

**LAW OF GEORGIA**  
**IMPRISONMENT CODE**

**GENERAL PART -**

**Chapter I - General Provisions**

**Article 1 - Purpose and principles of the legislation of Georgia on the enforcement of detention and imprisonment**

1. The purpose of the legislation of Georgia on the enforcement of detention and imprisonment is to enforce detention and imprisonment, prevent new crimes and re-socialise convicted persons.
2. The enforcement of detention and imprisonment in Georgia is carried out under the principles of legality humanity, democracy, equality before the law and individualisation of punishment.

**Article 2 - Legislation of Georgia on the enforcement of detention and imprisonment**

1. The legislation of Georgia on the enforcement of detention and imprisonment is based on the Constitution of Georgia, treaties and international agreements of Georgia, this Code, other laws and subordinate normative acts.
  2. The legislation of Georgia on the enforcement of detention and imprisonment complies with the universally recognised principles and norms of international law.
- [3. (Deleted – 1.5.2015, No 3523).
4. The Minister of Corrections and Legal Assistance of Georgia ('the Minister') may issue orders on the issues provided for by this Code.

*Law of Georgia No 1787 of 13 December 2013 - website, 28.12.2013*

*Law of Georgia No 2241 of 16 April 2014 - website, 2.5.2014*

*Law of Georgia No 3523 of 1 May 2015 - website, 18.5.2015*

**Article 3 - Scope of application of the Code**

1. This Code defines the procedure and conditions for enforcing a sentence of imprisonment delivered by a court in a criminal case, and guarantees of legal protection of accused and convicted persons. This Code also governs activities of detention and imprisonment enforcement agencies, and determines the procedure and conditions for the participation of state bodies, social organisations and citizens in the enforcement of detention and imprisonment.
2. Final court judgments, rulings, resolutions and judicial orders related to detention and imprisonment, also relevant decisions of the International Criminal Court shall be enforced under this Code.
3. Detention in Georgia comprises detention and imprisonment.

*Law of Georgia No 3523 of 1 May 2015 - website, 18.5.2015*

**Article 4 - Application of the legislation of Georgia on the enforcement of detention and imprisonment in territory and over persons involved**

1. The legislation of Georgia on the enforcement of detention and imprisonment applies over the entire territory of Georgia.
2. The legislation of Georgia on the enforcement of detention and imprisonment applies to Georgian citizens, aliens and stateless persons in accordance with the legislation and international agreements of Georgia.

**Article 5 - Grounds for the enforcement of detention and imprisonment**

1. The grounds for enforcing detention is a court decision on remanding the person in custody.
2. The grounds for enforcing imprisonment is a final judgment of conviction delivered by a court in a criminal case, on the basis of which the person is sentenced to imprisonment.



## Article 6 – Organising the enforcement of detention and imprisonment

1. Enforcement of detention and imprisonment shall be carried out directly by a penitentiary institution.
2. The Penitentiary Department ('the Department') – a structural subdivision of the Ministry of Corrections and Legal Assistance of Georgia shall perform certain functions provided for by the legislation of Georgia with respect to the enforcement of detention and imprisonment and shall exercise unified management of penitentiary institutions.
3. The Ministry of Corrections and Legal Assistance of Georgia ('the Ministry') shall ensure the implementation of a unified policy in the area of detention and imprisonment enforcement and the [proper] functioning of penitentiary institutions.
4. An Advisory Council shall be established under the Ministry to ensure the involvement of representatives of society in the development and implementation of a unified policy in the enforcement of detention and imprisonment. The procedure for staffing and operation of the Council shall be defined by an order of the Minister.

*Law of Georgia No 2241 of 16 April 2014 - website, 2.5.2014*

*Law of Georgia No 3523 of 1 May 2015 - website, 18.5.2015*

## Article 7 – Ensuring the functioning of penitentiary institutions

1. The Ministry shall ensure the functioning of penitentiary institutions through its Special Penitentiary Service and the appropriate structural subdivisions of the Civil Service.
2. The Special Penitentiary Service of the Ministry comprises penitentiary institutions and structural subdivisions of the Ministry, whose activities are directed at ensuring the unified management of penitentiary institutions, the exercise of the rights of accused/convicted persons in penitentiary institutions, resocialisation of convicts, compliance with the legal regime, protection of safety, conduct of special security measures, removal/transfer and extradition of accused/convicted persons, maintenance of personal files and registers of accused/convicted persons, and the processing and analysis of appropriate data.
3. The Civil Service of the Ministry comprises those structural subdivisions of the Ministry, which, within the scope of their authority, provide a unified logistical, medical, financial, organisational and legal support for the functioning of these institutions.
4. The organisation, functions, rights and duties of the Special Penitentiary Service of the Ministry and the rules of service therein shall be defined by the Law of Georgia on the Special Penitentiary Service.
5. The employees of the Civil Service of the Ministry shall be subject to the Law of Georgia on Public Service.

*Law of Georgia No 1787 of 13 December 2013 - website, 28.12.2013*

*Law of Georgia No 2241 of 16 April 2014 - website, 2.5.2014*

*Law of Georgia No 3523 of 1 May 2015 - website, 18.5.2015*

## Article 7<sup>1</sup> – Department

1. The Department is a structural subdivision of the Ministry which operates under the Special Penitentiary Service of the Ministry. The Department shall:
  - a) exercise unified management of penitentiary institutions;
  - b) prepare and submit to the Minister for approval penitentiary institutions development programmes, and in the event of approval, ensure the implementation of those programmes within the scope of its authority;
  - c) determine and plan the needs of penitentiary institutions;
  - d) conduct removal/transfer and extradition of accused/convicted persons and take additional security measures in this respect;
  - e) ensure and coordinate the compliance with the legal regime in penitentiary institutions, the protection of safety and of penitentiary institutions, and the protection of accused/convicted persons and of the employees;
  - f) ensure the exercise by the accused/convicted persons of the rights provided for by the legislation of Georgia;
  - g) ensure the maintenance of personal files and registers of accused/convicted persons;
  - h) after having consulted with social organisations, state institutions and other structural subdivisions of the Ministry, prepare and submit to the Minister for approval resocialisation and rehabilitation programmes for convicts, and in the case of approval, ensure the implementation of the programmes within the scope of its authority;



i) develop, approve and implement plans of safety measures and of additional safety measures;

j) if necessary, take special security measures;

k) exercise other powers provided for by the legislation of Georgia.

2. The Department is headed by the Director of the Department, who is appointed to office and dismissed by the Minister.

3. The Deputy Directors of the Department are appointed to office and dismissed by the Minister.

4. The Director of the Department appoints and dismisses the employees of the Department and of penitentiary institutions. The list of employees who are appointed and dismissed by the Director of the Department shall be determined by a normative act of the Minister.

5. The Director of the Department may, in the cases provided for by this Code and other legislative and subordinate normative acts of Georgia, issue individual legal acts. The Minister may delegate certain powers to the Director of the Department, except for the powers related to personnel affairs.

*Law of Georgia No 3523 of 1 May 2015 - website, 18.5.2015*

#### **Article 8 – Penitentiary institutions and their management; types of penitentiary institutions**

1. A penitentiary institution is an independent organisation established under a legal act of the Minister; it is not a legal person and operates within the system of the Ministry. A penitentiary institution, in exercising certain functions assigned to it by this Code, acts as an administrative agency.

2. A penitentiary institution is established or shut down by the Minister.

3. The powers, structure and the rule of management of a penitentiary institution and other matters provided for in Article 52 of this Code shall be determined by the internal regulations of the penitentiary institution. The internal regulations shall be approved by the Minister on recommendation of the Director of the Department.

4. A penitentiary institution is headed by the director of the penitentiary institution. The director of a penitentiary institution shall be appointed and dismissed by the Minister on recommendation of the Director of the Department. The deputy directors of the director of a penitentiary institution shall be appointed and dismissed by the Director of the Department. For the appointment and dismissal of a penitentiary institution's deputy director for social affairs, a prior written consent of the Minister shall be required.

5. Employees of a penitentiary institution are the officers and privates of the Special Penitentiary Service, also those public servants of the penitentiary institution who directly carry out functions related to the provision of logistical, financial, organisational and legal support. These public servants are not granted military and special state ranks. Medical services for convicts in a penitentiary institution are provided by the employees of the Medical Department of the Ministry.

6. Types of penitentiary institutions:

a) detention facility;

b) prison facility;

c) treatment facility for accused/convicted persons.

7. Where necessary, the Minister may establish and shut down a mixed-type penitentiary institution.

*Law of Georgia No 3523 of 1 May 2015 - website, 18.5.2015*

#### **Article 9 - Detention facilities**

1. A detention facility is a closed, specially protected, cell-type facility, which is intended to isolate accused persons for the purpose of enforcement of the measure of restraint.

2. Accused persons are placed in a detention facility, except as provided for by the legislation of Georgia and/or except where there is a mixed-type facility. In a mixed-type facility, accused persons shall be isolated from convicted persons at least by living spaces separated from one another.

3. In a detention facility accused persons are placed in special cells, where it is possible to carry out visual and/or electronic supervision and control according to Article 54 of this Code.

*Law of Georgia No 3619 of 24 September 2010 - LHG I, No 51, 29.9.2010, Art. 332*

*Law of Georgia No 2241 of 16 April 2014 - website, 2.5.2014*

#### **Article 10 - Prison facilities**

1. A prison facility is a facility for the enforcement of the sentence under Article 40(1)(g) and (h) of the Criminal Code of Georgia.

2. The prison facilities are:



- a) a low risk prison facility;
- b) a semi-open prison facility;
- c) a closed type prison facility;
- d) a special risk prison facility;
- e) a juvenile rehabilitation facility;
- f) a special facility for women.

*Law of Georgia No 2241 of 16 April 2014 - website, 2.5.2014*

#### **Article 10<sup>1</sup> - Low risk prison facilities**

1. A low risk prison facility is a protected facility, with armed security guards, surrounded by a special protective fence, where convicted persons are under permanent surveillance.
2. In a low risk prison facility, convicted persons are placed in a dormitory where it is possible to carry out visual and/or electronic surveillance and control according to Article 54 of this Code.
3. In a low risk prison facility, convicted persons may independently move throughout the facility according to the established procedure.

*Law of Georgia No 2241 of 16 April 2014 - website, 2.5.2014*

*Law of Georgia No 3523 of 1 May 2015 - website, 18.5.2015*

#### **Article 11 - Semi-open prison facilities**

1. A semi-open prison facility is a specially protected facility, with armed security guards, surrounded by a special protective fence, where convicted persons are under permanent surveillance.
2. In a semi-open prison facility, convicted persons are placed in a dormitory where it is possible to carry out visual and/or electronic surveillance and control according to Article 54 of this Code.
3. In a semi-open prison facility, convicted persons may independently move throughout the facility according to the established procedure.
4. (Deleted - 16.4.2012, No 2241).

*Law of Georgia No 3619 of 24 September 2010 - LHG I, No 51, 29.9.2010, Art. 332*

*Law of Georgia No 2241 of 16 April 2014 - website, 2.5.2014*

#### **Article 12 - Closed type prison facilities**

1. A closed type prison facility is a specially protected facility, with armed security guards and an alarm system, surrounded by a special protective fence, and where convicted persons are under permanent surveillance.
2. In a closed type prison facility convicted persons are placed in special cells where it is possible to carry out visual and/or electronic surveillance and control according to Article 54 of this Code.

*Law of Georgia No 3619 of 24 September 2010 - LHG I, No 51, 29.9.2010, Art. 332*

*Law of Georgia No 2241 of 16 April 2014 - website, 2.5.2014*

#### **Article 12<sup>1</sup> - Special risk prison facility**

1. A special risk prison facility is a specially protected facility, provided with armed security guards, surrounded by a special protective fence, and where special security measures are in place and convicted persons are under permanent surveillance.
2. In a special risk prison facility, convicted persons are placed in special cells where it is possible to carry out visual and/or electronic surveillance and control according to Article 54 of this Code.

*Law of Georgia No 3619 of 24 September 2010 - LHG I, No 51, 29.9.2010, Art. 332*

*Law of Georgia No 2241 of 16 April 2014 - website, 2.5.2014*



## **Article 12<sup>2</sup> - Juvenile rehabilitation facilities**

1. A juvenile rehabilitation facility is a specially protected facility, surrounded by a special protective fence, and where convicted persons are under permanent surveillance.
2. In a juvenile rehabilitation facility, convicted persons are placed in a special accommodation where it is possible to carry out visual and/or electronic surveillance according to Article 54 of this Code.
3. In a juvenile rehabilitation facility, convicted persons may independently move throughout the facility as established by a daily routine and according to the individual sentence plan.
4. The procedure for developing an individual sentence plan for a convicted minor is defined by an order of the Minister.

*Law of Georgia No 2241 of 16 April 2014 - website, 2.5.2014*

**[Article 12<sup>2</sup>. (Deleted). (Shall become effective as from 1 January 2016)]**

*Law of Georgia No 3711 of 12 June 2015 - website, 24.6.2015*

## **Article 12<sup>3</sup> - Special facilities for women**

1. A special facility for women is a specially protected facility, provided with armed security guards, surrounded by a special protective fence, and where convicted persons are under permanent surveillance.
2. Convicted women, including those of minor age, are placed in a special facility for women. Convicted minor women are subject to the same conditions as are established for convicted persons in juvenile rehabilitation facilities.

**[2. Convicted women, including those of minor age, are placed in a special facility for women. (Shall become effective as from 1 January 2016)]**

3. In a special facility for women convicted persons are normally placed in a dormitory where it is possible to carry out visual and/or electronic surveillance and control according to Article 54 of this Code.
4. A special facility for women is treated as equivalent to a semi-open type prison facility, except as provided for by this Code.

*Law of Georgia No 2241 of 16 April 2014 - website, 2.5.2014*

*Law of Georgia No 3523 of 1 May 2015 - website, 18.5.2015*

*Law of Georgia No 3711 of 12 June 2015 - website, 24.6.2015*

## **Chapter II<sup>1</sup>. (Deleted)**

*Law of Georgia No 2241 of 16 April 2014 - website, 2.5.2014*

*Law of Georgia No 3523 of 1 May 2015 - website, 18.5.2015*

## **Article 12<sup>4</sup>.(Deleted)**

*Law of Georgia No 2241 of 16 April 2014 - website, 2.5.2014*

*Law of Georgia No 3523 of 1 May 2015 - website, 18.5.2015*

## **Article 12<sup>5</sup>.(Deleted)**

*Law of Georgia No 2241 of 16 April 2014 - website, 2.5.2014*

*Law of Georgia No 3523 of 1 May 2015 - website, 18.5.2015*

## **Article 12<sup>6</sup>.(Deleted)**

*Law of Georgia No 2241 of 16 April 2014 - website, 2.5.2014*



**Article 12<sup>7</sup>.(Deleted)**

*Law of Georgia No 2241 of 16 April 2014 - website, 2.5.2014*

*Law of Georgia No 3523 of 1 May 2015 - website, 18.5.2015*

**Chapter II<sup>2</sup>. (Deleted)**

*Law of Georgia No 2241 of 16 April 2014 - website, 2.5.2014*

*Law of Georgia No 3523 of 1 May 2015 - website, 18.5.2015*

**Article 12<sup>8</sup>.(Deleted)**

*Law of Georgia No 2241 of 16 April 2014 - website, 2.5.2014*

*Law of Georgia No 3523 of 1 May 2015 - website, 18.5.2015*

**Article 12<sup>9</sup>.(Deleted)**

*Law of Georgia No 2241 of 16 April 2014 - website, 2.5.2014*

*Law of Georgia No 3523 of 1 May 2015 - website, 18.5.2015*

**Article 12<sup>10</sup>.(Deleted)**

*Law of Georgia No 2241 of 16 April 2014 - website, 2.5.2014*

*Law of Georgia No 3523 of 1 May 2015 - website, 18.5.2015*

**Article 12<sup>11</sup>.(Deleted)**

*Law of Georgia No 2241 of 16 April 2014 - website, 2.5.2014*

*Law of Georgia No 3523 of 1 May 2015 - website, 18.5.2015*

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

**Article 13 - Grounds for the legal status of accused and convicted persons**

1. The State protects lawful rights and freedoms of accused and convicted persons, their legal, social and personal safety, and ensures the enforcement of detention and imprisonment.
2. During the detention of accused persons and imprisonment of convicted persons, they are guaranteed the rights and freedoms recognised under the Constitution of Georgia, treaties and international agreements of Georgia, this Code, and other legislative and subordinate normative acts.

**Article 14 - Rights of accused and convicted persons**

1. An accused/convicted person has the right to:
  - a) be provided, as established by the legislation of Georgia, with:
    - a.a) a living space, food, personal hygiene, clothes, job, and work and personal safety;
    - a.b) medical services;



a.c) a meeting with close relatives (visitations), with a defence lawyer, with representatives of a diplomatic mission or a consular office, and with other diplomatic representatives (in the case of an alien);

a.d) telephone conversations and correspondence;

a.e) the possibility to receive and send parcels and money;

a.f) free legal aid and legal consultations;

b) receive general and vocational education;

c) participate in sports, cultural, educational and religious events;

d) receive information through the press and other mass media, and have access to fiction and other literature;

e) carry out individual activities under the supervision and with the permission of the director of the penitentiary institution and have the inventory necessary for those activities;

f) file a claim or a complaint;

g) stay in the open air at least one hour a day (enjoy the right to walk in the open air);

h) leave the detention/prison facility for a short period of time in connection with special personal circumstances.

2. As provided by the legislation of Georgia, convicted persons additionally have the right to:

a) participate in rehabilitation programmes;

b) leave the prison facility for a short period of time.

3. An accused/convicted person has the right to participate in religious ceremonies and meet with clergymen, have in immediate possession and use religious literature and objects of worship.

4. The Minister defines the procedure for the participation of an accused/convicted person in religious ceremonies and for his/her meeting with clergymen.

*Law of Georgia No 6439 of 12 June 2012 - website, 22.6.2012*

*Law of Georgia No 2241 of 16 April 2014 - website, 2.5.2014*

*Law of Georgia No 3523 of 1 May 2015 - website, 18.5.2015*

## **Article 15 - Living conditions**

1. The premises allocated to an accused/convicted person shall comply with hygienic and sanitary norms established by a joint order of the Minister and the Minister of Labour, Health and Social Affairs of Georgia, and shall ensure the preservation of the health of an accused/convicted person.

2. A living space standard per a convicted person in all types of prison facilities shall not be less than 4 m<sup>2</sup>.

3. A living space standard per an accused person in a detention facility shall not be less than 3 m<sup>2</sup>.

4. The living space of an accused/convicted person shall have a window providing daylight. An accused/convicted person shall also be provided with heating. The living space of an accused/convicted person shall have natural and/or artificial ventilation.

5. Pregnant women, nursing mothers, minors, sick persons, persons with severe and persistent disability, elderly persons (females over 60 and males over 65) shall be provided with improved living conditions as compared to other accused/convicted persons.

[5. Pregnant women, nursing mothers, sick persons, persons with severe disability, elderly persons (females over 60 and males over 65) shall be provided with improved living conditions as compared to other accused/convicted persons. *(Shall become effective as from 1 January 2016)*]

*Law of Georgia No 2241 of 16 April 2014 - website, 2.5.2014*

*Law of Georgia No 3711 of 12 June 2015 - website, 24.6.2015*

## **Article 16 - Correspondence rights of accused/convicted persons**

1. An accused/convicted person, as determined by this Code, has the right to send and receive an unlimited number of letters, except as provided for by this Code.

2. The administration of a penitentiary institution ('the Administration') ensures the delivery of incoming letters to an accused/convicted person, and sending his/her letters to the addressees. Letters of personal nature shall be sent to an addressee at the expense of an accused/convicted person.



3. The administration shall, at the request of an accused/convicted person, provide him/her with writing means and paper.
4. The correspondence of an accused/convicted person is subject to inspection, which includes visual inspection, without reading its content. In cases of extreme necessity, when there is a well-grounded belief that the dissemination of information will pose a threat to public order, public security or rights and freedoms of other persons, the administration may read the correspondence and, if necessary, not send it to the addressee. The sender shall be immediately notified of this action.
5. Correspondence received in a sealed envelope shall be opened in the presence of the accused/convicted person. Such correspondence is subject to visual inspection, without reading its content.
6. The designated person of the administration is prohibited from stopping and/or inspecting the correspondence of an accused/convicted person if the addressee or sender of the correspondence is the President of Georgia, the Chairperson of the Parliament, the Prime Minister of Georgia, a Member of Parliament, a court, the European Court of Human Rights, an international organisation established under an international human rights agreement ratified by the Parliament of Georgia, a ministry of Georgia, the Department, the Public Defender of Georgia, a defence lawyer, or a prosecutor.

