

**LAW OF GEORGIA  
PENITENTIARY CODE**

The purpose of this Code is to establish legal guarantees for the enforcement of the deprivation of liberty and imprisonment for the purposes of the protection and realisation of fundamental human rights by striking a fair balance between respective interests and effectively ensuring, on the one hand, the protection of human rights in a penitentiary institution, and on the other, the implementation of justice, the prevention of the commission of new offences, and the re-socialisation of an offender.

**Book I  
General Provisions. Penitentiary System**

**Chapter I – General Provisions**

**Article 1 – Scope of the application of the Code**

1. This Code shall determine the procedure and conditions for the enforcement of the sentence of imprisonment delivered by a court in a criminal case, and guarantees in respect of the legal protection of accused and convicted persons. It shall regulate the activities of detention and imprisonment authorities, determine the procedure and conditions for the participation of state authorities, social organisations and citizens in the enforcement of detention and imprisonment, as well as the organisation, powers and operation of the state subordinate institution called the Special Penitentiary Service (the ‘Service’), the procedure for the employment of a person, the status of an employee, the system of continuous professional training and guarantees of legal and social protection within the system of the Ministry of Justice of Georgia (the ‘Ministry’).
2. A decision or judgement of a court related to the enforcement of detention/imprisonment, as well as a relevant decision of the International Criminal Court, shall be enforceable in accordance with the procedure established by this Code.

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

1. The legislation of Georgia on the enforcement of detention and imprisonment shall be based on the Constitution of Georgia, the treaties and international agreements of Georgia, this Code, other laws and subordinate normative acts.
2. The Minister of Justice of Georgia (the ‘Minister’) shall be authorised to issue orders on matters provided for by this Code.

**Article 3 – Application of legislation of Georgia on the enforcement of detention and imprisonment in the territory of the country, and towards the persons**

1. The legislation of Georgia on the enforcement of detention and imprisonment shall apply to the entire territory of Georgia.
2. The legislation of Georgia on the enforcement of detention and imprisonment shall be applied both to the citizens of Georgia and of foreign countries and stateless persons, in accordance with the procedure established by the legislation of Georgia and international treaties of Georgia.
3. Issues related to the detention of an accused juvenile and the imprisonment of a convicted juvenile shall be determined by this Code, the Juvenile Justice Code and subordinate normative acts issued on their basis.

**Article 4 – Grounds for the enforcement of detention and imprisonment**

1. The grounds for enforcing detention shall be a court decision on remanding a person in custody.
2. The grounds for enforcing imprisonment shall be the final judgement of conviction delivered by a court in a criminal case, and entered into legal force, on the basis of which a person is sentenced to imprisonment, as well as a relevant decision on imprisonment by an international criminal court.

**Chapter II – Organisation of the Penitentiary System**

**Article 5 – The system of enforcement of detention and imprisonment**

1. The Service and its subordinate penitentiary institutions shall be the bodies responsible for the enforcement of detention and imprisonment.
2. The Ministry shall ensure the implementation of a unified policy in the area of enforcement of detention and imprisonment.



## **Article 6 – The Service**

1. The legal basis for the activities of the Service shall be the following: the Constitution of Georgia, the international treaties of Georgia, this Code, the statute of the Service, other legislative acts and subordinate normative acts of Georgia, and other legal acts.
2. The Service shall integrate its structural subdivisions.
3. Penitentiary institutions shall be subordinate to the Service.
4. The statutes of the Service, its structural subdivisions, and of the structural unit of the penitentiary department of the Service, shall be approved by the Minister.
5. The staff list of the Service shall be approved by the General Director with the agreement of the Minister.

