of release of a convicted minor on parole, the Penitentiary Department shall inform the National Probation Agency of the possible release of the convicted minor on parole. The National Probation Agency shall study the family situation and living conditions of the convicted minor, which may affect the decision of the Local Council of the Ministry of Corrections of Georgia, and shall send the findings of the study to the Penitentiary Department.

4. The Penitentiary Department shall prepare a file on the social involvement of a convicted minor, specifying the behaviour of the convicted minor in the process of serving his/her sentence, and the facts of crimes committed in the past, and the character of the convicted minor, and the nature of the crime committed by him/her, and other circumstances, which may affect the decision of the Local Council of the Ministry of Corrections of Georgia. The Penitentiary Department shall forward the file on the social involvement of the convicted minor, together with the findings of the study by the National Probation Agency, to the Local Council of the Ministry of Corrections of Georgia for a decision. The findings of the study and the file on the social involvement o a convicted minor shall form part of an individual assessment report at the stage provided for by Article 27(4)(e) of this Code.

5. For a convicted minor who is released on parole from a sentence of community service provided for by Article 73(3) of the Criminal Code of Georgia, the actually served term of a sentence of community service shall be counted towards the term specifiec in paragraph 1 of this Article according to the following calculation: five hours of community service is equal to one day of imprisonment.

6. For a convicted minor, who is released on parole from serving a sentence under Article 73(3^1) of the Criminal Code of Georgia imposed in the form of house arrest, the actually served term of house arrest shall be included in the term provided for in paragraph 1 of this Article with the following proportion: one day of house arrest – one day of imprisonment.

7. Regarding the issue provided for in paragraph 1 of this Article, the local council of the Ministry of Corrections of Georgia shall make a reasoned decision either to release a convicted minor on parole or to refuse to release him/her on parole. The decision shall contain a complete evaluation of the progress achieved with respect to the re-socialisation and rehabilitation of a convicted minor, and of his/her readiness for release, as well as the opinions of the convicted minor and an authorised person of the prison facility expressed during consideration of the issue.

8. If the decision is made to refuse the release on parole of a convicted minor, the Local Council of the Ministry of Corrections shall indicate in the decision the measures to be taken by the convicted minor and the administration of the prison facility in orde for release on parole to be granted.

9. The issue to release a convicted minor on parole must be considered once in every 3 months.

Law of Georgia No 949 of 1 June 2017 – website, 20.6.2017

Article 96 – Replacement of an unserved part of a sentence of a convicted minor with community service or house arrest

1. In the case provided for in Article 73(3) or 73(3^1) of the Criminal Code of Georgia, an unserved part of a sentence of a convicted minor may only be replaced with community service or house arrest if he/she has actually served:

a) at least one fourth of the term of a sentence to be served for a less serious crime;

b) at least one third of the term of a sentence to be served for a serious crime;

c) at least half of the term of a sentence to be served for an extremely serious crime.

2. A three-month term under Article 73(6) of the Criminal Code of Georgia shall not apply to convicted minors.

3. The issue to replace an unserved part of a sentence of a convicted minor with community service or house arrest must be considered once in every 3 months.

Law of Georgia No 949 of 1 June 2017 – website, 20.6.2017

Article 97 – Personal files of minors

A personal file of an accused or convicted minor shall be maintained from the moment of his/her detention until release. After release, the personal file of the accused or convicted minor shall be kept in the archive of the detention/prison facility for not longer than 10 years. The personal files of accused or convicted minors shall be destroyed immediately after the expiry of this period.

Chapter XIV – Preparation of a minor for release; care for, re-socialisation and rehabilitation of a minor after serving a conditional or other sentence

Article 98 – Preparation of a minor for release

1. After serving two-thirds of the term of a custodial sentence, but not later than within three months before release, the administration of a prison facility shall:

a) notify the convicted minor, his/her legal representative and the Centre for Crime Prevention ('the Centre for Crime Prevention'), a Legal Entity under Public Law operating under the Ministry of Justice of Georgia, about the forthcoming date of release of the convicted minor;

b) provide the minor with a special programme of preparation for release;

c) if the minor consents, prepare and submit a file on the social involvement of the minor to the Centre for Crime Prevention to facilitate the re-socialisation process of the minor;

d) provide information to the convicted minor in a form which is understandable to him/her about how to receive appropriate assistance and support upon release.