*Law of Georgia No 3619 of 24 September 2010 - LHG I, No 51, 29.9.2010, Art. 332*

*Law of Georgia No 5255 of 11 November 2011 - website, 24.11.2011*

*Law of Georgia No 1295 of 24 September 2013 - website, 8.10.2013*

*Law of Georgia No 2241 of 16 April 2014 - website, 2.5.2014*

*Law of Georgia No 3523 of 1 May 2015 - website, 18.5.2015*

#### **Article 17 - Visitation rights of accused/convicted persons**

1. Complete isolation of accused/convicted persons is prohibited.
2. Based on a written application of an accused/convicted person, he/she may be granted the right to a short visit to meet with close relatives (child, spouse, a partner with whom he/she has a common child, parent (adoptive parent), step-parent, spouse's parent, stepchild, adopted child and his/her descendants, grandchild, sister, brother, nephew/niece and their children, grandmother, grandfather, great grandparents (from the side of both parents), uncle (mother's and father's brother), aunt (mother's and father's sister), cousin, as well as the person with whom he/she lived and ran a common household for the most recent one year before being placed in a penitentiary institution). The consent/reasoned refusal of the director of the penitentiary institution to the visitation of the above persons shall be communicated to the accused/convicted person in writing.
- 2<sup>1</sup>. On the recommendation of the director of the penitentiary institution and with the consent of the Director of the Department, an accused/convicted person may be granted, as a form of incentive, the right to meet with the persons who are not specified in paragraph 2 of this article.
3. The interaction of an accused/convicted person with persons specified in paragraph 2 and 2<sup>1</sup> of this article shall be monitored without degrading his/her honour and dignity.
4. The meeting with an accused/convicted person shall take place in the case of his/her consent.
5. The administration shall be provided with an application for a short visit in written form. Persons specified in paragraph 2 of this article shall provide the Administration with a document certifying their close relationship with the accused/convicted person.
6. Not later than five days after receipt of a written application for a short visit, the Administration shall organise a short visit, except when there are reasonable grounds for refusal, of which the applicant shall be notified on the same day.
7. A short visit is held for one to two hours. A short visit shall take place only under the visual control of a representative of the Administration, except as provided for by the legislation of Georgia.
- 7<sup>1</sup>. A convicted woman may be granted the right to a family visit according to Article 17<sup>3</sup> of this Code.
8. A convicted person may be granted the right to a long visit according to Article 17<sup>2</sup> of this Code.
9. (Deleted).
10. An accused person only has the right to a short visit, according to the requirements of the legislation of Georgia.
11. Upon a written application of an accused person, a short visit may be substituted by a telephone conversation. The procedure for the substitution of a short visit by a telephone conversation is defined by the internal regulations of the detention facility.
12. Upon a written application of a convicted person, the right to leave a prison facility for a short period of time may be substituted by the right to a short visit; the right to a short visit and the right to leave a prison facility for a short period of time may be substituted by a telephone conversation. The procedure for the substitution of a visit is defined by the internal regulations of the prison facility.
13. An accused/convicted person, who is an alien, has the right to an unlimited number of meetings with a representative of a diplomatic mission or a consular office of his/her country, or with an authorised diplomatic representative of the country who protects his/her country's interests in Georgia. Accused/convicted persons, who are aliens or stateless persons, may have relationship with diplomatic missions and consular offices of their countries. Citizens of those countries that do not have diplomatic missions or consular offices in Georgia may have relationship with diplomatic missions and consular offices of the countries that undertook to protect their interests, or with inter-state bodies that protect interests of these persons.





14. In addition to the number of meetings defined by this Code, an accused/convicted person may be granted the right to an additional short meeting as an incentive, with the consent of the Director of the Department and by decision of the director of the penitentiary institution, in accordance with the procedure established by the legislation of Georgia. An accused/convicted person may be granted the right to an additional short meeting with the persons who are not specified in paragraph 2 of this article.

15. The procedure and conditions for the enjoyment of the right to a short meeting are defined by the Minister.

*Law of Georgia No 4259 of 25 February 2011 - website, 10.3.2011*

*Law of Georgia No 6257 of 22 May 2012 - website, 6.6.2012*

*Law of Georgia No 6439 of 12 June 2012 - website, 22.6.2012*

*Law of Georgia No 2241 of 16 April 2014 - website, 2.5.2014*

*Law of Georgia No 3523 of 1 May 2015 - website, 18.5.2015*

### **Article 17<sup>1</sup> - Video visits**

1. Convicted persons placed in a prison facility, except for those placed in a special risk prison facility and those specified in Article 50(1)(f) of this Code, may enjoy a video visit (direct voice and visual teleconference) with any person.

2. A convicted person's right to a video visit is restricted during a period of disciplinary measures or introduction of special conditions in an administrative detention facility or a prison facility.

3. Video visits of convicted persons, based on their written consent, are organised by the administration of the prison facility; and outside the prison facility video visits of convicted persons are organised by the Legal Entity under Public Law - the National Agency of Execution of Non-Custodial Sentences and Probation (\*the National Agency of Probation) of the Ministry.

4. A fee is established for a video visit. The fee shall be paid to the account of the National Agency of Probation and is used to accomplish its purposes and functions. By decision of the Minister, video visits may be held free of charge.

4<sup>1</sup>. Persons defined in Article 17(2) of this Code, who are registered in the Integrated Database of Socially Vulnerable Families and whose social and economic status index for receiving a subsistence allowance is below the threshold determined by the Government of Georgia, are exempt from video visit fees.

5. A video visit fee is paid by a person interested in having a video visit with a convicted person or by his/her legal representative.

6. Except as provided for by the legislation of Georgia, the representatives of the administration of the prison facility and representatives of the National Agency of Probation shall only visually control a video visit with a convicted person about which the convicted person and the person interested in a video visit with the convicted person shall be warned in advance.

7. The prison facilities where convicted persons may have video visits, the number of video visits, the duration of video visits, the amount of fees for a video visit and the procedure for the conduct of video visits are defined by the Minister.

*Law of Georgia No 4048 of 15 December 2010 - LHG I, No 75, 27.12.2010, Art. 468*

*Law of Georgia No 6257 of 22 May 2012 - website, 6.6.2012*

*Law of Georgia No 2241 of 16 April 2014 - website, 2.5.2014*

### **Article 17<sup>2</sup> - Right to a long visit**

1. A long visit is a period during which a convicted person lives with persons specified in paragraph 2 of this article in the territory of a prison facility, in a room allocated for this purpose, at the expense of the convicted person or of persons specified in paragraph 2 of this article, without presence of a representative of the administration. A fee for a long visit is mainly used for its purposes and functions.

1<sup>1</sup>. A long visit may be enjoyed without paying the fee, as established by an order of the Minister.

2. Based on a written application of a convicted person, he/she may be granted the right to enjoy a long visit with his/her child, adopted child, step-child, grandchild, spouse, a person with whom he/she has a common child, parent (adoptive parent), grandmother, grandfather, sister and brother.

3. An application for a long visit shall be submitted to the Administration in writing at least two weeks prior to the visit. The person specified in paragraph 2 of this article shall present to the Administration a document certifying his/her close relationship with the convicted person.

4. Not later than two weeks after receiving a written application for a long visit, the Administration shall organise a long visit, except when there are reasonable grounds for refusal, of which the applicant shall be informed within 10 days.

5. A long visit shall not last for longer than 23 hours.

6. Convicted persons placed in a special risk prison facility, and convicted persons, who are in quarantine, or those upon whom have been imposed disciplinary measures and/or administrative detention, shall not be granted the right to a long visit.



7. The director of a prison facility decides whether or not to grant the right to a long visit.
8. A convicted person shall be notified in writing of the consent or reasoned refusal of the director of the prison facility to grant the right to a long visit.
9. A long visit may not be substituted by the right to a short leave from a prison facility, by a short visit or by a telephone conversation.
10. The conditions in a room specially allocated for a long visit must comply with the hygiene and sanitary norms established by the legislation of Georgia and must not be degrading to human dignity.
11. The Minister defines the conditions and procedure for the enjoyment of the right to a long visit in a prison facility.

*Law of Georgia No 4259 of 25 February 2011 - website, 10.3.2011*

*Law of Georgia No 6257 of 22 May 2012 - website, 6.6.2012*

*Law of Georgia No 2241 of 16 April 2014 - website, 2.5.2014*

### **Article 17<sup>3</sup> - Family visit**

1. A family visit is a meeting of a convicted woman with persons specified in paragraph 2 of this article in the territory of a prison facility, in a room allocated for this purpose.
2. Based on a written application of a convicted woman, she may be granted the right to enjoy a family visit with his/her child, adopted child, step-child, grandchild, spouse, the person with whom he/she has a common child, parent (adoptive parent), grandmother, grandfather, sister and brother.
- 2<sup>1</sup>. On a petition of the director of a penitentiary institution and with the consent of the Director of the Department, an accused/convicted woman may be granted the right to a family visit with persons who are not provided for in paragraph 2 of this article.
3. An application for a family visit shall be submitted to the administration in writing at least five days prior to the visit. The person specified in paragraph 2 of this article shall provide the administration with a document certifying his/her close relationship with the convicted person.
4. Not later than five days after receiving a written application for a family visit, the administration shall organise a family visit, except when there is are reasonable grounds for refusal, of which the applicant shall be notified the same day.
5. A family visit shall last for not longer than three hours.
6. A convicted person shall be notified in writing of the consent or reasoned refusal of the director of the prison facility to grant the right to a family visit.
7. The conditions in a room specially allocated for a family visit shall comply with the hygiene and sanitary norms established by the legislation of Georgia and shall not be degrading to human dignity.
8. The Minister defines the conditions and procedure for the enjoyment of the right to a family visit in a prison facility.

*Law of Georgia No 6257 of 22 May 2012 - website, 6.6.2012*

*Law of Georgia No 2241 of 16 April 2014 - website, 2.5.2014*

*Law of Georgia No 3523 of 1 May 2015 - website, 18.5.2015*

### **Article 18 - Legal aid**

1. An accused/convicted person has the right to meet with his/her defence lawyer without any limitations or interference. The staff of the penitentiary institution may monitor the meeting with a defence lawyer visually and without listening, using remote surveillance and visual recording equipment.
2. An accused/convicted person may enjoy a lawyer's services as determined by the legislation of Georgia.
3. Meetings with the persons specified in paragraphs 1 and 2 of this article do not fall under the visits defined by this Code.
4. The persons specified in paragraphs 1 and 2 of this article must be practising law as provided for by law.

*Law of Georgia No 2241 of 16 April 2014 - website, 2.5.2014*

*Law of Georgia No 3523 of 1 May 2015 - website, 18.5.2015*

### **Article 19 - Telephone conversations, receiving and sending parcels and money**

1. An accused/convicted person has the right to telephone conversations as determined by this Code. Telephone conversations between accused/convicted persons placed within penitentiary facilities is prohibited.



2. Telephone conversations shall be conducted at the expense of an accused/convicted person and under the supervision of the administration.

3. An accused/convicted person may receive from or send to close relatives parcels and money, also, with the permission of the administration receive from or send to other persons parcels and money. The money received is not handed over to an accused/convicted person in cash, but is deposited to his/her account or, with his/her consent, to the personal account of his/her close relative.

*Law of Georgia No 3619 of 24 September 2010 - LHG I, No 51, 29.9.2010, Art. 332*

*Law of Georgia No 3523 of 1 May 2015 - website, 18.5.2015*

#### **Article 20 - Mass media**

1. An accused/convicted person may have access to the press and other mass media. As a rule, radio and TV programmes are broadcast in a detention/prison facility. An accused/convicted person may also use intranet at a detention/prison facility, except for special risk prison facilities.

2. Accused/convicted persons, except for those placed in a solitary cell, may be granted the right to listen to radio and watch TV during non-work times, as determined by the internal regulations of the detention/prison facility. With the consent of the administration and according to the restrictions of the detention/prison facility, an accused/convicted person or a group of accused/convicted persons may have personal radio or TV sets if their use does not violate the internal regulations of this facility or disturb other accused/convicted persons. Accused/convicted persons may purchase these devices at their own expense or receive them in the form of a parcel.

3. The conditions for using the devices specified in paragraph 2 of this article are defined by the internal regulations of a detention/prison facility. In the case of violation of the internal regulations, the administration may take the equipment from an accused/convicted person and hand it over to his/her close relative.

4. An accused/convicted person may, to a reasonable extent, subscribe to scientific, popular scientific, religious literature and fiction, newspapers and magazines at his/her own expense and receive writing supplies, except for the items prohibited by an order of the Minister.

*Law of Georgia No 2241 of 16 April 2014 - website, 2.5.2014*

#### **Article 21 - Personal hygiene of accused/convicted persons**

1. An accused/convicted person shall have the possibility to satisfy his/her natural physiological needs and maintain his/her personal hygiene without degrading his/her honour and dignity.

2. As a rule, an accused/convicted person shall be provided with a shower twice a week and with a barber's service at least once a month. The administration may not require an accused/convicted person to have his/her hair shaved off unless so requested by the doctor or caused by hygienic necessity.

#### **Article 22 - Clothes and bed linen of accused/convicted persons**

1. If an accused/convicted person does not have his/her personal clothes, the administration shall provide him/her with special uniforms according to the season, which shall not be degrading to human dignity.

2. If necessary, a convicted person shall be provided with a work uniform.

3. An accused/convicted person shall have a bed and bed linen for personal use, which must be delivered to him/her clean and undamaged. The administration shall ensure cleanliness of bed linen.

4. The administration may provide a convicted person with special clothes, the form of which shall not be degrading to human dignity. An accused/convicted person is obliged to wear special clothes.

#### **Article 23 - Food for accused/convicted persons**

1. In a penitentiary institution, the food shall contain all the components essential for human life and health. Reduction of caloric value of food as a punishment of an accused/convicted person is prohibited.

2. The nutritional standards for accused/convicted persons are determined by a joint order of the Minister and the Minister of Labour, Health and Social Affairs of Georgia.

3. The administration shall provide accused/convicted persons with three meals a day.

4. Pregnant women, nursing mothers, minors, ill persons, persons with severe and persistent disability, elderly persons (females over 60 and males over 65) shall be provided with nutritional conditions corresponding to their status.

[4. Women, pregnant women, nursing mothers, ill persons, persons with severe disability, elderly persons (females over 60 and males over 65) shall be provided with nutritional conditions corresponding to their status. **(Shall become effective as from 1 January 2016)**]

5. An accused/convicted person may purchase additional food products and articles of prime necessity in the shops available in the territory of a



penitentiary institution, with the money that he/she earned while working in the detention/prison facility or that was transferred to his/her personal account by close relatives or other persons. Spending of personal money to purchase food products and articles of prime necessity is allowed within the limits defined by an order of the Minister and only by cashless settlement.

6. With the permission of the Director of the Department, an accused/convicted person may receive additional food products and articles of prime necessity in the form of a parcel.

7. An accused/convicted person shall be provided with safe drinking water in unlimited quantity.

*Law of Georgia No 3523 of 1 May 2015 - website, 18.5.2015*

*Law of Georgia No 3711 of 12 June 2015 - website, 24.6.2015*

#### **Article 24 - Right of an accused/convicted person to health care**

1. An accused/convicted person has the right to use necessary medical services. If necessary, an accused/convicted person shall have access to medicinal products allowed in the penitentiary institution. If so requested, an accused/convicted person may purchase at his/her own expense medicinal products with similar properties or more valuable medicinal products than those procured by the penitentiary institution. In the case of a reasonable request, with the permission of the Director of the Department, an accused/convicted person may invite a personal physician at his/her own expense.

2. Upon admission to a penitentiary institution, an accused/convicted person shall undergo a medical examination and the relevant report shall be prepared and kept in his/her personal file.

*Law of Georgia No 3523 of 1 May 2015 - website, 18.5.2015*

#### **Article 25 - Spending time in the open air**

1. An accused/convicted person has the right to stay in the open air for at least one hour each day.

2. An accused/convicted person shall stay in the open air during the daytime within the space allotted for this purpose by the penitentiary institution. Spending time in the open air may be terminated earlier if an accused/convicted person violates the internal regulations of the penitentiary institution.

*Law of Georgia No 2241 of 16 April 2014 - website, 2.5.2014*

*Law of Georgia No 3523 of 1 May 2015 - website, 18.5.2015*

#### **Article 26 - Temporary leave of an accused/convicted person from a detention/prison facility in connection with special personal circumstances**

1. The administration may allow a convicted person to temporarily leave the prison facility if reliable information is received on the death or life-threatening illness of a close relative, or in connection with other special circumstances, or to carry out a social activity.

1<sup>1</sup>. If it is necessary for a convicted person to participate in an investigative or other procedural action, the administration shall, based on the application of an authorised body, ensure the participation of a convicted person in a procedural action.

2. To acquire the right to a temporary leave from a prison facility in connection with special personal circumstances, a convicted person, his/her defence lawyer/legal representative or close relative shall file a petition with the director of the prison facility. The petition shall contain the reason for a temporary leave from a prison facility and indicate the place where a convicted person will spend the time allotted for staying outside the prison facility ('the destination').

3. The period of a temporary leave from a prison facility shall not exceed three days. The period includes the time of travel of a convicted person to the destination place.

4. The period of a temporary leave from a prison facility shall be counted towards the total term of the sentence.

5. By decision of the Director of the Department, a convicted person shall be granted the right to a temporary leave from a prison facility on the recommendation of the director of the facility, taking into account the person of the convicted person and gravity of the crime committed. If the right to leave is granted, the Director of the Department determines the number of escorting officers. Escort is conducted from the prison facility to the destination place and back.

6. Expenses for a temporary leave of a convicted person from the prison facility shall be covered by the convicted person or his/her family, except for expenses associated with the transportation of the convicted person to participate in an investigative or other procedural action.

7. The Minister determines the procedure and conditions for a temporary leave of a convicted person from a prison facility.

*Law of Georgia No 2241 of 16 April 2014 - website, 2.5.2014*

*Law of Georgia No 3523 of 1 May 2015 - website, 18.5.2015*

#### **Article 27 - Short leave of a convicted person from a prison facility**



1. A convicted person who serves his/her sentence in a semi-open facility and on whom has not been imposed a disciplinary measure or administrative detention may enjoy the right to a short leave outside the prison facility twice a year. Minors, pregnant women and women with children under the age of 3 may enjoy the right to a short leave from the prison facility three times a year. The period of a short leave shall not exceed five days, which includes the time of travel of a convicted person to the destination place.

[1. A convicted person who serves his/her sentence in a semi-open facility and on whom has not been imposed a disciplinary measure or administrative detention may enjoy the right to a short leave outside the prison facility twice a year. Pregnant women and women with children under the age of 3 may enjoy the right to a short leave outside the prison facility three times a year. The period of a short leave outside the prison facility shall not exceed five days, which includes the time of travel of a convicted person to the destination place. **(Shall become effective as from 1 January 2016)**]

2. A short leave of a convicted person from a prison facility shall be based on an order of the Director of the Department. A convicted person shall be granted the right to a short leave from prison facility after he/she has actually served:

- a) at least half of the term of the sentence of imprisonment imposed for committing a crime of little gravity;
- b) at least two thirds of the term of sentence of imprisonment imposed for committing a grave crime;
- c) at least three fourths of the term of sentence of imprisonment imposed for committing an especially grave crime.

3. A convicted minor shall be granted the right to a short leave from a prison facility after he/she has actually served:

- a) at least one third of the term of sentence of imprisonment imposed for committing a crime of little gravity;
- b) at least half of the term of sentence of imprisonment imposed for committing a grave crime;
- c) at least two thirds of the term of sentence of imprisonment imposed for committing an especially grave crime.

[3. (Deleted – No 3711, 12.6.2015). **(Shall become effective as from 1 January 2016)**]

4. A convicted person serving his/her sentence in a closed type prison facility is granted the right to a short leave from the facility by the Director of the Department if the provisions of paragraphs 1 and 2 of this article are met, and if the convicted person has been placed in a closed type prison facility due to:

- a) enrolment in upkeep and maintenance services;
- b) personal safety purposes;
- c) detection of contagious infectious disease.

5. In special cases, by decision of the Director of the Department, irrespective of the terms specified in paragraphs 2 and 3 of this article, a convicted person may be granted the right to a short leave from a prison facility.

6. To acquire the right to a short leave from a prison facility, a convicted person, his/her defence lawyer/legal representative or close relative shall file a petition with the Director of the Department. The petition shall contain the reason for a short leave from a prison facility and indicate the place where the convicted person will spend the time allotted for staying outside the prison facility ('the destination').

7. The following shall be taken into consideration during the review of the petition:

- a) the personal of the convict
- b) the family status
- c) gravity of the crime committed by the convicted person
- d) the destination
- e) other important circumstances that characterise a convicted person positively or negatively.

8. During the review of the petition for a short leave from a prison facility, the Director of the Department may resort to the following assurance measures:

- a) a bail of not less than GEL 2 000
- b) a personal guarantee
- c) electronic control (monitoring) means.

9. Assurance measures for a short leave from a prison facility may be applied all together.

10. The period of a short leave from a prison facility shall be counted towards the total term of the sentence.

11. If a convict takes a short leave from a prison facility, he/she shall appear at the Bureau of Probation on the very first day, where he/she will enter the time of the beginning of the short leave. If due to objective reasons a convicted person fails to return within the specified period, the Bureau of Probation shall be authorised to extend his/her leave for not more than two days.

12. The expenses for a short leave from a prison facility, except for those associated with the using of an electronic control (monitoring) mechanism,



shall be covered by the convicted person or his/her close relative.

13. If the petition of a convicted person for a short leave from a prison facility is rejected, the reasoned refusal of the Director of the Department may be appealed to a court.

14. The Minister defines the procedure for a short leave from a prison facility, the procedure for the application of assurance measures to secure a short leave from a prison facility and for the execution of a short leave from a prison facility.

*Law of Georgia No 3523 of 1 May 2015 - website, 18.5.2015*

*Law of Georgia No 3711 of 12 June 2015 - website, 24.6.2015*

#### **Article 28 - Assurance measures - bail and a personal guarantee - to secure a short leave from a prison facility**

1. Bail is a monetary sum. Based on a written undertaking regarding the proper behaviour and timely appearance of the convicted person at the prison facility, the defence lawyer/legal representative, member of the convicted person's family or other person on his/her behalf shall deposit the monetary sum to the account of the prison facility as an assurance measure to secure a short leave of the convicted person from the prison facility. A deed shall be drawn up on the receipt of bail, one copy of which shall be handed over to the guarantor.