## **Article 7 – Management of the Service**

1. The Service shall be headed by the General Director who shall be appointed to and dismissed from office by the Minister.
2. The General Director of the Service shall have a first deputy and a deputy who shall be appointed to and dismissed from office by the Minister upon the recommendation of the General Director.
3. In the absence of the General Director of the Service, his/her first deputy shall act as the General Director of the Service, and if the first deputy is unable to exercise his/her powers, the deputy shall act as the General Director of the Service. The areas of the supervision of the first deputy/deputy of the General Director of the Service shall be defined by an order on his/her appointment. The General Director of the Service shall be authorised to transfer separate powers on the basis of an individual administrative and legal act to the first deputy/deputy.
4. The General Director of the Service shall appoint employees of the Service and penitentiary institutions to and dismiss them from office.
5. The General Director of the Service shall be authorised, in the cases provided for by this Code and other legislative and subordinate normative acts of Georgia, to issue an individual legal act.
6. The General Director of the Service shall develop proposals for the funding and logistical support of the Service and shall submit them to the Minister. The Service shall be funded by allocations from the State Budget of Georgia. The expenses of the Service shall be provided for in the State Budget of Georgia under a separate programme code(s), which shall be implemented by the Service in accordance with the procedure established by the legislation of Georgia.
7. The Service shall be accountable to the Minister. The General Director of the Service shall submit an activity report to the Minister at least biannually. The General Director of the Service shall, at the request of the Minister, submit to him/her an extraordinary report of the work he/she has performed.
8. The verification of the observance of basic human rights by the employees of the Service, and their fulfilment of the requirements established by the legislation of Georgia, as well as the control of the quality of medical services at the Service, and the systematic monitoring of penitentiary institutions, shall be carried out by the structural subdivision of the Service carrying out internal control.

## **Chapter III – General Principles of the Activities of the Service, and its Objectives and Powers**

### **Article 8 – Basic principles of the activities of the Service**

The basic principles of the activities of the Service shall be:

- (a) legality;
- (b) strict adherence to fundamental human rights and freedoms;
- (c) proportionality;
- (d) transparency;
- (e) political neutrality.

### **Article 9 – Objectives of the Service**

The objectives of the Service shall be:

- (a) the enforcement of detention and imprisonment in accordance with the procedure established by the legislation of Georgia;
- (b) the protection of an accused person/convicted person and of his/her rights in penitentiary institutions;
- (c) the protection of the legal regime and security in penitentiary institutions;
- (d) the protection of penitentiary institutions;
- (e) the management of crisis situations in penitentiary institutions;
- (f) the prevention and identification of a crime and/or other offence in the territory of penitentiary institutions and nearby;
- (g) support for the rehabilitation/re-socialisation and social integration of accused persons/convicted persons.

### **Article 10 – Powers of the Service**



The powers of the Service shall be the following:

- (a) to protect the legal regime in penitentiary institutions within its competence in order to fulfil the requirements established by the legislation of Georgia (including supervising the execution of the agenda of a penitentiary) and reacting accordingly in the case of a violation of these requirements;
- (b) to escort accused persons/convicted persons (during removal, transfer and extradition from a penitentiary institution);
- (c) to develop and implement plans for ongoing and enhanced security measures in the penitentiary institution;
- (d) to implement intervention, and special and/or other measures in order to protect the legal regime and security in a penitentiary institution while managing a crisis situation in accordance with the procedure established by the legislation of Georgia;
- (e) to implement appropriate measures to ensure the safety of accused persons/convicted persons during a natural disaster and other emergency situations, as well as to ensure the transition of the employees of the Service to a special regime;
- (f) to provide information and analytical support for a penitentiary institution, including processing and analysing relevant data;
- (g) to conduct operative-investigative activities under the procedure established by the legislation of Georgia;
- (h) to process data on accused persons/convicted persons and manage databases;
- (i) to produce the personal files of accused/convicted persons and the register of accused/convicted persons;
- (j) to organise and control the activities of the medical aid stations/medical units of penitentiary institutions, and implement departmental, state and international health care programmes in penitentiary institutions;
- (k) to inspect the sanitary, hygienic and epidemiological situation in a penitentiary institution;
- (l) to provide legal support for the activities of the Service;
- (m) to ensure the material and technical security of the service (including the protection of facilities under the authority of the Service), and develop and implement relevant technical security plans;
- (n) to ensure the security of an employees of the Service and their family members in accordance with the rules established by the legislation of Georgia;
- (o) to develop and implement appropriate programmes for the re-socialisation of convicted persons;
- (p) to exercise other powers determined by the legislation of Georgia.