2. The representatives of the Centre for Crime Prevention shall:

a) meet the minor in the detention or prison facility;

b) take all necessary measures for the minor to understand the conditions of and the need for the plan of his/her re-socialisation and rehabilitation;

c) familiarise themselves with the file on the social involvement of the minor in the detention or prison facility;

d) if the minor applies for the re-socialisation and rehabilitation plan after release, approve the plan not later than three months after his/her application;

e) if possible, ensure the completion and improvement of the programmes started in the detention or prison facility.

3. Not later than three months before actually serving the term determined by the legislation of Georgia for release on parole, and not later than three months before the expiry of the term of imprisonment imposed under Article 50(5) of the Criminal Code of Georgia, the Penitentiary Department shall:

a) notify the convicted minor, his/her legal representative and the National Probation Agency about the forthcoming date of release of the convicted minor;

b) submit a written application to the National Probation Agency for the assessment of family and social environment risks for the convicted minor and the identification of his/her needs.

4. The representatives of the National Probation Agency shall:

a) assess family and social environment risks for a convicted minor and identify his/her needs;

b) upon completion of the assessment of family and social environment risks for the convicted minor, submit the relevant documents to the prison facility for the release on parole of the convicted minor.

5. The Minister of Corrections of Georgia shall determine the form and procedure for the application, and the assessment of family and social environment risks, and the identification of the needs of the convicted minor referred to in paragraphs 3 and 4 of this Article.

6. The requirements under paragraph 1 of this Article shall not apply to cases where a sentence is imposed on the basis of Article 50(2^1) of the Criminal Code of Georgia and the imposed term of imprisonment does not exceed three months.

7. A re-socialisation and rehabilitation plan shall be prepared at least two months before the release of a convicted minor, except when this term may not be observed due to the release on parole or the adoption of an act of amnesty/pardon and/or a court decision.

8. To prepare a re-socialisation and rehabilitation plan, the National Probation Agency shall, within three months after the release of a convicted minor, cooperate with the Centre for Crime Prevention and local self-government bodies in the territorial/administrative unit where the minor resides or intends to return.

Article 99 – Supporting and supervising a minor after serving a conditional or other sentence

1. After serving a conditional or other sentence, the minor shall be transferred to the legal representative and/or, if necessary, to a guardianship and custodianship authority.

2. The Centre for Crime Prevention shall coordinate the implementation of the re-socialisation and rehabilitation plan for at least six months after a convicted minor serves a conditional or other sentence.

3. The Centre for Crime Prevention shall, as determined by the legislation of Georgia, provide practical and psychosocial support to the minor to facilitate his/her re-integration into society after he/she has served a conditional or other sentence.

Section VIII

Transitional and Final Provisions

Chapter XV – Transitional Provisions

Article 100 – Retroactive force of the Code

1. The provisions of this Code, except for the procedural provisions of this Code, shall have retroactive force if this improves the conditions of a minor.

2. The amendments made to this Code shall result in the annulment or amendment of the previously adopted procedural act, provided that this improves the conditions of accused or convicted minors.

Article 101 – Measures to be implemented for the entry into force of the Code

1. By 1 January 2016, the Government of Georgia shall adopt the ordinance of the Government of Georgia provided for by this Code.

2. By 1 January 2016, the High Council of Justice of Georgia shall adopt the decision of the High Council of Justice of Georgia provided for by this Code.

3. By 1 January 2016, the Minister of Justice, the Minister of Internal Affairs, the Minister of Education and Science and the Minister of Corrections shall ensure the adoption of subordinate normative acts provided for by this Code and shall ensure bringing of relevant normative acts into compliance with this Code.

4. By 1 January 2016, the Georgian Bar Association shall approve the form of the document certifying specialisation of lawyers in juvenile justice.

Chapter XVI – Final Provisions

Article 102 – Entry into force of the Code

1. This Code, except for Articles 1 to 100, shall enter into force upon its promulgation.

2. Articles 1-26, Article 27(1-3), (4)(a, c, d, e) and (5-10), Articles 28-65, Article 66 (a, c, d, f), Articles 67, 68, 70, 71 and Articles 73-100 of this Code shall enter into force on 1 January 2016.

3. Article 66(b) and Article 69 of this Code shall enter into force on 1 September 2015.

4. Article 27(4)(b) of this Code shall enter into force on 1 March 2016.

5. (Deleted – 1.6.2017, No 949).

Law of Georgia No 187 of 22 December 2016 – website, 29.12.2016

Law of Georgia No 949 of 1 June 2017 – website, 20.6.2017

President of Georgia **Giorgi Margvelashvili**

Kutaisi

12 June 2015

No 3708-IIს