2. The Director of the Department shall take into account the character of the guarantor and his/her financial condition.

3. If a petition for a short leave of the prison facility is granted by the Director of the Department, bail shall be deposited to the account of the prison facility within three days after the petition is granted.

4. Before depositing the bail, the guarantor shall be warned about the consequences of non-fulfilment of the conditions defined by the written undertaking.

5. If a convicted person, being on a short leave from a prison facility, fails to return to the prison facility without a valid reason after a short leave expires or has committed a new crime, the measures provided for by the legislation of Georgia shall be applied to him/her, and the amount of bail shall be transferred to the State Budget of Georgia.

6. If a convicted person meets the time limits for a short leave from the prison facility, fulfils undertaken obligations precisely and in good faith, the amount of bail shall be returned to the guarantor within two weeks.

7. In the case of a personal guarantee, the defence lawyer/legal representative, close relative of the convicted person or other person on his/her behalf, shall assume a written obligation to ensure the proper behaviour and timely appearance of the convicted person at the prison facility.

8. The Director of the Department defines the number of guarantors. In exceptional cases, only one, exceptionally reliable person may act as a guarantor.

9. The personal guarantee may be used only based on the petition or consent of the guarantors, and based on the consent of the convicted person. Each guarantor shall make a signed statement on the guarantee, which is attached to the personal file of the convicted person.

10. If a guarantor fails to fulfil the undertaken obligation, he/she may not justify such failure by his/her inability to control the behaviour of the convicted person, except when he/she proves the existence of force majeure.

11. If a convicted person commits an action for the prevention of which the guarantee was applied, on each guarantor shall be imposed a fine in the amount of not less than GEL 10 000, as established by the legislation of Georgia.

*Law of Georgia No 3523 of 1 May 2015 - website, 18.5.2015*

#### **Article 29 - Material liability of accused/convicted persons**

1. An accused/convicted person who, while in a penitentiary institution, causes material damage to the State, or to a legal or natural person, shall have material liability imposed:

a) in the amount provided for by labour legislation if the damage is caused in the course of fulfilment of labour obligations;

b) in the amount provided for by civil legislation if the damage is caused by other actions.

2. In the case of self-injury or damage caused to other persons due to wilful or gross negligence, an accused/convicted person shall cover medical treatment expenses and compensate damages caused to the penitentiary institution and the expenses related to the suppression of his/her escape from the relevant facility.

3. If an accused/convicted person fails to voluntarily compensate the damage, the matter will be considered through civil proceedings. Wrongly collected amounts shall be returned to the accused/convicted person and deposited to his/her personal account.

4. If an action of an accused/convicted person causes damage to the health of another person in the territory of a penitentiary institution, urgent medical treatment shall be provided at the expense of the State.

*Law of Georgia No 2241 of 16 April 2014 - website, 2.5.2014*

*Law of Georgia No 3523 of 1 May 2015 - website, 18.5.2015*



### **Article 30 - Obligations of accused/convicted persons**

1. An accused/convicted person, according to his/her legal status, shall comply with the procedures and conditions for the enforcement of detention and imprisonment as established by the legislation of Georgia, fulfil his/her obligations and the lawful requests of the administration.
2. An accused/convicted person shall:
  - a) adhere to the internal regulations of the penitentiary institution and fulfil the lawful requests of the administration;
  - b) maintain personal hygiene, keep his/her clothing, bed and living space clean and tidy;
  - c) if he/she so desires, work only at the workplace allocated by the administration, under the conditions established by this Code and the internal regulations of the penitentiary institution.

*Law of Georgia No 2241 of 16 April 2014 - website, 2.5.2014*

*Law of Georgia No 3523 of 1 May 2015 - website, 18.5.2015*

## **Chapter IV - Monitoring of the Enforcement of Detention and Imprisonment**

### **Article 31 - Inspection and Monitoring the Enforcement of Detention and Imprisonment**

The General Inspection Department of the Ministry shall check how the employees of the Special Penitentiary Service observe human rights and comply with the requirements of the legislation of Georgia; and shall carry out system monitoring of penitentiary institutions.

*Law of Georgia No 3523 of 1 May 2015 - website, 18.5.2015*

### **Article 32 - Special preventive group**

The activities carried out in the Ministry and in penitentiary institutions in order to combat and prevent torture, inhuman treatment and punishment shall be supervised by a special preventive group, as provided by the Organic Law of Georgia on the Public Defender of Georgia.

*Law of Georgia No 3523 of 1 May 2015 - website, 18.5.2015*

## **Chapter V - Procedure for Admitting Accused/Convicted Persons and Maintaining their Personal Files**

*Law of Georgia No 3619 of 24 September 2010 - LHG I, No 51, 29.9.2010, Art. 332*

### **Article 33 - Grounds for placing an accused/convicted person in a penitentiary institution**

1. To place an accused person in a detention facility, a court decision remanding the person in custody and the identity card of the accused person or other identification document with a photo and the detention report, if such report is provided for by the legislation of Georgia, is required.
2. To place a convicted person in a prison facility, a court's judgment of conviction, under which the person was sentenced to imprisonment, the identity card of the convicted person or other identification document with a photo and, a detention report, if such report is provided for by the legislation of Georgia, is required.

*Law of Georgia No 2241 of 16 April 2014 - website, 2.5.2014*

*Law of Georgia No 3523 of 1 May 2015 - website, 18.5.2015*

### **Article 34 - Notice of the admission of an accused/convicted person into the place of enforcement of detention or imprisonment**

1. The administration shall, immediately or not later than one working day after admitting an accused person into a place of detention, notify the investigator, prosecutor, court and a close relative of the accused person, or, at the request of the accused person, another person or his/her lawyer, if relevant information is available regarding that person.
2. The administration shall, immediately or not later than one working day after admitting a convicted person into the place of imprisonment, notify the sentencing court and a close relative of the convicted person, or, at the request of the convicted person, another person or his/her lawyer, if relevant information is available regarding that person.

*Law of Georgia No 2241 of 16 April 2014 - website, 2.5.2014*



### **Article 35 - Registers of accused/convicted persons**

1. An accused person who has been admitted to a detention facility according to this Code shall be entered in the register of accused persons. A convicted person who has been sent to a prison facility according to this Code shall be entered in the register of convicted persons. The Minister determines the procedure for maintaining the registers of accused/convicted persons.
2. An accused person shall be photographed and fingerprinted upon admission to a detention facility. The photos and their negatives, as well as the fingerprint card and the verbal portrait according to the fingerprint card shall be kept in the personal file of an accused person. The file is forwarded to the relevant prison facility in the case of conviction of the accused person.

### **Article 36 - Personal files of accused/convicted persons**

1. A personal file of an accused/convicted person shall be maintained from the moment of his/her detention until release. After release, the personal file is kept in the archive of the penitentiary institution. The Minister determines the procedure for maintaining personal files, the list of documents to be attached to personal files and the period of their storage in the archive.
2. A personal file of an accused/convicted person shall contain data about the incentives and disciplinary measures applied to him/her.
3. The administration shall control and supervise the completion of personal files of accused/convicted persons.
4. If an accused/convicted person is transferred to another penitentiary institution, his/her personal file shall be forwarded to the given institution.
5. An accused/convicted person has the right to review his/her personal file. An authorised person also has the right to review the personal file of an accused/convicted person. The list of the authorised persons is approved by the Minister.

*Law of Georgia No 3619 of 24 September 2010 - LHG I, No 51, 29.9.2010, Art. 332*

*Law of Georgia No 3523 of 1 May 2015 - website, 18.5.2015*

## **Chapter VI - Release from the Sentence**

### **Article 37 - Grounds for releasing a person from a prison facility**

1. Convicted persons shall be released from a prison facility if:
  - a) they have served their sentence;
  - b) they have been granted parole;
  - c) the outstanding part of the sentence has been commuted to a less severe sentence;
  - d) the sentence has been changed or reversed as determined by law;
  - e) they have been granted amnesty or pardon;
  - f) they are ill or of old age, in cases provided for by the legislation of Georgia;
  - g) the court defers the enforcement of the judgment.
2. The list of those serious and incurable diseases that represent grounds for the release from the sentence is approved by the Minister of Labour, Health and Social Affairs of Georgia.

### **Article 38 - General procedures for release**

1. A released convicted person shall be released according to this Code on the day before the term of sentence expires. If the day of release coincides with a public holiday or a Saturday or Sunday, a convicted person shall be released on the preceding working day. Upon release, he/she is issued an appropriate certificate.
2. Personal belongings and clothes kept by the administration shall be returned to a released convicted person.
3. If a released convicted person does not have personal clothes or if they are not appropriate for the season, the administration shall provide him/her with suitable clothes free of charge.
4. Upon release, a convicted person shall acquire the right to freely dispose of the amount accumulated in his/her personal account.
5. (Deleted - 19.6.2012, No 6504).





### **Article 39 - Release due to illness or old age**

1. To release a convicted person due to his/her illness or old age, the convicted person, his/her legal representative or the director of the prison facility shall, as established by law, apply to the Joint Standing Commission of the Ministry and the Ministry of Labour, Health and Social Affairs of Georgia, and request the release of the convicted person on the basis of a medical report.
2. The procedure for setting up the Joint Standing Commission of the Ministry and the Ministry of Labour, Health and Social Affairs of Georgia, and the rules of operation and powers of the Commission are defined by the Statute of the Commission. The Statute is approved by a joint order of the Minister and the Minister of Labour, Health and Social Affairs of Georgia.

### **Article 40 - Release on parole**

1. A convicted person may be released on parole only if he/she has actually served:
  - a) at least half of the term of the sentence of imprisonment imposed for committing a crime of little gravity;
  - b) at least two thirds of the term of the sentence of imprisonment imposed for committing a grave crime;
  - c) at least three fourths of the term of the sentence of imprisonment imposed for committing an especially grave crime;
  - d) three fourths of the term of the sentence imposed on a person who was previously released on parole, and the release on parole was revoked based on paragraph 5 of this article.
2. A convicted person of minor age may be released on parole only if he/she has actually served:
  - a) at least one third of the term of the sentence of imprisonment imposed for committing a crime of little gravity;
  - b) at least half of the term of the sentence of imprisonment imposed for committing a grave crime;
  - c) at least two thirds of the term of the sentence of imprisonment imposed for committing an especially grave crime.

**[2. (Deleted – No 3711, 12.6.2015). (Shall become effective as from 1 January 2016)]**

3. The term of imprisonment actually served by a convicted person shall not be less than six months.
4. The conduct of a convicted person released on parole is monitored by the designated probation bureau, and the conduct of a convicted military servant is monitored by the administration of the relevant military unit.
5. If during the unserved term of the sentence a convicted person:
  - a) regularly and/or grossly avoids fulfilment of the obligations imposed on him/her upon release on parole, the court shall be authorised to revoke the parole and order the enforcement of the remaining term of the sentence;
  - b) committed a crime by negligence, the court shall decide whether to revoke or keep the parole in force;
  - c) committed an intentional crime, the court shall impose on him/her a sentence, as provided for by Article 59 of the Criminal Code of Georgia. Punishment for a negligent crime shall be imposed under the same procedure if the court revokes the parole.
6. A convicted person may be released from life imprisonment if he/she has actually served 20 years of the term of imprisonment.
7. For a convicted person who is released on parole from the community service sentence provided in Article 73(3) of the Criminal Code of Georgia, the actually served term of the community service sentence shall be counted towards the term specified in paragraph 1 of this article according to the following calculation: five hours of community service is equal to one day of imprisonment.

### **Article 41 - Local Council of the Ministry**

1. The Local Council of the Ministry ('the Council') is a body that reviews issues related to the release on parole and commutation of sentences. The number and territorial jurisdiction of the Councils and the procedure for discussing and deciding the release on parole are determined by an order of the Minister.
2. A Council consists of five members:



- a) one employee of a structural subdivision of the Civil Service of the Ministry;
- b) one employee of the National Probation Agency;
- c) one representative from the High Council of Justice of Georgia;
- d) one representative from non-governmental organisations;
- e) one representative from general and higher educational institutions.

3. A member of the Council may be a person who has relevant education and experience and whose working and moral qualities enable him/her to perform the membership duties. The persons defined in paragraph 2(a and b) of this article shall be selected and appointed to the Council by the Minister. A person defined in paragraph 2(c) of this article shall be appointed to the Council by the Minister on recommendation of the High Council of Justice of Georgia, the persons defined in paragraph 2(d and e) of this article shall be appointed to the Council by the Minister on recommendation of the Coordination Council of the Ministry. The Coordination Council of the Ministry shall be created in accordance with the procedure established by the legislation of Georgia in order to select and nominate for the Council membership the representatives from non-governmental organisations and from general and higher educational institutions. The rights and duties of the Coordination council and its rules of procedure shall be determined by an order of the Minister.

4. A member of the Council shall be independent in exercising his/her powers and shall adhere only to the Constitution of Georgia, treaties and international agreements of Georgia and this Code.

5. A member of the Council is appointed for one year. The same person may be re-appointed as a member of the Council. A member of the Council is removed from office by an order of the Minister on any of the following grounds:

- a) personal written request
- b) court's decision declaring the person as a person with limited legal capacity, a beneficiary of support or missing
- c) entry into legal force of a judgment of conviction against the person
- d) expiration of the term of office defined by this paragraph
- e) death
- f) failure to attend three consecutive Council meetings without valid reason
- g) change of or dismissal from the position held at the time of appointment as a member of the Council
- h) dishonest and/or improper performance of his/her duties
- i) liquidation/reorganisation of the Council in accordance with the legislation of Georgia.

6. Council meetings may be conducted at the facility located within the territorial jurisdiction of the Council with the use of video communication.

7. One Member of the Parliament of Georgia designated for this purpose in accordance with the rules of procedure of the Parliament of Georgia may participate in Council meetings. When attending a Council meeting, he/she shall have the same voting rights as Council members. The Member of Parliament is not a member of the Council and when determining the quorum of the Council meeting he/she shall be taken into account only if he/she is present at the meeting. The chair of the Council shall notify a Member of the Parliament of Georgia designated for this purpose in accordance with the rules of procedure of the Parliament of Georgia of the Council meeting not later than 5 days before the meeting and provide him/her with appropriate case materials.

8. Organisational and legal support for the Councils' activities shall be provided by the respective structural subdivision of the Civil Service of the Ministry. The structural subdivision shall represent the Council in a court. The relevant structural subdivision may, in order to discuss issues related to release on parole and commutation of the outstanding part of a sentence, process and store personal data of accused persons (including special category data) in accordance with the procedure established by the legislation of Georgia.

9. A person participating in a Council meeting shall, in compliance with the legislation of Georgia, keep confidential the personal data that became known to him/her as a result of his/her participation in the meeting.

*Law of Georgia No 3525 of 21 July 2010 - LHG I, No 46, 4.8.2010, Art. 288*

*Law of Georgia No 3619 of 24 September 2010 - LHG I, No 51, 29.9.2010, Art. 332*

*Law of Georgia No 6504 19 June 2012 - website, 2.7.2012*

*Law of Georgia No 3523 of 1 May 2015 - website, 18.5.2015*

#### **Article 42 - Decision of the Council on the release on parole**

1. If a convicted person has actually served the term established by law for the release on parole, the administration shall immediately file a relevant application with the Council and notify the convicted person about it. If an additional time is required to obtain and process the necessary information, the administration may file this application within seven days.



2. A convicted person, his/her defence lawyer/legal representative and close relatives may submit additional information to the Council.
3. The Council reviews a case by oral hearing and/or without oral hearing, in compliance with administrative procedures. The decision to deny a parole, or to admit the case for oral hearing or to release a convicted person on parole is taken by the Council without oral hearing, according to the assessment criteria determined by the Minister. The decision shall include the main circumstances of the case and details of the convicted person.
4. When reviewing an application, the Council takes into account the conduct of the convicted person during his/her imprisonment, the criminal acts committed by him/her in the past, his/her character family status, the nature of the crime committed and other circumstances that may influence the decision of the Council.
5. The Council conducts an oral hearing if it considers that it is necessary to obtain additional information from the convicted person to decide his/her release on parole. By oral hearing, the Council decides to deny or grant parole to the convicted person.
6. The decision of the Council denying parole to the convicted person may be administratively appealed to a court.
7. If the Council decides to deny parole to the convicted person, an application with the same request may be considered only after six months, except when the outstanding sentence does not exceed six months and/or if there are special circumstances. The issue of the release on parole of convicted persons of minor age shall be considered every three months, and the issue of the release on parole of other convicted persons shall be considered every six months.

[7. If the Council decides to deny parole to the convicted person, an application with the same request may be considered only after six months, except when the outstanding sentence does not exceed six months and/or there is a special circumstance. The issue of the release on parole of convicted persons shall be considered every six months. **(Shall become effective as from 1 January 2016)**]

*Law of Georgia No 3619 of 24 September 2010 - LHG I, No 51, 29.9.2010, Art. 332*

*Law of Georgia No 6504 19 June 2012 - website, 2.7.2012*

*Law of Georgia No 2241 of 16 April 2014 - website, 2.5.2014*

*Law of Georgia No 3711 of 12 June 2015 - website, 24.6.2015*

#### **Article 43 - Decision of the Council on commuting a sentence**

1. A convicted person, his/her defence lawyer/legal representative or a close relative may, as established by law, submit to the Council the documents necessary to review the issue of commuting the outstanding sentence of the convicted person and the relevant application.
2. A convicted person, his/her defence lawyer/legal representative and close relative may submit additional information to the Council.
3. The Council reviews a case by oral hearing and/or without oral hearing, in compliance with administrative procedures. The decision to deny the application or to admit the case for oral hearing is made by the Council without oral hearing, according to the assessment criteria determined by the Minister.
4. When reviewing an application, the Council takes into account the conduct of the convicted person during his/her imprisonment, the criminal acts committed by him/her in the past, his/her personal and family status, the nature of the crime committed, and whether the purpose of the punishment has been achieved and other circumstances that may influence the decision of the Council.
5. The decision on commuting the sentence of the convicted person is made by the Council only by oral hearing. The decision shall include the main circumstances of the case and details of the convicted person.
6. The Council shall decide on the substitution of the outstanding sentence of the convicted person with community service or restriction of liberty if the convicted person consents.
7. The decision of the Council refusing to commute the sentence of the convicted person may be administratively appealed to a court only once.
8. If the Council refuses to commute the sentence, an application with the same request may reviewed only after six months, except when the outstanding sentence does not exceed six months and/or if there are special circumstances.

*Law of Georgia No 3619 of 24 September 2010 - LHG I, No 51, 29.9.2010, Art. 332*

*Law of Georgia No 6504 19 June 2012 - website, 2.7.2012*

#### **Article 44 - (Deleted)**

*Law of Georgia No 2241 of 16 April 2014 - website, 2.5.2014*

*Law of Georgia No 3523 of 1 May 2015 - website, 18.5.2015*

#### **Article 45 - Obligations of the administration when releasing a convicted person from a penitentiary institution**

The administration shall, not later than three months before the term of imprisonment of a convicted person expires, notify the local self-government



bodies according to the place of residence of the convicted person about the release from the penitentiary institution of the convicted person, about his/her place of residence, capacity for work and qualification

2. The administration shall notify the release of a convicted person to the appropriate structural subdivision of the Ministry of Internal Affairs of Georgia in the manner prescribed by an order of the Minister.

*Law of Georgia No 3523 of 1 May 2015 - website, 18.5.2015*

#### **Article 45<sup>1</sup> - Obligations of the administration when releasing a person convicted for domestic violence from a penitentiary institution**

In the case of release of a convicted person from a penitentiary institution, or in the case of his/her escape, or in the case of a short leave from a penitentiary institution under Article 27 of this Code, the administration shall immediately notify the district police according to the place of commission of the crime.

*Law of Georgia No 2701 of 17 October 2014 - website, 31.10.2014*

*Law of Georgia No 3523 of 1 May 2015 - website, 18.5.2015*

### **Chapter VII - Enforcement of Imprisonment as a Measure of Punishment**

#### **General Provisions**

#### **Article 46 - Place of enforcement of imprisonment**

1. A convicted person shall serve his/her sentence in a prison facility located in the territory of Georgia, except as provided for by international agreements of Georgia.

2. The Director of the Department determines the type of a prison facility for a convicted person according to the procedure established by the legislation of Georgia.

3. A convicted person shall, as a rule, serve his/her sentence in a prison facility of the relevant type, located closest to the place of his/her residence or to the place of residence of his/her close relative, except as provided for by paragraph 4 of this article.

4. By decision of the Director of the Department, a convicted person may be transferred for further service of the sentence to a prison facility of the same or different type in cases where he/she regularly violates the internal regulations of the facility; is ill and/or in cases where it is necessary to ensure his/her safety taking into account risk factors; also in cases of reorganisation, liquidation or overcrowding of the facility or in circumstances specified in Article 58(1) of this Code; or in other important, reasonable circumstances and/or in the case of a consent of the convicted person. A risk assessment team assesses and periodically re-assesses the risks of a convicted person. The risk types, risk assessment criteria, the risk assessment and re-assessment procedure, the procedure for the transfer of a convicted person to a prison facility of the same or different type, and the composition and powers of a risk assessment team are defined by an order of the Minister.

5. When transferring a convicted person to a prison facility of another type on the ground/grounds provided in paragraph 4 of this article, he/she shall be subject to the rules that are established for convicted persons of this risk and that can be observed in a prison facility of another type.

6. A convicted person transferred to a prison facility of another type on the grounds specified in paragraph 4 of this article (except when the convicted person is transferred due to regular violations on his/her part of the internal regulations of the facility and/or due to risk factors and safety considerations) shall be returned to the prison facility, from which he/she has been transferred, upon the elimination of these grounds.

*Law of Georgia No 2241 of 16 April 2014 - website, 2.5.2014*

*Law of Georgia No 3523 of 1 May 2015 - website, 18.5.2015*

#### **Article 47 - Sending a convicted person to serve a sentence**

1. Not later than 20 days after the court imposes a sentence of imprisonment, the Director of the Department shall decide on the type of prison facility in which the convicted person is to serve the sentence.

2. The administration of the detention facility shall send the convicted person for serving the sentence not later than 20 days after receiving the copy of the decision of the Director of the Department.

3. The Minister defines the procedure and conditions for transferring a convicted person to a prison facility.

4. (Deleted - 16.4.2012, No 2241).

*Law of Georgia No 3619 of 24 September 2010 - LHG I, No 51, 29.9.2010, Art. 332*

*Law of Georgia No 2241 of 16 April 2014 - website, 2.5.2014*

*Law of Georgia No 3523 of 1 May 2015 - website, 18.5.2015*



#### **Article 48 - Keeping a convicted person in a detention facility**

1. A convicted person who is to serve his/her sentence in a prison facility may be kept in the detention facility to perform general upkeep duties based on his/her written consent and as determined by an order of the Minister. In this case, the convicted person shall have the same rights that are defined for the type of the prison facility where he/she would have been placed based on the risks, and that can be exercised in the detention facility. The Minister determines the procedure and conditions for the movement of a convicted person throughout the territory of the detention facility.
2. Keeping of a convicted person in a detention facility for the performance of general upkeep duties shall be approved by an order of the director of the facility.

*Law of Georgia No 2241 of 16 April 2014 - website, 2.5.2014*

#### **Article 49 - Procedure for admitting convicted persons to a prison facility**

1. The administration admits convicted persons to a prison facility as established by the internal regulations of the facility approved by the Minister.
2. A convicted person shall be immediately informed in writing, in a language understandable to him/her, of his/her rights and the rules of treatment of convicted persons by the staff, the procedures for obtaining information and filing complaints, disciplinary and other requirements.

*Law of Georgia No 3619 of 24 September 2010 - LHG I, No 51, 29.9.2010, Art. 332*

#### **Article 50 - Placement of convicted person separately**

1. As a rule, the following persons shall be placed separately in a prison facility:
  - a) women;
  - b) minors;
  - c) persons convicted for the first time;
  - d) persons recognised as victims of crimes under Article 143<sup>1</sup> and/or Article 143<sup>2</sup> of the Criminal Code of Georgia;
  - e) persons whose life and health may be under threat due to past official activities;
  - f) especially dangerous persons whose personal qualities, criminal influence, motive of crime, consequences of unlawful actions or behaviour demonstrated in the detention facility poses a serious threat to the security of the facility and others.
2. Persons suffering from uncontrollable infectious diseases shall be separately placed in the medical unit of a penitentiary institution.
3. The Minister may, in agreement with the Minister of Labour, Health and Social Affairs of Georgia, establish a different procedure for placing convicted persons separately.

*Law of Georgia No 3523 of 1 May 2015 - website, 18.5.2015*

#### **Article 51 - (Deleted)**

*Law of Georgia No 2241 of 16 April 2014 - website, 2.5.2014*

### **Chapter VIII - Internal Regulations of a Penitentiary Institution**

*Law of Georgia No 3523 of 1 May 2015 - website, 18.5.2015*

#### **Article 52 - Internal regulations of a penitentiary institution**

1. The internal regulations of a penitentiary institution shall contain the following requirements:
  - a) isolation and protection of accused/convicted persons;
  - b) permanent surveillance of accused/convicted persons;
  - c) fulfilment by accused/convicted persons of obligations imposed on them;
  - d) protection of the rights and lawful interests of accused/convicted persons;



- e) personal security of accused/convicted persons and the staff of the institution;
- f) separate placement of different categories of accused/convicted persons, as established by this Code;
- g) the procedure for admitting accused/convicted persons to the institution;
- h) the rules of conduct for accused/convicted persons during working and rest hours;
- i) the list of jobs and positions for which convicted persons may not be employed;
- j) the list and number of items that accused/convicted persons are allowed to keep;
- k) the procedure for seizing items that accused/convicted persons are not allowed to use;
- l) the procedures for conducting searches and checks, for arranging visits, sending and receiving correspondence and parcels;
- m) the list of food products, articles of prime necessity, hygiene products and other items that may be purchased by accused/convicted persons in the shop available on the territory of the penitentiary institution;
- n) the list of food products, articles, items, substances and documents that accused/convicted persons are not allowed to purchase, keep, carry, use and/or utilise and that gives rise to a criminal liability;
- o) the procedure and conditions for entering the penitentiary institution.

2. In order to observe the internal regulations of a penitentiary institution, accused/convicted persons and their living area may be searched and their belongings may be inspected. A bodily search of an accused/convicted person shall be conducted by a person of the same sex.

3. The administration shall inspect the belongings, clothes and means of transport of the persons entering or leaving the detention/prison facility.

4. Money or other valuables seized from an accused/convicted person shall be transferred for storage to the administration, as established by the internal regulations of the penitentiary institution, until the accused/convicted person is released.

*Law of Georgia No 2241 of 16 April 2014 - website, 2.5.2014*

*Law of Georgia No 3523 of 1 May 2015 - website, 18.5.2015*

### **Article 53 - Daily routine of a penitentiary institution**

The Director of the Department, on recommendation of the director of the penitentiary institution, approves the daily routine of the institution.

*Law of Georgia No 3523 of 1 May 2015 - website, 18.5.2015*

### **Article 54 - Surveillance and control of accused/convicted persons through visual and/or electronic means**

1. In the case of a reasonable belief, based on security and other lawful interests of accused/convicted or other persons, to prevent suicide, self-injury, violence against accused/convicted or other persons, damage to property, and to avert other crimes and offences, the administration may conduct surveillance and control through visual and/or electronic means. Electronic surveillance is conducted with audio and video devices and/or other technical means of control. The administration may, through electronic means, record the process of surveillance and control, and the information received as a result of this process.

2. The administration shall warn the accused/convicted person about the conduct of surveillance and/or of audio and video recording through electronic means, except as provided for by the legislation of Georgia.

3. In the case specified in paragraph 2 of this article, a report is prepared indicating which electronic means and for what purpose it is used to conduct surveillance of an accused/convicted person. The report shall be signed by at least two representatives of the administration and the accused/convicted person who is under electronic surveillance. If an accused/convicted person refuses to sign a report, relevant record shall be made in the report.

4. The decision to conduct surveillance and control through visual and/or electronic means is made if other means are inefficient. The decision shall be substantiated and proportionate to the purpose.

5. No visual and/or electronic surveillance shall be conducted in the rooms allocated for long visits, except when the surveillance is conducted as determined by the legislation of Georgia and in cases provided for by law.

6. The administration may conduct visual surveillance of the meeting of an accused/convicted person with persons defined in Article 60(1) of this Code and in the order of the Minister, using remote surveillance and recording equipment, but without listening.

7. If electronic surveillance is conducted in the territory of a penitentiary institution and its adjacent territory, the administration shall place an appropriate warning sign in a prominent place, except as provided for by the legislation of Georgia.

8. Upon elimination of the circumstances specified in paragraph 1 of this article, the administration shall cease electronic surveillance. No electronic and/or visual surveillance and control shall be conducted of an accused/convicted person for the purpose of punishment.



9. The Minister defines the procedure for conducting surveillance and control through visual and/or electronic means, and for storing, deleting and destroying recordings.

*Law of Georgia No 2241 of 16 April 2014 - website, 2.5.2014*

*Law of Georgia No 3523 of 1 May 2015 - website, 18.5.2015*

#### **Article 55 – Conduct of operational and search measures in penitentiary institutions**

1. Operational and search measures may be taken in a penitentiary institution within the scope of information and analytical support of the management of penitentiary institutions and/or within the scope of operational and search support of a criminal investigation.

2. Information and analytical support of the management of penitentiary institutions means collection, processing and analysis of information and data by the respective security service of the department and/or of a penitentiary institution in accordance with the legislation of Georgia, within the scope of protection of safety in a penitentiary institution and for one of the following purposes:

a) detection and prevention of crimes and other offences in a penitentiary institution;

b) identification and assessment of criminal connections and influences;

c) identification and assessment of other types of internal risks and threats that may pose immediate danger to the safety of employees of the system of the Ministry, the safety of accused/convicted persons or of other persons, or to the legal and/or security regime in a penitentiary institution and thereby disturb normal functioning of the penitentiary institution.

3. Within the scope of information and analytical support of the management of penitentiary institutions the respective security service of the department and/or of a penitentiary institution may obtain information and data in a penitentiary institution from open and secret sources as a result of conducting operational and search measures provided for in Article 7(2)(a,b,e,f,g and j) of the Law of Georgia on Operational and Search Activities; the operational and search measure specified in sub-paragraph (g) of the same paragraph must be carried out as prescribed by this Code.

4. The information and analytical support of the management of penitentiary institutions shall commence on the basis of an order of the Director of the Department. This order shall be issued in exceptional cases, on written petition of the head of the security service of the Department and/or the director of the penitentiary institution. The petition shall justify the necessity, purpose and scope for the conduct of the relevant activity.

5. If the elements of an alleged crime are detected in the information and data obtained by the respective security service of the department and/or of a penitentiary institution for the purposes specified in paragraph 2 of this article, the security service of the department shall, in the manner established by the legislation of Georgia, notify the relevant investigation division, and if the elements of an official misconduct are detected, to the General Inspection Department of the Ministry.

6. The security service of the department and the security service of a penitentiary institution shall, in the manner prescribed by the legislation of Georgia, provide investigation with operational and operational-technical support within the limits of the penitentiary institution.

7. Operational and search measures conducted in a penitentiary institution shall be subject to prosecutorial supervision and judicial control in accordance with the legislation of Georgia.

8. The procedure for processing, storing, reviewing and destroying the information and data obtained for the purposes specified in paragraph 2 of this article shall be determined by an order of the Minister.

9. The procedure for exchanging information between the Ministry and the Ministry of Internal Affairs of Georgia within the scope of operational and search activities shall be determined by a joint order of the Minister and the Minister of Internal Affairs of Georgia.

*Law of Georgia No 3523 of 1 May 2015 - website, 18.5.2015*

#### **Article 55<sup>1</sup> – Investigation of crimes committed in penitentiary institutions**

1. Crimes committed in a penitentiary institution shall be investigated in accordance with the Criminal Procedure Code of Georgia.

2. A person accused of committing a crime in a prison facility shall be transferred to a detention facility.

*Law of Georgia No 3523 of 1 May 2015 - website, 18.5.2015*

#### **Article 56 - Protection of penitentiary institutions**

1. Penitentiary institutions are protected by the exterior security service of the Department.

2. Employees of the exterior guard services are persons with a status of military servant. A conscript may be enlisted in the exterior guard services. His/her term of service is defined by the Law of Georgia on Military Duty and Military Service.

3. Service of a conscript in the exterior guard services is treated as compulsory military service and is carried out according to the Law of Georgia on Military Duty and Military Service. The procedure for selecting recruits for the exterior guard services and the rules of service in the exterior guard services are defined by an order of the Minister.



3<sup>1</sup>. The powers of the exterior guard services do not extend to the internal security system.

4. Social and legal protection guarantees of the employees of the exterior guard services are defined by the Law of Georgia on the Status of Military Servant.

5. In particular cases, the Director of the Department may form reinforced security groups within the Department or a penitentiary institution.

*Law of Georgia No 3619 of 24 September 2010 - LHG I, No 51, 29.9.2010, Art. 332*

*Law of Georgia No 3523 of 1 May 2015 - website, 18.5.2015*

#### **Article 57 - Security measures**

1. To avoid self-injury, or damage to other persons and property, to prevent crimes and other offences in the penitentiary institution, to prevent the non-compliance by an accused/convicted person of a lawful demand of an employee of the Special Penitentiary Service, to repel attacks, to suppress collective disobedience and/or mass unrest, the following security measures may be applied, on the basis of a justified decision, to accused/convicted persons:

- a) use of special equipment
- b) separation from other accused/convicted persons
- c) temporary transfer to another penitentiary institution
- d) placement in a solitary cell for not more than 24 hours.

2. The application of security measures shall cease immediately after the threat, due to which this measure has been applied, is eliminated.

3. Other conditions and circumstances for applying security measures in a penitentiary institution or at the time of extraditing or removing/transferring an accused/convicted person are defined by an order of the Minister.

4. After a security measure has been applied, the management of the penitentiary institution concerned shall conduct medical examination of the accused/convicted person with the help of the medical personnel. A relevant report is drawn up after the medical examination. The form of the report is approved by an order of the Minister.

5. Security measures may not be applied to punish an accused/convicted person.

*Law of Georgia No 3619 of 24 September 2010 - LHG I, No 51, 29.9.2010, Art. 332*

*Law of Georgia No 2241 of 16 April 2014 - website, 2.5.2014*

*Law of Georgia No 3523 of 1 May 2015 - website, 18.5.2015*

#### **Article 57<sup>1</sup> - Special equipment and the procedure for their application**

1. The following special equipment may be used against an accused/convicted person:

- a) handcuffs
- b) a strait jacket
- c) a restraining chair
- d) a restraining bed
- e) a baton
- f) tear gas
- g) pepper gas
- h) a non-lethal weapon
- i) an acoustic device
- j) a flash bang device of psychological effect
- k) a water cannon
- l) a police dog.

2. During the performance of official duties, in order to implement security measures, special equipment is applied in the following cases:





a) handcuffs shall be used against a person who, with his/her actions resists an employee of the Special Penitentiary Service and/or does not obey his/her lawful demands; poses a threat to his/her own and/or another person's life and/or health; causes or attempts to cause damage to other person's/state property; attempts to escape; if there is a reasonable suspicion that the occurrences specified in this paragraph will occur;

b) a strait jacket, a restraining chair and a restraining bed shall be applied to a person who has injured or attempted to injure himself or another person; who damages or attempts to damage other persons'/state property; also, whose action is manifestly aggressive. This special equipment shall be used under the observation of a doctor;

c) a baton shall be used to prevent an accused/convicted person from injuring himself/herself and other persons, to prevent crime and other offences in the penitentiary institution or at the time of removing/transferring an accused/convicted person, to repel an attack, and to suppress disobedience and/or mass unrest;

d) tear gas, a non-lethal weapon and an acoustic device shall be used to repel an attack of an accused/convicted person against other persons and/or against a protected facility; to prevent mass unrest and/or collective violation of the requirements of the legislation of Georgia;

e) pepper gas shall be used to suppress a crime, attack, escape, mass disobedience and/or mass unrest, to repel an attack on a protected facility, to prevent collective violation of the requirements of the legislation of Georgia, and to apprehend an armed person;

f) a flash bang device of psychological effect shall be used to repel an attack of an accused/convicted person on other persons and/or on a protected facility, to apprehend an armed person, to force a person to leave an area that the person is using as a shelter;

g) a water canon is used to suppress mass unrest and/or breach of order, to repel a group attack, and to apprehend an armed person;

h) a police dog shall be used when an accused/convicted person escapes or attempts to escape; it shall be also used to detect prohibited items and repel an attack.

3. Special equipment shall be used in extreme cases, when other means are ineffective. Use of special equipment shall be proportionate to the threat and shall cause less damage to the addressee of this measure while achieving the legitimate purpose.

4. Special equipment may be used by a specially authorised person of the Special Penitentiary Service who has completed the appropriate training.

5. A person authorised to use special equipment shall warn the relevant person about the use of special equipment and give that person a reasonable time to comply with the lawful demand, except when the delay may cause damage to human life and health, property or may cause other grave consequences, or when such warning is unjustified or impossible under the existing circumstances.

6. The liability for the use of special equipment shall rest with the person who makes a decision to use the special equipment.

7. The director and a doctor or a nurse of the penitentiary institution concerned shall be immediately notified of the application of special equipment, except when special equipment is used under paragraph 1(a) of this article. An accused/convicted person shall, as soon as possible, undergo medical examination after special equipment has been used against him/her.

8. A relevant report shall be prepared on the application of special equipment. The report shall specify the type of the applied special equipment, grounds for application and other information. The form of the report is approved by an order of the Minister.

9. After the grounds for the use of special equipment are eliminated, the director of the penitentiary institution concerned shall prepare and immediately submit a report to the Minister and the Director of the Department.

10. The head of the unit or convoy shall immediately notify the authorised person and a doctor or a nurse of the Special Penitentiary Service about the use of special equipment against an accused/convicted person to ensure safety and/or to prevent his/her escape during the removal/transfer or extradition of the accused/convicted person, except for the application of special equipment under paragraph 1(a) of this article.

11. Special equipment, except for those under paragraph 1(b-d) of this article, may also be used to repel an attack on a penitentiary institution from outside.

12. Special equipment specified in paragraph 1(g) of this article shall be used in extreme cases, when special equipment defined in paragraph 1(a-f) and (h-l) of this article is ineffective to eliminate the existing threat. Special equipment specified in paragraph 1(g) of this article may not be applied in enclosed spaces, in medical facilities for accused/convicted persons and against those persons who already are under the control of a relevant authorised person.

13. An accused/convicted person may not be handcuffed to a hard surface, except for the extreme cases when the legitimate purpose defined by this article cannot be achieved by other means.

14. Special equipment that causes severe injuries to accused/convicted persons and is associated with unjustified risk or is prohibited by international agreements of Georgia and international acts, may not be used in penitentiary institutions or at the time of removing/transferring accused/convicted persons.

15. Only the special equipment specified in paragraph 1(a) of this article may be used against women and minors, and to prevent collective disobedience and/or mass unrest, to repel an attack and apprehend the armed person, the special equipment specified in paragraph 1(e), (f), (k) of this article may also be used.

[15. Only the special equipment specified in paragraph 1(a) of this article may be used against women and to prevent collective disobedience and/or mass unrest, to repel an attack and apprehend the armed person, the special equipment specified in paragraph 1(e), (f), (k) of this article may also be used. (Shall become effective as from 1 January 2016)]

16. As a rule, a person having the right to use special equipment shall not knowingly use against pregnant women the special equipment specified in paragraph 1 of this article, except for the special equipment specified in paragraph 1(a) of this article.



17. When applying special equipment, a person's health status and limited capacities shall be taken into account, as far as possible.

18. The types of special equipment available in the Special Penitentiary Service, and the procedure and conditions for storing, carrying and applying this equipment are established by the Minister.

*Law of Georgia No 2241 of 16 April 2014 - website, 2.5.2014*

*Law of Georgia No 3523 of 1 May 2015 - website, 18.5.2015*

*Law of Georgia No 3711 of 12 June 2015 - website, 24.6.2015*

## **Article 57<sup>2</sup> - Procedure for using firearms**

1. If an accused/convicted person carries out an attack or commits other intentional action that directly, immediately and at that very moment poses a threat to the health and/or life of an employee of the Special Penitentiary Service or of another person, the employee of the Special Penitentiary Service may use firearms if the action cannot be eliminated by other means. The force used shall be proportionate to the legitimate purpose and the threat that the accused/convicted person poses to the employee of the Special Penitentiary Service or to others.

2. If an accused/convicted person escapes from a penitentiary institution or during his/her removal/transfer, or if there is an attack on the special vehicle, an employee of the Special Penitentiary Service may use firearms, due to extreme necessity, if this action cannot be eliminated by other means. The force used must be proportionate to the legitimate purpose and existing threat. Only that minimum amount of force that is necessary to stop the escaped accused/convicted person must be used. In the case of an escape of women and minors, firearms may not be used.

[2. If an accused/convicted person escapes from a penitentiary institution or during his/her removal/transfer, or if there is an attack on the special vehicle, an employee of the Special Penitentiary Service may use firearms, due to extreme necessity, if this action cannot be eliminated by other means. The force used must be proportionate to the legitimate purpose and existing threat. Only that minimum amount of force that is necessary to stop the escaped accused/convicted person must be used. In the case of an escape of women, firearms may not be used. **(Shall become effective as from 1 January 2016)**]

3. Crossing of a prohibited line shall be treated as an escape. The Minister establishes the procedure for determining the prohibited line.

4. Persons authorised to use firearms shall warn the relevant person of their intent to use firearms, give him/her a reasonable time to comply with the lawful demand, and fire a warning shot, except when the delay may cause damage to human life and health, property or may cause other grave consequences, or when such warning is unjustified or impossible in the existing circumstances.

5. Employees of the Special Penitentiary Service who are in direct contact with accused/convicted persons may not carry and/or store firearms in the territory of a penitentiary institution.

6. No firearms shall be brought into the territory of a penitentiary institution, except when the circumstances specified in paragraphs 1 and 2 of this article exist or when the guard services are carried out under Article 56(1) of this Code.

*Law of Georgia No 2241 of 16 April 2014 - website, 2.5.2014*

*Law of Georgia No 3523 of 1 May 2015 - website, 18.5.2015*

*Law of Georgia No 3711 of 12 June 2015 - website, 24.6.2015*

## **Article 58 - Special conditions in penitentiary institutions**

1. Special conditions may be introduced in a penitentiary institution in the case of natural disasters, state of emergency or martial law in the country, epidemics of life threatening diseases or mass unrest, or if the penitentiary institution has been damaged and is not suitable for the purposes provided for by law.

2. Special conditions are introduced by the Director of the Department in written agreement with the Minister, for not more than 15 days. If necessary, the period may be extended for a reasonable period, with the consent of the Minister, until the elimination of circumstances specified in paragraph 1 of this article.

3. If the life and health of accused/convicted persons, of employees of the facility and of other persons are clearly at risk, the director of the facility may independently introduce special conditions specified in paragraph 1 of this article.

4. The director of a penitentiary institution shall immediately notify the Director of the Department of the independent introduction of special conditions specified in paragraph 1 of this article. Within 24 hours after receiving the notification, the Director of the Department shall decide whether to maintain or cancel special conditions, based on the written approval of the Minister.

5. If during the regime of special conditions it is impossible to otherwise bring the situation under control or if the security service of the facility is unable to carry out large-scale operational and preventive measures in the facility for the seizure of prohibited items, substances and food products because of a serious risk of collective disobedience or mass unrest, the security of the facility may be enhanced with the Special Forces of the Ministry of Internal Affairs of Georgia, based on the relevant application of the Minister and the decision of the Minister of Internal Affairs of Georgia.

6. The procedure and conditions for the introduction of special conditions is defined by an order of the Minister.

*Law of Georgia No 3523 of 1 May 2015 - website, 18.5.2015*



## **Article 58<sup>1</sup> – Management of crisis situations in penitentiary institutions**

1. A crisis situation in a penitentiary institution is a situation when the violation of the legal and/or security regime poses clear danger to the normal functioning of the penitentiary institution and such violation cannot be eliminated by the penitentiary institution with its own forces within the limits of the measures defined under this Code.
2. A situation shall be assessed as a crisis situation by the director of the penitentiary institution. He/she shall immediately notify the Director of the Department. If the Director of the Department, after proper processing and analysis of the information, deems the situation to be a crisis, he/she shall notify the Minister.
3. In order to manage the crisis situation, officers of special intervention squads of the Department may carry out actions in the territory of the penitentiary institution. They may use the equipment specified in Articles 57<sup>1</sup> and 57<sup>2</sup> of this Code in accordance with the procedure established by the legislation of Georgia.
4. A decision on the involvement of special intervention squads of the Department into the crisis management shall be made by the Director of the Department with the consent of the Minister.
5. At the time of crisis management the Ministry shall ensure close coordination with the Ministry of Internal Affairs of Georgia.
6. The crisis management procedure shall be determined by an order of the Minister.
7. At the time of crisis management the Ministry shall, with the observance of security requirements, provide public with appropriate information.

*Law of Georgia No 3523 of 1 May 2015 - website, 18.5.2015*

## **Article 59 - Plan of additional security measures**

To prevent attacks, escapes from penitentiary institutions, other crimes and offences during mass unrests and during a state of emergency or martial law in the country, and if the Ministry cannot manage the crisis situation with its own forces, additional security measures shall be taken in accordance with a pre-developed plan, which is approved by a joint order of the Minister and the Minister of Internal Affairs of Georgia.

*Law of Georgia No 2241 of 16 April 2014 - website, 2.5.2014*

*Law of Georgia No 3523 of 1 May 2015 - website, 18.5.2015*

## **Article 60 - Right to enter penitentiary institutions**

1. The following persons may enter a penitentiary institution without a special permit:
  - a) the President of Georgia
  - b) the Chairperson of the Parliament of Georgia or a Member of Parliament authorised by the Chairperson of the Parliament of Georgia
  - b<sup>1</sup>) the Prime Minister of Georgia
  - c) authorised persons of the system of the Prosecutor's Office
  - d) the Public Defender of Georgia
  - e) the Minister and persons authorised by the Minister
  - f) members of the Special Prevention Group.
2. The procedure for entering a penitentiary institution with a special permit is defined by the Minister.
3. No audio and video equipment or other types of recording equipment shall be brought into the territory of a penitentiary institution without a special permit, except as provided for in paragraph 7 of this article. The special permit is issued by the Minister or the Director of the Department.
4. Accused/convicted persons may be photographed, filmed, video-taped and interviewed only with their written consent.
5. The requirements of paragraph 4 of this article shall not apply to the visual and electronic surveillance provided for by this Code.
6. The requirements of paragraph 4 of this article shall not apply to video recording performed by the administration. An accused/convicted person shall be warned in advance that he/she is being recorded.

[7. The Public Defender of Georgia or a member of the Special Preventive Group with a prior written consent of the Public Defender of Georgia shall be authorised, in accordance with the procedure approved by the Minister and the requirements of the legislation of Georgia on state secrets, with the consent of accused/convicted persons, to take photos of the accused/convicted persons and/or of the conditions of their accommodations, walking areas, medical units, catering facilities, common-use shower facilities, common-use toilets and of visitation rooms.



8. An employee of a penitentiary institution may, at any time, request a person specified in paragraph 7 of this article to allow him/her to check [if the camera is operating in] a photograph mode, to prevent video recording, and if video recording mode is detected, the employee shall be authorised to immediately stop it. **(Shall become effective as from 1 September 2016)**

*Law of Georgia No 3619 of 24 September 2010 - LHG I, No 51, 29.9.2010, Art. 332*

*Law of Georgia No 1295 of 24 September 2013 - website, 8.10.2013*

*Law of Georgia No 2241 of 16 April 2014 - website, 2.5.2014*

*Law of Georgia No 3523 of 1 May 2015 - website, 18.5.2015*

## SPECIAL PART

### Chapter VIII<sup>1</sup> - Low Risk Prison Facility

*Law of Georgia No 2241 of 16 April 2014 - website, 2.5.2014*

#### Article 60<sup>1</sup> - Peculiarities of the enforcement of imprisonment in a low risk prison facility

1. For the purpose of serving a sentence, a low risk prison facility is used, as a rule, for convicted persons whose personal qualities, motive of the crime, consequences of the unlawful actions and/or conduct demonstrated in the prison facility suggest that they may pose a low threat to the prison facility or to other persons, to state or public safety and/or to the law enforcement authorities.

2. A convicted person is placed in a low risk prison facility based on his/her written consent which must indicate that he/she agrees to fulfil the obligations established for low risk prison facilities, in particular, to study and/or work, and to participate in rehabilitation activities offered by the facility. The Minister defines the procedure for placing a convicted person in a low risk prison facility.

*Law of Georgia No 2241 of 16 April 2014 - website, 2.5.2014*

#### Article 60<sup>2</sup> - Conditions for serving a sentence in a low risk prison facility

1. A convicted person serving a sentence in a low risk prison facility shall be placed in the living area specially allocated for this purpose.

2. A convicted person may:

a) spend the money available on his/her personal account, within the monthly limit determined by an order of the Minister, to purchase food products, articles of prime necessity and other items in the shop located in the territory of the low risk prison facility;

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

c) enjoy an unlimited number of telephone conversations during one month at his/her own expense, each lasting for not longer than 15 minutes, and telephone conversations of unlimited duration at his/her own expense as an incentive;

d) independently move throughout the territory of the low risk prison facility, as established by the internal regulations of the facility;

e) have 6 long visits a year, and 3 additional long visits a year as an incentive.

3. In a low risk prison facility, a convicted person may, with the permission of the director of the facility, have and use a TV and a radio set, as established by the internal regulations of the facility.

4. It is obligatory for a convicted person placed in a low risk prison facility to study and/or work, and participate in rehabilitation activities offered by the facility.

*Law of Georgia No 2241 of 16 April 2014 - website, 2.5.2014*

#### Article 60<sup>3</sup> - Incentives for convicted persons in a low risk prison facility

In the case of model behaviour and honest attitude to the work, the administration may apply the following forms of incentives to a convicted person placed in a low risk facility:

a) expression of appreciation

b) early lifting of an imposed disciplinary sanction

c) an additional short visit



- d) an additional short leave from the facility
- e) an additional long visit
- f) granting of the right to enjoy an additional video visit
- g) granting of the right to a short visit as an exception, by decision of the director of the penitentiary institution and with the consent of the Director of the Department
- h) granting of the right to a short meeting with a person who is not specified in Article 17(2) of this Code by decision of the director of the penitentiary institution and with the consent of the Director of the Department.

*Law of Georgia No 2241 of 16 April 2014 - website, 2.5.2014*

*Law of Georgia No 3523 of 1 May 2015 - website, 18.5.2015*

## **Chapter IX - Semi-open Type Prison Facility**

### **Article 61 - Semi-open type prison facility**

1. As a rule, the following persons shall serve their sentences in a semi-open type prison facility: a person who is convicted of a crime of little gravity or a grave crime and whose term of sentence does not exceed 10 years; a convicted person who has been transferred from the prison facility of a different type, as determined by this Code; a woman sentenced to a fixed-term imprisonment.
2. Other convicted persons may also be placed in a semi-open type prison facility taking into consideration the risk factor.
3. (Deleted - 16.4.2012, No 2241).
4. (Deleted - 16.4.2012, No 2241).

*Law of Georgia No 2241 of 16 April 2014 - website, 2.5.2014*

### **Article 62 - Conditions for serving a sentence in a semi-open type prison facility**

1. A convicted person serving a sentence in a semi-open type prison facility shall be placed in a dormitory specially allocated for this purpose.
2. A convicted person may:
  - a) spend the money available on his/her personal account, within the monthly limit determined by an order of the Minister, to purchase food products, articles of prime necessity and other items in the shop located in the territory of the semi-open prison facility;
  - b) enjoy 2 short visits a month, and 1 additional short visit a month as an incentive;
  - c) enjoy 4 telephone conversations a month at his/her own expense, each lasting for not longer than 15 minutes, and as an incentive, an unlimited number of telephone conversations, each lasting for not longer than 15 minutes
  - d) independently move throughout the territory of the semi-open type prison facility, as established by the internal regulations of the facility;
  - e) enjoy 3 long visits a year, and 2 additional long visits a year as an incentive.
3. In a semi-open type prison facility, a convicted person may have and use his/her own TV or radio set, except at night, with the permission of the director of the facility.
4. By decision of the administration of the facility, the correspondence of a convicted person in a semi-open type prison facility may be inspected, except as provided for in Article 16(6) of this Code.

*Law of Georgia No 4259 of 25 February 2011 - website, 10.3.2011*

*Law of Georgia No 5255 of 11 November 2011 - website, 24.11.2011*

*Law of Georgia No 6257 of 22 May 2012 - website, 6.6.2012*

*Law of Georgia No 2241 of 16 April 2014 - website, 2.5.2014*

*Law of Georgia No 3523 of 1 May 2015 - website, 18.5.2015*

### **Article 63 - Incentives for convicted persons in a semi-open type prison facility**

In the case of model behaviour and honest attitude to the work, the administration of a semi-open type prison facility may allow the following forms of



incentives for a convicted person:

- a) expression of appreciation
- b) early lifting of a disciplinary sanction
- c) an additional short visit
- d) an additional short leave from the facility
- e) the right to use a personal TV or radio set
- f) an additional long visit
- g) an additional telephone conversation
- h) an additional video visit
- i) an additional family visit (for convicted women)
- j) granting of the right to a short visit as an exception, by decision of the director of the penitentiary institution and with the consent of the Director of the Department
- k) granting of the right to a short meeting with a person who is not specified in Article 17(2) of this Code by decision of the director of the penitentiary institution and with the consent of the Director of the Department.

*Law of Georgia No 4259 of 25 February 2011 - website, 10.3.2011*

*Law of Georgia No 5255 of 11 November 2011 - website, 24.11.2011*

*Law of Georgia No 6257 of 22 May 2012 - website, 6.6.2012*

*Law of Georgia No 3523 of 1 May 2015 - website, 18.5.2015*

## **Chapter X - Closed Type Prison Facility**

### **Article 64 - Closed type prison facility**

1. As a rule, the following persons shall serve their sentence in a closed type prison facility: a person convicted for the first time of an intentional, especially grave crime and sentenced by the court to imprisonment of more than 10 years; a person convicted for repeatedly committing an intentional crime, a person sentenced to life imprisonment or a person convicted previously who was sentenced to imprisonment; also, a convicted person transferred from a prison facility of another type, as established by this Code.

1<sup>1</sup>. Other convicted persons may also be placed in a closed type prison facility taking into consideration risk factors.

2. (Deleted - 16.4.2012, No 2241).

3. (Deleted - 16.4.2012, No 2241).

*Law of Georgia No 2241 of 16 April 2014 - website, 2.5.2014*

### **Article 65 - Conditions for serving a sentence in a closed type prison facility**

1. A convicted person serving a sentence in a closed type prison facility shall be placed in a cell. A convicted person may:

- a) spend the money available on his/her personal account, within the monthly limit determined by an order of the Minister, to purchase food products, articles of prime necessity and other items in the shop located in the territory of a closed type prison facility;
- b) enjoy 1 short visit a month, and 1 additional short visit as an incentive;
- c) enjoy 3 telephone conversations a month at his/her own expense, each lasting for not longer than 15 minutes, and as an incentive, an unlimited number of telephone conversations, each lasting for not longer than 15 minutes;
- d) enjoy 2 long visits a year, and 1 additional long visit as an incentive.

2. The administration shall inspect the correspondence of a convicted person placed in a closed type prison facility, except as provided for in Article 16(6) of this Code.

3. (Deleted - 16.4.2012, No 2241).

*Law of Georgia No 4259 of 25 February 2011 - website, 10.3.2011*



*Law of Georgia No 5255 of 11 November 2011 - website, 24.11.2011*

*Law of Georgia No 6257 of 22 May 2012 - website, 6.6.2012*

*Law of Georgia No 2241 of 16 April 2014 - website, 2.5.2014*

#### **Article 66 - Incentives for convicted persons in a closed type prison facility**

In the case of model behaviour and honest attitude to the work, the administration of a closed type prison facility may allow the following forms of incentives for a convicted person:

- a) expression of appreciation
- b) (deleted - 16.4.2014, No 2241)
- c) early lifting of a disciplinary sanction
- d) an additional telephone conversation
- e) filing by the director of the facility of a petition for the release on parole
- f) the right to use a personal TV set, computer or radio set
- g) an additional short visit
- h) an additional long visit
- i) an additional video visit
- j) an additional family visit(for convicted women)
- k) granting of the right to a short visit as an exception, by decision of the director of the penitentiary institution and with the consent of the Director of the Department
- l) granting of the right to a short meeting with a person who is not specified in Article 17(2) of this Code by decision of the director of the penitentiary institution and with the consent of the Director of the Department.

*Law of Georgia No 4259 of 25 February 2011 - website, 10.3.2011*

*Law of Georgia No 5255 of 11 November 2011 - website, 24.11.2011*

*Law of Georgia No 6257 of 22 May 2012 - website, 6.6.2012*

*Law of Georgia No 2241 of 16 April 2014 - website, 2.5.2014*

*Law of Georgia No 3523 of 1 May 2015 - website, 18.5.2015*

### **Chapter X<sup>1</sup> - Special Risk Prison Facility**

*Law of Georgia No 2241 of 16 April 2014 - website, 2.5.2014*

#### **Article 66<sup>1</sup> - Legal grounds for the enforcement of imprisonment in a special risk prison facility**

1. This chapter determines peculiarities of the enforcement of imprisonment in a special risk prison facility.
2. Imprisonment in a special risk prison facility shall be enforced according to this Code, unless otherwise provided for by this Chapter.

*Law of Georgia No 2241 of 16 April 2014 - website, 2.5.2014*

#### **Article 66<sup>2</sup> - Peculiarities of the enforcement of imprisonment in a special risk prison facility**

For the purpose of serving a sentence, a special risk prison facility is used for highly dangerous convicted persons whose personal qualities, criminal influence, motive of the crime, consequences of the unlawful actions and/or conduct demonstrated in the prison facility poses or may pose a serious threat to the prison facility or to other persons, and to the state or public security and/or to the law enforcement authorities.

*Law of Georgia No 2241 of 16 April 2014 - website, 2.5.2014*



### **Article 66<sup>3</sup> - Conditions for serving a sentence in a special risk prison facility**

1. A convicted person serving a sentence in a special risk prison facility shall be placed in a cell. The procedure and conditions for placing a convicted person in a cell are defined by the internal regulations of the facility.
2. A convicted person may:
  - a) spend the money available on his/her personal account, within the monthly limit determined by an order of the Minister, to purchase articles of prime necessity in the shop located in the territory of a special risk prison facility;
  - b) enjoy 1 short visit a month, and 1 additional short visit as an incentive;
  - c) enjoy 1 telephone conversation a month at his/her own expense, lasting for not longer than 10 minutes, and as an incentive, 1 additional telephone conversation not longer than 10 minutes at his/her own expense.
3. The telephone conversations under paragraph 2(c) of this article may be carried out only on a certain number of pre-determined telephone numbers. The procedure and conditions for carrying out a telephone conversation are defined by the internal regulations of the facility.
4. If there is reasonable doubt, the administration may listen to and record telephone conversations of a convicted person in a special risk prison facility; the convicted person shall be notified of this fact in advance. A convicted person need not be warned in advance during operational and search activities.
5. Convicted persons placed in a special risk prison facility shall not enjoy:
  - a) the right to labour;
  - b) the right:
    - b.a) under Article 14(1)(h) of this Code (except when a close relative passes away);
    - b.b) under Article 14(2)(b) of this Code.
6. If there is a reasonable doubt, the administration may inspect the correspondence of a convicted person placed in a special risk prison facility and read its content after the convicted person is warned about it in writing. This paragraph shall not apply to the cases under Article 16(6) of this Code and to operational and search activities.
7. The correspondence sent to a convicted person by the persons under Article 16(6) of this Code shall be inspected as established by paragraph 5 of the same article.
8. A convicted person placed in a special risk prison facility may receive a parcel, as established by the internal regulations of the facility.
9. The list of articles of prime necessity that may be purchased by a convicted person in the shop located in the territory of a special risk prison facility are defined by an order of the Ministry.

*Law of Georgia No 2241 of 16 April 2014 - website, 2.5.2014*

### **Article 66<sup>4</sup> - Incentives for convicted persons in a special risk prison facility**

In the case of model behaviour and honest attitude toward the work, the administration may allow the following forms of incentives for a convicted person placed in a special risk prison facility:

- a) expression of appreciation
- b) early lifting of an imposed disciplinary sanction
- c) an additional telephone conversation
- d) an additional short visit
- e) the right to use a personal TV or radio set.
- f) granting of the right to a short visit as an exception, by decision of the director of the penitentiary institution and with the consent of the Director of the Department
- g) granting of the right to a short meeting with a person who is not specified in Article 17(2) of this Code by decision of the director of the penitentiary institution and with the consent of the Director of the Department.

*Law of Georgia No 2241 of 16 April 2014 - website, 2.5.2014*

*Law of Georgia No 3523 of 1 May 2015 - website, 18.5.2015*





## **Article 66<sup>5</sup> - Types of disciplinary measures for convicted persons in a special risk prison facility**

1. The administration may apply to a convicted person in a special risk prison facility the following types of disciplinary measures for a disciplinary violation:

- a) warning;
- b) disallowing short visit privileges not more than six times a year, but not more than twice in succession;
- c) restriction of the right to telephone conversations for not longer than three months;
- d) restriction of the right to receive and send personal correspondence for not more than three months.

2. The period of restriction of each right under paragraph 1(c) and (d) of this article shall not exceed six months a year.

3. The restriction of the right under paragraph (d) of this article for a disciplinary violation shall not apply to the correspondence under Article 16(6) of this Code.

*Law of Georgia No 2241 of 16 April 2014 - website, 2.5.2014*

## **Chapter XI - Peculiarities of Serving a Sentence in a Juvenile Rehabilitation Facility**

*Law of Georgia No 2241 of 16 April 2014 - website, 2.5.2014*

**[Chapter XI - (Deleted). (Shall become effective as from 1 January 2016)]**

*Law of Georgia No 3711 of 12 June 2015 - website, 24.6.2015*

## **Article 67 - Legal grounds for the enforcement of imprisonment in a juvenile rehabilitation facility**

1. This chapter determines special characteristics of the enforcement of imprisonment in a juvenile rehabilitation facility.

2. Imprisonment in a juvenile rehabilitation facility shall be enforced according to this Code, unless otherwise provided for by this Chapter.

*Law of Georgia No 3619 of 24 September 2010 - LHG I, No 51, 29.9.2010, Art. 332*

*Law of Georgia No 2241 of 16 April 2014 - website, 2.5.2014*

**[Article 67 - (Deleted). (Shall become effective as from 1 January 2016)]**

*Law of Georgia No 3711 of 12 June 2015 - website, 24.6.2015*

## **Article 68 - Peculiarities of the enforcement of imprisonment in a juvenile rehabilitation facility**

1. A convicted person, who has not attained the age of 18 by the time of placement in a confinement facility, shall be placed in a juvenile rehabilitation facility.

2. Based on the special interests for protection and care of minors defined by treaties and international agreements ratified by the Parliament of Georgia, the Minister shall define:

- a) the procedure and conditions for the enforcement of imprisonment in a juvenile rehabilitation facility;
- b) the structure and rules of operation of a juvenile rehabilitation facility;
- c) the procedure for the application of incentives and other measures to convicted persons of minor age;
- d) the procedure for the imposition of disciplinary measures on convicted persons of minor age;
- e) the procedures for the proceedings related to the claims and complaints of convicted persons of minor age;
- f) the procedure for organising a rehabilitation process for convicted persons of minor age;
- g) the procedure and conditions for using security measures and special equipment against convicted persons of minor age;
- h) the procedure for keeping registers and maintaining personal files of convicted persons of minor age.

*Law of Georgia No 2241 of 16 April 2014 - website, 2.5.2014*



**[Article 68 – (Deleted).(Shall become effective as from 1 January 2016)]**

*Law of Georgia No 3711 of 12 June 2015 - website, 24.6.2015*

**Article 69 - Keeping of a convicted person in a juvenile rehabilitation facility or transfer of a convicted person to a prison facility of another type**

1. A convicted person who has attained the age of 18 shall be transferred for further service of the sentence in a semi-open type prison facility or a low risk prison facility.
2. In order to re-socialise a convicted person, or to provide general education and vocational training, a convicted person who 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 is made by the Director of the Department based on the petition of the director of the facility.
3. A convicted person who has attained the age of 18 may be kept in a rehabilitation facility until the age of 20.
4. The conditions for serving a sentence, and the nutritional and living standards that are provided for convicted persons of minor age shall apply to convicted persons who attained the age of 18 and were kept to serve their sentence in a juvenile rehabilitation facility.
5. A convicted person who has attained the age of 20 shall be transferred for further service of the sentence in a semi-open type prison facility or a low risk prison facility.

*Law of Georgia No 2241 of 16 April 2014 - website, 2.5.2014*

*Law of Georgia No 3523 of 1 May 2015 - website, 18.5.2015*

**[Article 69 – (Deleted).(Shall become effective as from 1 January 2016)]**

*Law of Georgia No 3711 of 12 June 2015 - website, 24.6.2015*

**Article 70 - Conditions for serving a sentence in a juvenile rehabilitation facility**

1. In a juvenile rehabilitation facility, convicted persons are placed in special living areas.
2. A convicted person of minor age may:
  - a) enjoy 4 short visits a month, and 2 additional short visits a month as an incentive;
  - b) enjoy 4 long visit a year, and 6 additional long visits a year as an incentive;
  - c) spend the money available on his/her personal account, within the monthly limit provided for by an order of the Minister, to purchase food products, articles of prime necessity and other items in the shop located in the territory of the juvenile rehabilitation facility;
  - d) independently move throughout the territory of a juvenile rehabilitation facility, as established by the internal regulations of the facility;
  - e) 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;
  - f) use his/her own TV and radio set;
  - g) enjoy 4 video visits a month, and 2 additional video visits a month as an incentive.
3. A convicted person of minor age placed in a rehabilitation facility may not be employed to perform general maintenance duties.

*Law of Georgia No 4259 of 25 February 2011 - website, 10.3.2011*

*Law of Georgia No 5255 of 11 November 2011 - website, 24.11.2011*

*Law of Georgia No 6257 of 22 May 2012 - website, 6.6.2012*

*Law of Georgia No 2241 of 16 April 2014 - website, 2.5.2014*

**[Article 70 – (Deleted).(Shall become effective as from 1 January 2016)]**

*Law of Georgia No 3711 of 12 June 2015 - website, 24.6.2015*



## **Article 71 - Incentives for convicted persons in a juvenile rehabilitation facility**

1. In the case of model behaviour and honest attitude toward work, the administration may allow the following forms of incentives for a convicted person placed in a juvenile rehabilitation facility:

- a) expression of appreciation
- b) early lifting of an imposed disciplinary sanction
- c) an additional short visit
- d) an additional long visit
- e) an additional video visit
- f) an additional telephone conversation
- g) an additional short leave from the facility
- h) the right to receive in a parcel or by post those items, substances and articles that a convicted person may not, as a rule, keep in a prison facility, but which are not prohibited
- i) the right to play computer games
- j) the right to use audio and video devices
- k) granting of the right to a short visit as an exception, by decision of the director of the penitentiary institution and with the consent of the Director of the Department
- l) granting of the right to a short meeting with a person who is not specified in Article 17(2) of this Code by decision of the director of the penitentiary institution and with the consent of the Director of the Department.

2. The Minister defines the types and quantities of items, substances and articles provided for by paragraph 1(h) of this article.

*Law of Georgia No 2241 of 16 April 2014 - website, 2.5.2014*

*Law of Georgia No 3523 of 1 May 2015 - website, 18.5.2015*

**[Article 71 – (Deleted). (Shall become effective as from 1 January 2016)]**

*Law of Georgia No 3711 of 12 June 2015 - website, 24.6.2015*

## **Article 71<sup>1</sup> - Types of disciplinary measures for convicted persons in a juvenile rehabilitation facility**

1. The administration may apply to a convicted person placed in a juvenile rehabilitation facility the following types of disciplinary measures for a disciplinary violation:

- a) warning
- b) reprimand
- c) restriction of the right to use allowed items (except for necessary food products and medication prescribed by a doctor) for one month
- d) restriction of the right to use the shop located in the territory of the facility for one month
- e) restriction of the right to receive parcels and remittances for one month
- f) restriction of the right to telephone conversations for one month
- g) transfer to a cell type accommodation for up to six months a year.

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

*Law of Georgia No 2241 of 16 April 2014 - website, 2.5.2014*

**[Article 71<sup>1</sup> – (Deleted). (Shall become effective as from 1 January 2016)]**

*Law of Georgia No 3711 of 12 June 2015 - website, 24.6.2015*



## **Article 71<sup>2</sup> - Organising an educational and rehabilitation process in a juvenile rehabilitation facility**

1. The juvenile rehabilitation facility shall organise an educational and rehabilitation process to provide convicted persons with general or vocational education and develop their general skills.
2. The educational process in a juvenile rehabilitation facility shall comply with educational standards existing in the country.
3. The education process in a rehabilitation facility is regulated by a joint order of the Minister and the Minister of Education and Science of Georgia.

*Law of Georgia No 2241 of 16 April 2014 - website, 2.5.2014*

**[Article 71<sup>2</sup> – (Deleted). (Shall become effective as from 1 January 2016)]**

*Law of Georgia No 3711 of 12 June 2015 - website, 24.6.2015*

## **Article 71<sup>3</sup> - Disciplinary proceedings**

1. The case of a disciplinary violation of an accused/convicted person of minor age shall be reviewed by oral hearing.
2. During the oral hearing, an accused/convicted person of minor age shall have the right to sit and make notes.
3. An accused/convicted person of minor age shall have the right to be represented by a lawyer in disciplinary proceedings. Prior to oral hearing, an accused/convicted person shall be informed of the right to invite a private lawyer and in the case of the relevant consent, this right shall be exercised within three hours after the accused/convicted person is notified of this right. If within the established period of time the lawyer fails to appear, a public defender shall be appointed for an accused/convicted person with his/her consent. If an accused/convicted person refuses to appear, this fact shall be recorded in writing. When this is not the case, a report shall be prepared, which shall be signed by the accused/convicted person.
4. An oral session on the imposition of a disciplinary measure may continue without oral hearing and a decision may be delivered if an accused/convicted person of minor age breaches order, or otherwise interferes with the course of the hearing or is not appearing at the hearing.

*Law of Georgia No 2241 of 16 April 2014 - website, 2.5.2014*

**[Article 71<sup>3</sup> – (Deleted). (Shall become effective as from 1 January 2016)]**

*Law of Georgia No 3711 of 12 June 2015 - website, 24.6.2015*

## **Chapter XII - Peculiarities of Service of a Sentence of Imprisonment by Convicted Women**

### **Article 72 - Peculiarities of service of a sentence of imprisonment by convicted women**

1. A convicted woman shall serve her sentence in a special facility for women, which is equated with a semi-open prison facility.
2. (Deleted - 16.4.2012, No 2241).
3. If necessary, a special unit for pregnant women and for children shall be arranged in a prison facility. If so requested by a mother, with the permission of guardianship authorities and with the consent of the administration, special conditions may be created for the mother and her child under the age of 3 to live together.
- 3<sup>1</sup>. The Ministry shall provide food, medical services and hygiene and sanitary conditions to children under the age of 3 in a prison facility.
- 3<sup>2</sup>. The nutritional standards and hygiene and sanitary conditions for children under the age of 3 in a prison facility are defined by a joint order of the Minister and the Minister of Labour, Health and Social Affairs of Georgia.
4. Based on the application of guardianship authorities, the administration may prohibit a mother to interact with her minor children.
5. A convicted woman may enjoy 3 short visits a month, and 1 additional short visit a month as an incentive.
6. A convicted woman may enjoy 5 telephone conversations a month at her own expense, each lasting for not longer than 15 minutes, and as an incentive, an unlimited number of telephone conversations, each lasting for not more than 15 minutes.
7. A convicted woman may independently move throughout the territory of the facility for women, as established by the internal regulations of the facility.
8. A convicted woman may enjoy 1 family visit a month, and 1 additional family visit a month as an incentive.



9. A convicted woman may enjoy 1 video visit in 10 calendar days, and 1 additional video visit a month as an incentive.

*Law of Georgia No 3619 of 24 September 2010 - LHG I, No 51, 29.9.2010, Art. 332*

*Law of Georgia No 4259 of 25 February 2011 - website, 10.3.2011*

*Law of Georgia No 5255 of 11 November 2011 - website, 24.11.2011*

*Law of Georgia No 6257 of 22 May 2012 - website, 6.6.2012*

*Law of Georgia No 2241 of 16 April 2014 - website, 2.5.2014*

*Law of Georgia No 3523 of 1 May 2015 - website, 18.5.2015*

## **Chapter XIII - Procedure for the Enforcement of Detention**

### **Article 73 - Place of the enforcement of detention**

A person, who is remanded in custody as established by the Criminal Procedure Code of Georgia, shall be placed in a detention facility.

### **Article 74 - Conditions in detention facilities**

1. The hygiene and sanitary conditions of a detention facility shall comply with the standards established by the legislation of Georgia in force.
2. Persons in a detention facility shall be placed in cells.
3. (Deleted - 16.4.2012, No 2241).
4. Persons accused of being accomplices in the same crime shall be placed in separate cells. The administration shall take measures to prevent their contact with each other. By decision of the investigator, prosecutor or the court, this procedure may also apply to other accused persons.
5. (Deleted).

*Law of Georgia No 3619 of 24 September 2010 - LHG I, No 51, 29.9.2010, Art. 332*

*Law of Georgia No 559 of 19 April 2013 - website, 10.5.2013*

*Law of Georgia No 2241 of 16 April 2014 - website, 2.5.2014*

### **Article 75 - Admission to a detention facility**

1. To place an accused person in a detention facility, it is necessary to have a court decision remanding the person in custody, the identity card of the accused or other identification document with a photograph and, a detention report if preparation of a report is required by the legislation of Georgia.
2. Upon admission to a detention facility an accused person shall be photographed and fingerprinted. The photos, their negatives, the fingerprint card and the verbal portrait according to the fingerprint card shall be kept in the personal file of the accused person.
3. The administration shall send an accused person's fingerprint card to the central or appropriate territorial office or division of the National Forensics Bureau within seven days after the fingerprints are taken.
4. Upon admission to a detention facility, an accused person and his/her personal belongings shall be thoroughly searched and a relevant report shall be prepared. An employee of the same sex of a detention facility shall search an accused person.
5. Upon admission to a detention facility, an accused person shall undergo a medical examination which is carried out by a doctor of the detention facility. A relevant certificate of medical examination shall be prepared. If injuries are discovered on the body of an accused person, the administration shall immediately notify the prosecutor.
6. An authorised person of the detention facility shall immediately inform an accused person of his/her rights and obligations in a language understandable to him/her.
7. Not later than 24 hours after the admission of an accused person to a detention facility, information related to the accused person shall be sent to the Information Bureau of the Ministry of Internal Affairs.

*Law of Georgia No 2241 of 16 April 2014 - website, 2.5.2014*

### **Article 76 - Removal and transfer of an accused person from a detention facility**



1. The Minister approves the procedure for removing and transferring accused persons from a detention facility.
2. The administration of the receiving detention facility shall immediately notify the investigator, prosecutor, judge, and a close relative of an accused person about his/her transfer.
3. A doctor of a detention facility shall conduct a medical examination of an accused person in the case of his/her removal or transfer and a relevant certificate of medical examination shall be prepared.

#### **Article 77 - Visitation rights of an accused person**

1. An accused person may enjoy not more than 4 short visits a month. This right may be restricted based on a resolution of the investigator or prosecutor.
2. For the purposes of investigation and safety, an employee of the facility who carries out a visual surveillance of a short visit of an accused person may immediately terminate the visit.

#### **Article 78 - Temporary leave of an accused person from a detention facility in connection with special personal circumstances**

1. If reliable information is received regarding the death or life-threatening illness of a close relative of an accused person, or if there are other special personal circumstances, or if the participation of an accused person is required in an investigative or other procedural action, the investigator or prosecutor may issue a permit for the accused person to temporarily leave the detention facility for up to two days. Expenses associated with a temporary leave from the detention facility shall be covered from the State Budget of Georgia.
2. The Minister approves the procedure for the temporary leave by an accused person of a detention facility.

*Law of Georgia No 2241 of 16 April 2014 - website, 2.5.2014*

#### **Article 79 - Conditions regarding an accused person in a detention facility**

1. In a detention facility, an accused person may:
  - a) purchase food products in the shop located in the territory of the detention facility with the money transferred to his/her personal account by close relatives or other persons. Spending of personal money for the purchase of food products is allowed only within the limits defined by an order of the Minister and only by cashless settlement;
  - b) wear personal clothes, and if he/she does not have any, wear the clothes provided by the administration according to the season;
  - c) under the control of the administration and at his/her own expense receive and send correspondence and enjoy 3 telephone conversations a month, each lasting not longer than 15 minutes;
  - d) have access to the books and the press in the library;
  - e) have his/her own radio or TV set with the permission of the administration.
2. The right established by paragraph 1(c) of this article may be restricted by a reasoned decision of the investigator or prosecutor.
3. An accused person shall be released as established by the Criminal Procedure Code of Georgia.

### **Chapter XIV - Disciplinary Liability of Accused/Convicted Persons**

#### **Article 80 - Disciplinary violation**

A disciplinary violation is an act that breaches the internal regulations of a facility, prejudices the order and safety, and does not involve elements of crime, namely:

- a) violation of hygiene and sanitary standards;
- b) violation of fire safety rules;
- c) disobedience or other kind of resistance to employees of the facility and other authorised persons in the performance of their duties;
- d) commission of an intentional act that poses a threat to another person's life and/or health; humiliation of another person's dignity and/or breach of his/her inviolability;
- e) damage/destruction of the property of the facility or of other persons, including the alteration of its appearance;
- f) unauthorised crossing of movement boundaries/limits, set by the facility;



- g) carrying out of activities on the territory of the facility to receive profits, without the permission of the administration;
- h) interference in the functioning of devices/systems in the territory of a facility, unauthorised alteration of the design or functions of the buildings of the facility;
- i) manufacturing, possession or use of prohibited items in the territory of the facility;
- i<sup>1</sup>) (deleted – 1.5.2015, No 3523);
- j) making noise or other actions that disturb order and interfere with the normal operation of a facility;
- k) unlawful transfer of any information from one cell to another or outside the facility;
- l) violation of the internal regulations and daily routine of the facility, and of other norms established by the legislation of Georgia.

*Law of Georgia No 2241 of 16 April 2014 - website, 2.5.2014*

*Law of Georgia No 3523 of 1 May 2015 - website, 18.5.2015*

#### **Article 81 - Disciplinary measures**

1. A disciplinary violation causes disciplinary liability of the accused/convicted person. Measures imposed for a disciplinary violation shall be proportionate to the violation committed.
2. Disciplinary measures shall be applied to an accused/convicted person only based on disciplinary proceedings and after proving the fact of a disciplinary violation.
3. In case of violations committed by more than one person, measures shall be imposed individually against each accused/convicted person.
4. If the circumstances of a disciplinary violation provide grounds for applying the security measures under Article 57 of this Code, such measures shall be used before the commencement of the disciplinary proceedings provided for under this Chapter.

*Law of Georgia No 2241 of 16 April 2014 - website, 2.5.2014*

#### **Article 82 - Types of disciplinary measures**

1. The types of disciplinary measures are:
  - a) a warning;
  - b) a reprimand;
  - c) restriction of the right to work for not more than six months;
  - d) restriction of the right to use allowed items for not more than six months;
  - e) restriction of the right to receive parcels and money remittances for not more than six months;
  - f) transfer to a cell type accommodation for up to six months;
  - g) placement in a solitary cell for up to 14 days;
  - h) restriction of the right to telephone conversations for not more than three months;
  - i) restriction of the right to receive and send private correspondence for not more than three months;
  - j) restriction of the right to use the shop available in the territory of the penitentiary institution for not more than three months;
  - k) restriction of the right to receive and send money for not more than three months;
  - l) disallowance of short visit privileges not more than six times a year.
2. The measures provided in paragraph 1(f) and (g) of this article shall not apply to pregnant women, mothers of minor children and to accused/convicted persons over 65.
3. (Deleted - 16.4.2012, No 2241).
4. The period of restriction of each right under paragraph 1(h-k) of this article shall not exceed six months in a year.
5. The rights under paragraph 1 (h), (i) and (l) of this article may not be restricted at the same time.

Note: The restriction provided in paragraph 1(i) of this article for a disciplinary violation shall not apply to the correspondence the addressee or sender



of which is the President of Georgia, the Chairperson of the Parliament, the Prime Minister of Georgia, a Member of Parliament, the Court, the European Court of Human Rights, an international organisation established under a human rights international agreement ratified by the Parliament of Georgia, a ministry of Georgia, the Department, the Public Defender of Georgia, a defence lawyer, or a prosecutor.

*Law of Georgia No 5255 of 11 November 2011 - website, 24.11.2011*

*Law of Georgia No 1295 of 24 September 2013 - website, 8.10.2013*

*Law of Georgia No 2241 of 16 April 2014 - website, 2.5.2014*

*Law of Georgia No 3523 of 1 May 2015 - website, 18.5.2015*

### **Article 83 - Rights of an accused/convicted person charged with a disciplinary violation**

An accused/convicted person charged with a disciplinary violation has the right to:

- a) be informed of the essence and grounds of the violation in a language understandable by him/her;
- b) have sufficient time and means to prepare a defence in the case of an oral hearing of the case;
- c) use legal aid, including, as established by the Law of Georgia on Legal Aid, in the cases provided for in Article 82(1)(f) and (g) if so requested by him/her in the case of an oral hearing of the case;
- d) request the attendance of witnesses during the review of a disciplinary violation and question witnesses in the case of oral hearing of the case;
- e) use an interpreter's services free of charge if he/she does not understand the language of the proceedings.

*Law of Georgia No 2241 of 16 April 2014 - website, 2.5.2014*

### **Article 84 - Disciplinary proceedings**

1. Cases or disciplinary violation are reviewed without oral hearing by the director of the facility or a person authorised by him/her. If the director of the facility or a person authorised by him/her considers that additional information is required to decide the matter, he/she may review the case through an oral hearing.

1<sup>1</sup>. During the review of a disciplinary violation case without an oral hearing, an accused/convicted person may be represented by a lawyer.

2. The accused/convicted person shall be informed of his/her right to give an explanation, provide evidence, file a motion, speak in their native language, use an interpreter's services, and to appeal the order imposing a disciplinary measure.

3. An accused/convicted person shall give an explanation of the disciplinary violation committed by him/her, and in the case of his/her refusal to do so, the administration shall prepare a relevant report.

4. A person who has committed a disciplinary violation, a witness or a victim may submit an explanation and/or comments in writing, which must be attached to the order on the application of a disciplinary measure.

5. During the oral hearing, an accused/convicted person shall have the right to sit and make notes.

6. In applying a disciplinary measure to an accused/convicted person, his/her person and conduct, and the circumstances in which the disciplinary violation has been committed and his/her explanation about the violation shall be taken into account. After the review of the case, the director or a person authorised by him/her shall take a relevant decision based on the assessment of the evidence.

7. An accused/convicted person may be represented by a lawyer during the review of the case by an oral hearing, which is conducted regarding the imposition of the disciplinary measures provided in Article 82(1)(f) and (g) of this Code. Prior to the oral hearing, an accused/convicted person shall be informed of the right to invite a private lawyer, and if the relevant consents are given, this right shall be exercised within three hours after informing the accused/convicted person. If the lawyer fails to appear within the specified period of time, a public lawyer shall be appointed for the accused/convicted person with his/her consent. If an accused/convicted person refuses to appear, this fact shall be recorded in writing. If this is not the case, a report shall be prepared, which must be signed by the accused/convicted person.

8. An oral session regarding the imposition of a disciplinary measure may continue without an oral hearing and a decision may be delivered if the accused/convicted person breaches order, does not appear at the hearing or otherwise interferes with the hearing.

*Law of Georgia No 2241 of 16 April 2014 - website, 2.5.2014*

### **Article 85 - Order on the application of a disciplinary measure**

1. The right to issue an order on the application of a disciplinary measure is vested with the director of the facility or a person authorised by him/her. The administrative act issued by the director of a facility granting the authority to another person may not be appealed separately.

2. A disciplinary measure shall be imposed not later than 10 days after the violation is detected.





3. An order applying a disciplinary measure shall contain:

- a) the surname and first name of the authorised official;
- b) the date, time and place of preparation of the order;
- c) the registration number;
- d) information on the offender (surname, first name, date of birth, etc.);
- e) the place and time of the violation, the essence of the violation, and the time of detecting the violation. If the time of committing the violation cannot be determined, the time of detection of the violation shall be regarded as the time of committing the violation;
- f) data on the witness, or on the victim, if any;
- g) reference to other evidence, if any, that is required to decide the case.

4. Use of an interpreter's services shall be mentioned in an order on the application of a disciplinary measure.

5. An order on the application of a disciplinary measure shall be lawful, substantiated and fair and shall serve the legitimate purpose. An imposed disciplinary sanction shall be proportionate to the gravity and nature of the committed violation. An order shall be in written form and provide for an appeal procedure.

6. One copy of an order on the application of a disciplinary measure shall be delivered to the accused/convicted person or to his/her lawyer immediately after its issuance.

7. Materials of a disciplinary liability case shall be included in the personal file of an accused/convicted person.

8. The enforcement of a disciplinary measure shall commence within one month after its imposition.

*Law of Georgia No 5255 of 11 November 2011 - website, 24.11.2011*

#### **Article 86 - Appealing disciplinary measures**

1. An accused/convicted person may, on a one-time basis, appeal to a court the disciplinary measure imposed on him/her within 10 working days after the order applying a disciplinary measure is issued. The appeal process shall not suspend the enforcement of the order applying a disciplinary measure.

2. The transfer of an accused/convicted person to a medical facility due to a deteriorated health condition or other special circumstances that impede the enforcement of a disciplinary measure shall cause the postponement of the enforcement of the disciplinary measure until the accused/convicted person returns to the facility.

#### **Article 87 - Guarantees for an accused/convicted person during the application of disciplinary measures**

1. Two or more disciplinary measures may not be imposed for one disciplinary violation.

2. Disciplinary measures shall not humiliate an accused/convicted person and degrade his/her honour and dignity.

3. A disciplinary measure may not be imposed if one year has passed after the commission of a disciplinary violation.

4. A person shall be considered as not having been subjected to a disciplinary measure if he/she does not commit a disciplinary violation again within six months after serving the disciplinary measure. If an accused/convicted person is subjected to the measures provided in Article 82(1)(f) and (g), he/she shall be considered as not having been subjected to a disciplinary measure if he/she does not commit a disciplinary violation again within one year after serving the disciplinary measure.

5. The director of a facility or a person authorised by him/her may lift a disciplinary measure ahead of time if the purpose of the measure has been achieved.

*Law of Georgia No 2241 of 16 April 2014 - website, 2.5.2014*

#### **Article 88 - Placement in a solitary cell**

1. Placement in a solitary cell shall be imposed as a disciplinary measure only in special cases.

2. An accused/convicted person placed in a solitary cell may not enjoy short and long visits, telephone conversations or purchase food products. He/she shall have the right to a one-hour stay in the open air daily.

3. To ensure safety of an accused/convicted person in a solitary cell, he/she shall enjoy all the rights under this Code.

4. A solitary cell shall have lighting and ventilation; an accused/convicted person shall be provided with a chair and a bed. Upon request, he/she may receive reading material.



5. An accused/convicted person may not be placed in the conditions of complete sensory deprivation.

6. The administration shall inform medical personnel about the placement of a person in a solitary cell. The person placed in a solitary cell shall be under special, daily observation of medical personnel. If necessary, the duration of placement in a solitary cell may be reduced, based on a doctor's report.

*Law of Georgia No 4259 of 25 February 2011 - website, 10.3.2011*

### **Article 89 - Prevention of disciplinary violations**

1. The administration shall take relevant measures to prevent and avoid disciplinary violations.

2. The internal regulations of a facility, a detailed list of disciplinary violations and respective measures shall be accessible to all accused/convicted persons.

## **Chapter XV - Administrative Detention of Convicted Persons**

### **Article 90 - Imposition of administrative detention**

1. If a convicted person repeatedly commits a disciplinary violation provided under this Code during the period of application of a disciplinary measure, he/she may be subjected to administrative detention for not more than 60 days and nights. This procedure does not apply to paragraph 1<sup>1</sup> of this article.

1<sup>1</sup>. If a convicted person placed in a special risk prison facility commits a disciplinary violation defined in Article 80(c,d,k) of this Code, he may be subjected to administrative detention for not more than 90 days and nights. This period shall not be counted towards the overall term of administrative detention provided under paragraph 2 of this article.

2. The total period of administrative detentions imposed during one year shall not exceed 90 days and nights.

3. Pregnant women and convicted persons of minor age shall not be subjected to administrative detention.

4. The authority to issue an order imposing administrative detention is vested with the director of a facility or a person authorised by him/her. The authority under this paragraph shall be delegated based on an individual administrative act.

5. An order on the imposition of administrative detention shall contain:

a) the surname and first name of the authorised official;

b) the date, time and place of preparing the order;

c) the registration number;

d) reference to the normative act and individual administrative act, on the basis of which the authorised official exercises this authority;

e) data on the offender (surname, first name, date of birth, etc.);

f) the place, time (year, month, date, hour, minutes) of the violation and the essence of the violation. If the time of committing the violation cannot be determined, the time of detecting the violation shall be deemed as the time of committing the violation;

g) data on witnesses, or on victims, if any;

h) reference to other evidence, if any, that is required to decide the case;

I) the motion on the imposition of administrative detention, without indicating the term of the sanction.

6. When issuing an order imposing administrative detention, the convicted person shall be informed of his/her right to read the order, give explanations, provide evidence, file motions, speak in their native language, use an interpreter's and/or lawyer's (defence lawyer's) services and to appeal the order imposing administrative detention. The order imposing administrative detention shall indicate that the accused person has been informed of his/her rights.

7. Use of an interpreter's and/or lawyer's (defence lawyer's) services shall be indicated in an order on the imposition of administrative detention.

8. The offender, witness or the victim may submit written explanations and/or comments, which must be attached to the order on the imposition of administrative detention.

9. Immediately upon its issuance, one copy of an order on the imposition of administrative detention shall be given to the convicted person.

10. An order imposing administrative detention shall be submitted to the competent court within 24 hours, according to the location of the facility. The burden of proof shall rest with the official issuing the order.

11. The judge shall review an order imposing administrative detention alone in an open court session, within 48 hours after the order is submitted. A reasoned decision shall be immediately delivered after the review of the case. The delivery of a reasoned decision may not be postponed.



12. The court shall review a case as established by the Administrative Procedure Code of Georgia. Article 26<sup>2</sup> of the Administrative Procedure Code of Georgia shall not be applicable during the review of the case.

13. The case shall be reviewed in the court based on principles of equality of arms and of adversarial process. A convicted person shall enjoy all the rights guaranteed under the Administrative Procedure Code of Georgia. Based on the principle of equality of arms, he/she may provide evidence, participate in the examination of the evidence, call witnesses, give explanations, file a motion and recusal, and express a personal opinion on any issue related to the case. During the judicial review of the case, a convicted person may speak in their native language and use interpreter's and/or lawyer's (defence lawyer's) services. If a convicted person cannot afford a lawyer (defence lawyer), the court shall appoint a lawyer (defence lawyer) for him/her at the expense of the State.

14. The time used to present a convicted person before the court and the time used by the court of first instance to deliver a decision shall be counted towards the total term of the administrative detention.

*Law of Georgia No 5255 of 11 November 2011 - website, 24.11.2011*

*Law of Georgia No 2241 of 16 April 2014 - website, 2.5.2014*

*Law of Georgia No 3523 of 1 May 2015 - website, 18.5.2015*

#### **Article 91 - Court decision (ruling) on the imposition of administrative detention**

1. A court decision (ruling) on the imposition of administrative detention may not be based on presumption. The court decision (ruling) shall be delivered only if, in the course of the hearing, the commission of the violation by the person is proved based on the solid evidence examined by the court.

2. A court decision (ruling) on the imposition of administrative detention shall be lawful, reasoned and fair.

3. A court decision (ruling) shall be deemed lawful if it has been delivered in compliance with the Constitution of Georgia and the requirements of other laws.

4. A court decision (ruling) shall be deemed reasoned if its findings are based on the totality of solid evidence examined at the hearing.

5. A court decision (ruling) shall be deemed fair if the imposed administrative detention is proportionate to the person of the offender and to the gravity of the disciplinary violation committed by him/her.

#### **Article 92 - Issues to be decided by the court when imposing administrative detention**

1. When imposing administrative detention, a court shall consequently decide the following issues in the following succession:

a) whether or not the person committed an act provided for by this Code;

b) whether or not an act performed by the person is unlawful;

c) whether or not a person is to be charged with the commission of the act;

d) whether or not administrative detention is to be imposed on the person and to what extent;

e) what will happen to the items of material evidence.

2. When reviewing a case of a person charged with the commission of multiple disciplinary violations, the court shall decide the issues referred to in paragraph 1 of this article according to each violation separately and as a whole.

3. The court may jointly review the imposition of administrative detention on several persons charged with the commission of a disciplinary violation, based on the motion of the issuer of an order on the imposition of administrative detention or on its own initiative.

4. In the case provided for in paragraph 3 of this article, the issues referred to in paragraph 1 of this article, shall be decided for each person separately.

#### **Article 93 - Appealing the decision (ruling) of the court of first instance**

1. The decision (ruling) of the court of first instance may be appealed to an appellate court by the parties or their representatives within seven days after a copy of the decision (ruling) is delivered to them as provided for by the Civil Procedure Code of Georgia. The court shall immediately forward the submitted appeal to the appellate court and to the opposite party.

2. The appellate court shall review the appeal as a panel of three judges, in an open court hearing. The appellate court shall review the case and deliver the decision (ruling) according to the procedure and within the period of time established by this Code for the court of first instance.

3. The decision (ruling) of the appellate court is final and without appeal.



#### **Article 94 - Organisation and control of enforcement related issues**

1. The court that has delivered the decision (ruling) shall refer the decision (ruling) on the imposition of administrative detention for enforcement. The Department shall organise and control an enforcement process.
2. The procedure for serving the term of administrative detention is defined by an order of the Minister.
3. The term of administrative detention shall not be counted towards the total term of the sentence to be served by the convicted person.

### **Chapter XVI - Procedures for Reviewing Claims and Complaints**

#### **Article 95 - Claims and the procedure for filing claims**

1. By filing a claim, an accused/convicted person may claim those rights the granting of which falls within the powers of the Administration.
2. An accused/convicted person may file a written claim either individually or collectively. A claim may be confidential.
3. A claim is registered with the administrative office of the facility and the registration number is given to the accused/convicted person.
4. An accused/convicted person may submit a claim to the director of the facility or to a person authorised by him/her, who shall respond to the claim in writing within five days.
5. The administration shall attach a character reference of the accused/convicted person to his/her claims for premature release or transfer to another facility.
6. A refusal of the claim shall be reasoned.

*Law of Georgia No 3523 of 1 May 2015 - website, 18.5.2015*

#### **Article 96 - Right to file a complaint**

1. An action (action or omission) of an employee carrying out activities in the field of enforcement, a legal act, decision and other violations of the rights under this Code may serve as grounds for filing a complaint.
2. An accused/convicted person may file a complaint individually or collectively. A complaint may be filed in written form.
3. A complaint may be filed within one month after identifying the relevant grounds.
4. The lawyer, legal representative or close relative of an accused/convicted person may file a complaint as well if:
  - a) he/she reasonably believes that the rights of the accused/convicted person have been violated;
  - b) the health status of the accused/convicted person does not allow him/her to file a complaint in person.

*Law of Georgia No 3619 of 24 September 2010 - LHG I, No 51, 29.9.2010, Art. 332*

*Law of Georgia No 3523 of 1 May 2015 - website, 18.5.2015*

#### **Article 97 - Informing an accused/convicted person of the right to file a complaint**

1. Immediately upon the admission of an accused/convicted person to a facility, the designated person shall allow him/her to read written information about his/her rights and obligations, including the procedure for filing complaints and appeals provided for by law.
2. An illiterate accused/convicted person 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/convicted person.
3. An accused/convicted person of minor age shall be provided with information in a form understandable to him/her.

**[3. (Deleted – No3711, 12.6.2015).(Shall become effective as from 1 January 2016)]**

*Law of Georgia No 3711 of 12 June 2015 - website, 24.6.2015*

#### **Article 98 - Addressee of a complaint**

1. An accused/convicted person may file a complaint with the director of the penitentiary institution if the complaint concerns the activities of an employee of the penitentiary institution.



2. An accused/convicted person may appeal the rejection of the complaint by the director of the penitentiary institution to the Director of the Department. An accused/convicted person may also file a complaint with the Director of the Department concerning the activities of the director of the penitentiary institution.

3. An accused/convicted person may file a complaint with the Minister concerning the activities of the Director of the Department.

4. A person against whose action, legal act or decision a complaint is filed may not participate in deciding the complaint.

5. An accused/convicted person may, at any time, file a complaint with the Public Defender of Georgia/Special Preventive Group.

*Law of Georgia No 3523 of 1 May 2015 - website, 18.5.2015*

#### **Article 99 - Procedure for filing a complaint**

1. To determine the addressee of the complaint or to solve other technical issues, an accused/convicted person may request consultation of the employees of the Social Services Department of the facility.

2. An accused/convicted person may request a consultation of a lawyer when preparing a complaint. Expenses for the lawyer shall be covered as provided for by law.

3. A complaint shall be submitted in writing in accordance with the form approved by the Minister.

*Law of Georgia No 3523 of 1 May 2015 - website, 18.5.2015*

#### **Article 100 - Complaints boxes for accused/convicted persons**

1. A complaints box shall be placed in the territory of a facility, in the place accessible to all accused/convicted persons. Several complaints boxes may be placed in the territory of a facility.

2. A sign with the inscription 'Complaints Box ' shall be attached to the box.

3. The box shall be sealed.

4. An employee of the Social Services Department of the facility shall lock and seal a complaints box in the presence of the director of the facility or his/her deputy.

5. An employee of the Social Services Department of the facility shall open a complaints box at the end of each day in the presence of the director or a person authorised by him/her.

6. Upon opening of a complaints box, the envelopes shall be visually examined and registered according to their numbers.

7. The Social Services Department of the administration shall ensure the registration of complaints. An employee of the Social Services Department of the facility shall keep records of complaints.

8. If a complaints box has been damaged, it shall be repaired or a new one shall be installed within the shortest possible time, but not later than three days after it is damaged.

#### **Article 101 - Language of a complaint**

1. An accused/convicted person who does not speak the official language of Georgia and does not understand the language of proceedings may use an interpreter's free services.

2. An accused/convicted person shall receive a reply in the official language of Georgia, and if necessary, the procedure provided in paragraph 1 of this article shall be used.

#### **Article 102 - Procedure for forwarding complaints**

1. The administration shall forward a submitted complaint to the addressee not later than the next working day after receiving the complaint.

2. The complaints addressed to the director of a facility or to a person authorised by him/her shall be immediately delivered to them. This duty shall be carried out by the administration.

3. Not later than the following day after a complaint is forwarded, the registration number of the complaint and the code of the respective envelope shall be posted near the complaints box.

4. A non-confidential complaint may not be sent for review to a person whose actions are referred to in the complaint or to a person under his/her direct subordination.

*Law of Georgia No 3523 of 1 May 2015 - website, 18.5.2015*



### **Article 103 - Time limits for reviewing complaints**

1. The director of a penitentiary institution or a person authorised by him/her shall review a complaint within five days after receiving it. In special cases, the time limit for reviewing a complaint may be extended for not more than 10 working days and the complainant shall be immediately notified verbally or in writing.
2. The Director of the Department shall review a complaint within 10 working days after receiving it. The Director of the Department may extend the time limit for reviewing a complaint for not more than 10 working days and the complainant shall be immediately notified in writing.
3. A complaint shall be reviewed within the time limits established by law, except as provided for in paragraphs 1 and 2 of this article.

*Law of Georgia No 3523 of 1 May 2015 - website, 18.5.2015*

### **Article 104 - Confidential complaints**

1. An accused/convicted person may file a confidential complaint.
2. A complaint shall be considered to be confidential if it is placed in a sealed envelope and an addressee is indicated on it.
3. The administration does not ensure the confidentiality of the complaints where the addressee is not indicated.

### **Article 105 - Complaints related to torture and inhuman and degrading treatment**

1. Complaints related to torture and inhuman and degrading treatment fall under special cases and are reviewed immediately.
2. The director of a facility or a person authorised by him/her and/or the Special Prevention Group shall be notified within 24 hours about a complaint related to torture and inhuman and degrading treatment.

### **Article 106 - Outcomes of the review of complaints**

1. An accused/convicted person shall be notified of the outcomes of the review of the complaint and his/her signed acknowledgement shall be obtained within five days after the decision is delivered. The outcomes of the review of the complaint shall be included in the personal file of the accused/convicted person.
2. A substantiated response shall be given to each individual request in the complaint.
3. If a complaint is rejected, the accused/convicted person shall receive a substantiated response.

### **Article 107 - Appealing the decision**

The outcomes of the review of a complaint may be administratively appealed to a court.

*Law of Georgia No 3619 of 24 September 2010 - LHG I, No 51, 29.9.2010, Art. 332*

### **Article 108 - Facilitating the filing of complaints**

1. Upon request of an accused/convicted person, the administration shall provide him/her with a sufficient quantity of items necessary to file a complaint, including paper, envelopes for confidential complaints, writing means, etc.
2. An accused/convicted person may not be punished for filing a complaint.
3. The administration shall resolve an accused/convicted person's problems on site. A non-confidential complaint that may be resolved by the administration on site shall be resolved without waiting for the outcomes of the review of the complaint by the body and person to whom the complaint was sent.

### **Article 109 – (Deleted)**

*Law of Georgia No 3523 of 1 May 2015 - website, 18.5.2015*



#### **Article 110 - General principles of labour activities of accused/convicted persons**

1. Labour activities of accused/convicted persons are carried out as determined by this Code and the labour legislation of Georgia. An accused/convicted person may not be forced to perform work that degrades human honour and dignity.
2. Accused/convicted persons shall be employed on the territory of the prison facility if the facility is able to employ them. Accused/convicted persons shall work only on the territory of the prison facility.
3. An accused/convicted person may also be employed by a governmental or non-governmental institution operating in the territory of a prison facility.
- 3<sup>1</sup>. An accused/convicted person employed in the territory of a prison facility or employed by a governmental institution operating in the territory of a prison facility shall not be deemed to be a public servant and the Law of Georgia on Public Service shall not apply to him/her.
4. The list of jobs for which an accused/convicted person may not be employed is defined by the internal regulations of a prison facility.
5. An accused/convicted shall, according to the labour legislation of Georgia, receive a salary for the work performed. The procedure and conditions for the remuneration of an accused/convicted person are defined by the legislation of Georgia.
6. An accused/convicted person's salary shall be transferred to his/her personal bank account. An accused/convicted person shall be granted the right to fully dispose of his/her salary only upon his/her release. He/she may transfer this amount to his/her close relative or other persons.

*Law of Georgia No 3619 of 24 September 2010 - LHG I, No 51, 29.9.2010, Art. 332*

*Law of Georgia No 2241 of 16 April 2014 - website, 2.5.2014*

#### **Article 111 - Enterprises on the territory of a prison facility**

1. An accused/convicted person may be employed according to the Law of Georgia on Entrepreneurs at enterprises set up on the territory of a prison facility.
2. As a rule, only accused/convicted persons shall be employed at an enterprise operating in the territory of a prison facility. As an exception, an outside (not convicted) person may be invited to the enterprise on the basis of an employment contract, if the specific nature of the activity of an enterprise requires the performance of the work that an accused/convicted person cannot perform because of the lack of qualification or if an accused/convicted person may not gain such qualification through training in a short period of time, or if the work involves regularly leaving the territory of a prison facility.
3. An accused/convicted person shall be employed at an enterprise as established by the legislation of Georgia, with organisational participation of the administration of the prison facility. An accused/convicted person may choose the one appropriate for him/her from the types of jobs proposed by the administration.
4. A contract shall be concluded between an enterprise and the Department, under which the enterprise undertakes to adhere, in its activity, to the requirements established by the internal regulations of the prison facility on the territory of which it operates. The same obligation shall be imposed on an accused/convicted person, which shall be specified in a labour contract concluded with an enterprise.

*Law of Georgia No 3619 of 24 September 2010 - LHG I, No 51, 29.9.2010, Art. 332*

#### **Article 112 - Working conditions**

1. The administration of a prison facility and an employer shall create safe working conditions for accused/convicted persons. The working hours, labour protection, safety and sanitary rules of an enterprise shall be established according to the labour legislation of Georgia.
2. An accused/convicted person of minor age shall work during the time outside the study hours, and the time of study and work shall not exceed eight hours a day.
2. (Deleted – No3711, 12.6.2015).**(Shall become effective as from 1 January 2016)**
3. Overtime work and work on public holidays shall be allowed only with the consent of an accused/convicted person. Working hours shall not exceed eight hours a day.
4. An accused/convicted person may work outside the facility. The Minister determines the procedure for the employment of an accused/convicted person outside the facility.

*Law of Georgia No 3619 of 24 September 2010 - LHG I, No 51, 29.9.2010, Art. 332*

*Law of Georgia No 3711 of 12 June 2015 - website, 24.6.2015*



#### **Article 112 - General maintenance duties**

1. The assignment of a convicted person to general maintenance duties in a prison facility shall be documented by an order of the director of the facility.
2. A convicted person shall be remunerated for performing general maintenance duties.
3. A convicted person performing general maintenance duties shall not be deemed a public servant and the Law of Georgia on Public Service shall not apply to him/her.
4. The procedure for a convicted person's assignment to/removal from general maintenance duties, the procedure for the performance of duties by a convicted person and the procedure for granting remuneration and the amount of the remuneration shall be defined by an order of the Minister.
5. The administration shall create as safe a working environment as possible for the life and health of a convicted person.

*Law of Georgia No 2241 of 16 April 2014 - website, 2.5.2014*

*Law of Georgia No 3523 of 1 May 2015 - website, 18.5.2015*

### **Chapter XVIII - Education of Accused/Convicted Persons**

*Law of Georgia No 3619 of 24 September 2010 - LHG I, No 51, 29.9.2010, Art. 332*

#### **Article 113 - Education of accused/convicted persons**

1. The administration of a prison facility shall create conditions for the general and vocational education of accused/convicted persons.
2. The administration of a prison facility shall arrange a library in the facility containing both educational literature and national and international legislation on the enforcement of imprisonment, in the language understandable to accused/convicted persons.

*Law of Georgia No 3619 of 24 September 2010 - LHG I, No 51, 29.9.2010, Art. 332*

#### **Article 114 - General education of accused/convicted persons**

1. An accused/convicted person shall have an opportunity to receive complete general education as determined by a joint order of the Minister and the Minister of Education and Science of Georgia.
2. Elementary and basic education shall be provided to accused/convicted persons of minor age.

**[2. (Deleted – No3711, 12.6.2015).(Shall become effective as from 1 January 2016)]**

3. An accused/convicted person who does not speak the official language of Georgia shall be provided with conditions for learning it.
4. General education is provided in a prison facility under a programme approved by the Minister of Education and Science of Georgia, which must ensure the achievement of the goals set by the National Curriculum. The conditions for the organisation of educational environment and the hourly schedule provided under the National Curriculum do not apply to this educational programme.
5. General education in a prison facility is financed under the programme approved by the Minister of Education and Science of Georgia, in a manner different from the one established by the Law of Georgia on General Education.

*Law of Georgia No 3619 of 24 September 2010 - LHG I, No 51, 29.9.2010, Art. 332*

*Law of Georgia No 3711 of 12 June 2015 - website, 24.6.2015*

#### **Article 115 - Vocational education of accused/convicted persons**

1. In a prison facility, an accused/convicted person shall be provided with the conditions for receiving vocational education.
2. In the course of vocational education of accused/convicted persons, preference is given to the professions that can be studied in the conditions of a prison facility.
3. Qualifications acquired through vocational education in a prison facility are certified by a certification body in accordance with the Law of Georgia on Vocational Education.

*Law of Georgia No 3619 of 24 September 2010 - LHG I, No 51, 29.9.2010, Art. 332*

### **Chapter XIX - Rehabilitation Programmes for Convicted Persons**





#### **Article 116 - Re-socialisation of convicted persons**

1. The re-socialisation of a convicted person means developing in the convicted person a sense of responsibility and respect toward society, other persons, moral standards and to established rules of human coexistence.
2. The main means for the re-socialisation of convicted persons are:
  - a) service of a sentence according to the established procedure;
  - b) implementation of rehabilitation programmes;
  - c) pedagogical work with juveniles;
  - d) employment of convicted persons;
  - e) provision of general and vocational education;
  - f) relationship with society.
3. The means of re-socialisation of a convicted person shall be applied based on the type of the sentence, gravity of the committed crime, personality of the convicted person, his/her mental state and conduct.
4. The Department and penitentiary institutions shall ensure the re-socialisation of convicted persons through social workers and other persons who have appropriate qualifications.

*Law of Georgia No 3523 of 1 May 2015 - website, 18.5.2015*

#### **Article 117 - Objectives of rehabilitation programmes for convicted persons**

1. Rehabilitation work is conducted with a convicted person at a prison facility. The purpose of the rehabilitation work is to:
  - a) develop in a convicted person a sense of respect for the law, other people, labour, and to established rules and standards of human coexistence;
  - b) create normal psychological environment among the convicted persons at a prison facility;
  - c) improve the educational and professional level of convicted persons;
  - d) prepare a convicted person for release;
  - e) rehabilitate persons with different addictions.
2. The participation of a convicted person in rehabilitation programmes shall be taken into account when assessing the degree of his/her correction and when granting an incentive to him/her.

#### **Article 118 - Organising rehabilitation programmes for convicted persons**

1. The administration shall ensure the organisation of rehabilitation programmes at a prison facility.
2. To rehabilitate convicted persons, the Ministry shall cooperate with state agencies and other organisations.
3. The daily routine of a prison facility shall include the time of participation of convicted persons in rehabilitation programmes.
4. Convicted persons participate in rehabilitation programmes only with their consent.
5. Rehabilitation work with a convicted person shall be conducted by taking into account his/her personal characteristics and the nature of the committed crime.
- 5<sup>1</sup>. The procedure for the implementation of substitution treatment programmes for opioid-dependent persons in detention and prison facilities is defined by a joint order of the Minister and the Minister of Labour, Health and Social Affairs of Georgia.
6. To organise rehabilitation programmes, a relevant material and technical base shall be created in a prison facility and, if necessary, specialists shall be invited.
7. To rehabilitate a person who has committed a domestic crime, compulsory training courses intended to change the person's violent attitude and behaviour shall be conducted. The Ministry shall ensure the organisation of these training courses through cooperation with state agencies and other interested organisations experienced in the relevant field.

*Law of Georgia No 2486 of 29 May 2014 - website, 2.6.2014*

*Law of Georgia No 2701 of 17 October 2014 - website, 31.10.2014*



## **Article 118<sup>1</sup> - Criminological research in the system of the Ministry**

The Ministry facilitates the implementation of criminological research in its system, which is intended to scientifically study re-socialisation, crime prevention and rehabilitation programmes.

*Law of Georgia No 2241 of 16 April 2014 - website, 2.5.2014*

*Law of Georgia No 3523 of 1 May 2015 - website, 18.5.2015*

## **Chapter XX - Organising Medical Services**

### **Article 119 - Providing medical services to accused/convicted persons**

Medical services shall be provided to accused/convicted persons according to medical service requirements established in the country in the field of healthcare.

### **Article 120 - Monitoring the health status of accused/convicted persons**

1. Upon admission to a detention/prison facility, an accused/convicted person shall undergo a medical examination.
2. The health status of an accused/convicted person shall be checked at least once a year. Ill accused/convicted persons shall be provided with urgent treatment.
3. Information of medical character related to an accused/convicted person shall be communicated from a preliminary detention isolator of the Ministry of Internal Affairs to a penitentiary institution in accordance with the procedure established by a joint order of the Minister of Internal Affairs of Georgia and the Minister.

*Law of Georgia No 3523 of 1 May 2015 - website, 18.5.2015*

### **Article 121 - Medical treatment in a detention/prison facility**

1. A medical unit shall be set up in all detention/prison facilities.
2. If an accused/convicted person cannot be treated at the medical unit of the detention/prison facility, he/she may be transferred to a medical facility for accused/convicted persons which operates under the Department or to a general hospital.

### **Article 121<sup>1</sup> - Conditions for accused/convicted person in a general hospital**

1. If an accused/convicted person is removed to a general hospital, a temporary guard shall be arranged in the admitting hospital.
2. A temporary guard shall be composed of the members of an escort team who will ensure protection and supervision. If necessary, the temporary guard may be enhanced with other officers.
3. During the stay of an accused/convicted person in a general hospital:
  - a) his/her close relatives (child, spouse, a partner with whom he/she has a common child, parent (adoptive parent), step-parent, spouse's parent, adopted child, stepchild and his/her descendants, grandchild, sister, brother, nephew/niece and their children, grandmother, grandfather, uncle (mother's and father's brother), aunt (mother's and father's sister), cousin, and the person with whom he/she lived and ran common household for the last one year before being placed in a detention/prison facility), on the recommendation of the doctor in charge and with the consent of the Director of the Department, may visit the accused/convicted person according to the procedure and with the frequency established by the Minister;
  - b) the persons who are not named in sub-paragraph (a) of this paragraph may also visit an accused/convicted person, on the recommendation of the doctor in charge and with the consent of the Director of the Department;
  - c) if the hospital cannot provide an accused/convicted person with the services of a care giver, the persons under sub-paragraph (a) of this paragraph may be allowed to care for the accused/convicted person, on the recommendation of the head of the hospital and with the consent of the Director of the Department;
  - d) based on the treatment requirements, an accused/convicted person may be allowed to receive additional food products, on the recommendation of the doctor in charge and with the consent of the Director of the Department;
  - e) upon request of an accused/convicted person, he/she may receive a parcel with personal hygiene products/means, clothes, bed linen and other items with the consent of the Director of the Department.
4. If a convicted woman, who has a child under the age of 3 in a prison facility, is removed to a general hospital, the child may also be removed along



with the mother, on the recommendation of the doctor of the facility and with the consent of the Director of the Department.

5. If a child under the age of 3 is removed to a general hospital on the recommendation of the doctor of the facility and with the consent of the Director of the Department, the convicted woman shall, as a rule, be removed along with her child; this right may be restricted by a substantiated decision of the Director of the Department.

6. During the stay of an accused/convicted person in a general hospital, the visiting rights provided in Articles 17-17<sup>3</sup> of this Code shall not apply to him/her.

7. The general conditions and procedure for removing an accused/convicted person to a general hospital and for his/her stay in hospital shall be defined on the basis of this article by an order of the Minister.

*Law of Georgia No 2241 of 16 April 2014 - website, 2.5.2014*

*Law of Georgia No 3523 of 1 May 2015 - website, 18.5.2015*

#### **Article 122 - Providing mental health services to convicted persons**

1. If a convicted person in a prison facility, against whom legal proceedings have been completed, shows signs of mental disorder and the Psychiatric Commission of the Ministry considers it appropriate to provide involuntary in-patient mental treatment to the convicted person, the administration shall, based on the report of the Psychiatric Commission of the Ministry, apply to the competent expert institution for a forensic psychiatric examination.

2. Based on the expert opinion of the competent expert institution, if the necessity of involuntary in-patient mental treatment is confirmed, the administration of the prison facility shall, within 48 hours, apply to the court and request the provision of involuntary in-patient mental treatment.

3. The powers and rules of operation of the Psychiatric Commission of the Ministry are defined by an order of the Minister.

*Law of Georgia No 3525 of 21 July 2010 - LHG I, No 46, 4.8.2010, Art. 288*

*Law of Georgia No 3619 of 24 September 2010 - LHG I, No 51, 29.9.2010, Art. 332*

*Law of Georgia No 1787 of 13 December 2013 - website, 28.12.2013*

### **Chapter XXI - Transitional Provisions**

#### **Article 123 - Visitation rights of accused person until 1 January 2016**

Until 1 January 2016 an accused person shall enjoy not more than 4 short visits a month, by the permission of the prosecutor and investigator.

*Law of Georgia No 1870 of 25 December 2013 - website, 28.12.2013*

#### **Article 124 - Correspondence and telephone conversations of accused persons until 1 January 2016**

Until 1 January 2016, under the control of the administration, an accused person may, at his/her own expense, maintain correspondence and enjoy 3 telephone conversations a month, each lasting for not longer than 15 minutes, only with the permission of the investigator, prosecutor or the court.

*Law of Georgia No 1870 of 25 December 2013 - website, 28.12.2013*

#### **Article 124<sup>1</sup> - Activities associated with the exercise of the right to a long visit**

In order to arrange long meetings, the Ministry, not later than 31 December 2015, shall ensure that necessary conditions are created and the rights to long visits are exercised in women's and closed type prison facilities.

*Law of Georgia No 6257 of 22 May 2012 - website, 6.6.2012*

*Law of Georgia No 1787 of 13 December 2013 - website, 28.12.2013*

#### **Article 125 - Measures to be implemented for the entry into force of the Code**

1. Within two months after the entry into force of this Code, the Minister shall issue the normative acts provided for by this Code.

<sup>1</sup>. Within two months after the entry into force of this Code, the Minister shall determine persons who may enter into a detention/prison facility without a special permit.



2. Within two months after the entry into force of this Code, the Minister and the Minister of Labour, Health and Social Affairs of Georgia shall issue a joint order determining nutritional standards for accused and convicted persons.
3. Within two months after the entry into force of this Code, the Minister of Education and Science of Georgia shall approve a programme of general education in prison facilities.
4. The Local Council of the Ministry shall be the legal successor of the Standing Commission of the Ministry.
5. The Local Council of the Ministry shall execute the cases pending before the Standing Commission of the Ministry.
6. Competent state institutions shall implement measures to gradually bring the size of the living space established by this code in line with internationally established standards, taking into account the resources of the State.
7. By 1 September 2015, the Ministry shall ensure the implementation of the activities necessary to organise and introduce compulsory training courses intended for persons who committed domestic crime and focused on changing their violent attitude and behaviour. The ministry shall also define the time limits for the completion by convicted persons of the training courses.
8. The Minister of Corrections and Legal Assistance of Georgia shall, in agreement with the Public Defender of Georgia, prepare and not later than 1 August 2016 issue an order on the approval of the procedure specified in Article 60 (7) of this Code.

*Law of Georgia No 3619 of 24 September 2010 - LHG I, No 51, 29.9.2010, Art. 332*

*Law of Georgia No 2701 of 17 October 2014 - website, 31.10.2014*

*Law of Georgia No 3523 of 1 May 2015 - website, 18.5.2015*

#### **Article 125<sup>1</sup> – Liquidation, reorganisation and legal succession**

1. The Corrections Department – a state subordinate agency operating within the system of the Ministry of Corrections and Legal Assistance of Georgia shall be liquidated on 1 July 2015. Taking this fact into account, the Ministry of Corrections and Legal Assistance of Georgia shall be reorganised. The liquidation of the Corrections Department – a state subordinate agency operating within the system of the Ministry of Corrections and Legal Assistance of Georgia shall not cause the liquidation of its subordinate detention and prison facilities.
2. The Government of Georgia shall take appropriate organisational and legal measures to for the achievement of the purposes specified in paragraph 1 of this article.
3. The Ministry of Corrections and Legal Assistance of Georgia shall, not later than 1 June 2015, create a liquidation commission, the members of which shall include representatives from the Corrections Department – a state subordinate agency operating within the system of the Ministry of Corrections and Legal Assistance of Georgia.
4. The Ministry of Corrections and Legal Assistance of Georgia shall, in connection with the liquidation of the Corrections Department – a state subordinate agency operating within its system, issue appropriate legal acts and implement necessary organisational measures.
5. Detention and prison facilities shall be reorganised into penitentiary institutions. Until the completion of the reorganisation, detention and prison facilities shall retain their organisational structure existing as of 30 June 2015 and shall continue operation and exercise their rights and duties according to the rules existing as of 30 June 2015. The reorganisation of a particular detention or prison facility shall be deemed completed upon the approval by the Minister of Corrections and Legal Assistance of Georgia the internal regulations and the staff list of this facility, but not later than 1 September 2015. Before this date, the Ministry of Corrections and Legal Assistance of Georgia shall issue the legal acts necessary for the reorganisation of detention and prison facilities and implement necessary organisational measures.
6. The Minister of Corrections and Legal Assistance of Georgia shall, before 1 October 2015, ensure the conformity of the relevant subordinate normative acts with this Code and the issuance of normative acts provided for by this Code. The existing normative acts shall retain their legal force until the new acts issued by the Minister enter into force.
7. The legal acts issued by the chairperson of the Corrections Department – a state subordinate agency operating within the system of the Ministry of Corrections and Legal Assistance of Georgia shall retain legal force until they are repealed in accordance with the legislation of Georgia, regardless of their conformity with the provisions of this Code.
8. The Minister of Corrections and Legal Assistance of Georgia shall be the legal successor of the Corrections Department – a state subordinate agency operating within its system.
9. The cases on which the proceedings are carried out by the structural subdivisions of the Corrections Department – a state subordinate agency operating within the system of the Ministry of Corrections and Legal Assistance of Georgia shall be transferred to respective structural subdivisions/units of the Ministry. The period of consideration of these cases shall begin anew if the consideration of the case cannot be completed within the current period due to objective circumstances.

*Law of Georgia No 3523 of 1 May 2015 - website, 18.5.2015*

#### **Article 125<sup>2</sup> – Transfer of a person (employee) to another position at the time of reorganisation/liquidation**

1. A person who is an employee of the system of the agencies of enforcement of detention and imprisonment as of 1 June 2015 and works in the Monitoring Office, Administrative Office, Legal Assistance Office, Human Resources Office, Financial Office or Logistics Office of the Corrections



Department – a state subordinate agency operating within the system of the Ministry of Corrections and Legal Assistance of Georgia, may, at the time of reorganisation/liquidation, with his/her consent, be transferred, without competition, to another position in a structural subdivision of the Civil Service of the Ministry of Corrections and Legal Assistance of Georgia, based on an order of the Minister of Corrections and Legal Assistance of Georgia. Such employee shall not be granted a military or special state rank. 2. An employee who holds an interim position as of 1 June 2015 and works in the Monitoring Office, Administrative Office, Legal Assistance Office, Human Resources Office, Financial Office or Logistics Office of the Corrections Department – a state subordinate agency operating within the system of the Ministry of Corrections and Legal Assistance of Georgia, may, at the time of reorganisation/liquidation, with his/her consent, be transferred, without competition, to another interim position in a structural subdivision of the Civil Service of the Ministry of Corrections and Legal Assistance of Georgia, based on an order of the Minister of Corrections and Legal Assistance of Georgia. Such employee shall not be granted a military or special state rank. He/she shall be subject to the requirements specified in Article 30 (2) of the Law of Georgia on Public Service.

3. An employee who as of 1 June 2015 works in the social department, public reception area, logistic support department, administrative office, accounting office, human resources office of a detention or prison facility, or is a chief inspector (lawyer) of the facility, or an employee of the Social Security Office of the Corrections Department – a state subordinate agency operating within the system of the Ministry of Corrections and Legal Assistance of Georgia, may, at the time of reorganisation/liquidation, with his/her consent, be transferred, without competition, to the social service of the penitentiary department, to the social service of a penitentiary institution or to such service of a penitentiary institution that provides logistical, financial, organisational or legal support, based on an order of the person authorised to appoint him/her on the respective position. Such employee shall not be granted a military or special state rank.

4. A person who holds an interim position as of 1 June 2015 works in the social department, public reception area, logistic support department, administrative office, accounting office, human resources office of a detention or prison facility, or is a chief inspector (lawyer) of the facility, or an employee of the Social Security Office of the Corrections Department – a state subordinate agency operating within the system of the Ministry of Corrections and Legal Assistance of Georgia, may, at the time of reorganisation/liquidation, with his/her consent, be transferred, without competition, to the interim position in the social service of the penitentiary department, to the social service of a penitentiary institution or to such service of a penitentiary institution that provides logistical, financial, organisational or legal support, based on an order of the person authorised to appoint him/her on the respective position. Such employee shall not be granted a military or special state rank. He/she shall be subject to the requirements specified in Article 30 (2) of the Law of Georgia on Public Service.

5. A person who as of 1 June 2015 is an employee of the Central Office of the Ministry of Corrections and Legal Assistance of Georgia and/or of the Medical Department, at the time of reorganisation/liquidation, may, with his/her consent, be transferred, without competition, to the Civil Service of the Ministry of Corrections and Legal Assistance of Georgia on the basis of an order of the Minister of Corrections and Legal Assistance of Georgia. Such employee shall not be granted a military or special state rank.

6. A person who as of 1 June 2015 holds an interim position and works in the Central Office of the Ministry of Corrections and Legal Assistance of Georgia and/or in the Medical Department, at the time of reorganisation/liquidation, may, with his/her consent, be transferred to the same or different interim position of a structural subdivision of the Civil Service of the Ministry of Corrections and Legal Assistance of Georgia on the basis of an order of the Minister of Corrections and Legal Assistance of Georgia. Such employee shall not be granted a military or special state rank. He/she shall be subject to the requirements specified in Article 30 (2) of the Law of Georgia on Public Service.

7. If a person specified in paragraphs 1-6 of this article refuses to be transferred to the offered position, the person authorised to appoint him/her on the respective position may dismiss the employee due to liquidation. If an employee is dismissed due to liquidation, he/she shall be compensated according to Article 109 of the Law of Georgia on Public Service.

*Law of Georgia No 3523 of 1 May 2015 - website, 18.5.2015*

## **Chapter XXII - Final Provisions**

### **Article 126 - Invalidated normative acts**

Upon entry into force of this Code, the following shall become invalid:

- a) the Law of Georgia on Imprisonment of 22 July 1999 (Legislative Herald of Georgia, No 38(45), 1999, Art. 182);
- b) Edict of the President of Georgia No 309 of 3 August 2004 on Granting the Right of Entry into a Correctional Facility without a Special Permit.

*Law of Georgia No 3619 of 24 September 2010 - LHG I, No 51, 29.9.2010, Art. 332*

### **Article 127 - Entry into force of the Code**

1. This Code, except for Article 70(2)(b), Article 77(1), Article 79(1)(c) and Article 79(2), shall enter into force on 1 October 2010.
2. Article 70(2)(b) of this Code shall enter into force on 1 January 2012.
3. Article 77(1) and Article 79(1)(c) and Article 79(2) of this Code shall enter into force on 1 January 2016.
4. (Deleted – 1.5.2015, No 3523)

*Law of Georgia No 1870 of 25 December 2013 - website, 28.12.2013*

*Law of Georgia No 2241 of 16 April 2014 - website, 2.5.2014*



President of Georgia

M. Saakashvili

Tbilisi

9 March 2010

No 2696-IS