## **Chapter IV – Recruitment and Performance**

### **Article 11 – Recruiting a person**

1. The activities determined by the legislation of Georgia shall be performed in the Service by an officer, a person employed on the basis of an employment agreement (the ‘employee’).
2. The Law of Georgia on Public Service shall apply to employees unless otherwise provided for by this Code and subordinate normative acts issued on the basis of this Code.
3. A person may be employed under an employment agreement in accordance with the procedure established by the Organic Law of Georgia – Labour Code of Georgia, unless otherwise provided for by this Code.
4. A person shall be recruited on the basis of competition, except for the cases provided for by Article 12(5)-(7) of this Code. The competition shall be announced on a website determined by the General Director of the Service.
5. A legally competent citizen of Georgia who has reached the age of 18 may be recruited if he/she:
  - (a) knows the official language of Georgia;
  - (b) satisfies the requirements established by relevant legal acts;
  - (c) is capable of performing the duties assigned to him/her by virtue of his/her personal and professional qualities, education and health;
  - (d) has adequate physical training to perform the duties assigned to him/her (this requirement applies to the employees of the division of the Service defined by an order of the Minister).
6. A person who by virtue of his/her personal and professional qualities, education and health and/or appropriate physical training is capable of performing the functions and duties specified in the employment agreement shall be recruited on the basis of an employment agreement.
7. The labour legislation of Georgia shall apply to persons recruited on the basis of an employment agreement, unless otherwise provided for by the legislation of Georgia, this Code and normative acts issued on the basis of this Code.
8. Article 13, Article 18, Article 19 (except for paragraph 1(h)), Article 20 (except for paragraph 4(e)), Article 21(5), Articles 22-25, Article 27 (except for paragraphs (2)-(4) and (5)(b) and (5)(c)) and Article 29 shall apply to persons recruited on the basis of an employment agreement.
9. The rights, functions and duties of persons recruited on the basis of employment agreements shall be defined by the employment agreements.

### **Article 12 – Special conditions for the recruitment of a person**

1. When participating in an announced competition for a vacant position in the Service, a candidate shall not be required to have an official certificate provided for by the Law of Georgia on Public Service.
2. An employee shall, during the probationary period, take an appropriate special training course (the ‘training course’) at



the legal entity under public law operating under the Ministry called the Training Centre of Justice of Georgia (the 'Training Centre') unless otherwise determined by an order of the Minister. During this period, an employee shall carry out official activities under the supervision of a person with special authority.

3. The training course, along with other theoretical and practical topics, must include human rights and freedoms.

4. If the training course is completed successfully, an employee shall be awarded a certificate (the 'Certificate') of an appropriate level.

5. A person with a valid certificate may be appointed to a position determined by paragraph 2 of this article without a competition, and without completing the training course.

6. The following persons may be appointed without a competition:

(a) an employee replacing another employee who is temporarily absent from a position/service;

(b) an employee temporarily fulfilling the duties of a vacant position that has to be occupied by competition;

(c) an employee – in case of promotion;

(d) an employee – in case of his/her transfer to the same or another structural subdivision/unit if he/she meets the qualification requirements determined for the occupation of a position by competition/promotion. In this case, the head of the structural subdivision/unit of the Service to which the employee is transferred shall have the right to nominate the employee for the position. The nomination of the employee to the position in question shall be made on the basis of his/her written consent.

7. A person may be appointed temporarily to a respective position without competition for not more than 6 months. This person may not be repeatedly appointed temporarily to the same position. The requirement to complete the training course provided for by paragraph 2 of this article shall not apply to a person appointed temporarily without competition.

8. A candidate to be recruited to work shall undergo a special check-up. A special check-up is a set of measures allowed by the legislation of Georgia, the purpose of which is to determine the conformity of the personal and professional qualities of a candidate with the work to be performed provided for by Article 11(5)(c) of this Code. A person shall be appointed to a position by an authorised person in accordance with the legislation of Georgia for no longer than 6 months of probationary period.

9. For the the purposes of this article:

(a) the Minister shall determine:

(a.a) the procedure for holding a competition for the recruitment to work for the Service, for selecting a person to be recruited, and for undergoing a special check-up and a probationary period by him/her;

(a.b) the types of training courses, the procedures for taking a training course, for certifying an employee and for his/her periodical retraining, and the validity of the certificate;

(a.c) the procedure for promoting an employee;

(a.d) the list of the official positions of the special division of the Service to which persons shall be appointed without competition or a probationary period; also the procedure for appointing them to these positions.

b) the General Director of the Service, taking into account the specifics of the post and the content of the job description, shall determine additional qualification requirements for a candidate to occupy a vacant post.

### **Article 13 – Restrictions on recruitment to the Service**

1. The following persons shall not be recruited to work at the Service:

(a) a person with a previous conviction; also, a person who has committed a crime which is related to the violation of Article 3 of the Convention for the Protection of Human Rights and Fundamental Freedoms, and that has been established by the decision of the European Court of Human Rights, despite the removal of conviction or expungement;

(b) a person who is subject to criminal prosecution;

(c) a person who has been recognised by a court as a person with limited legal capacity, or as a beneficiary of support, unless otherwise determined by the decision of a court;

(d) a person who has been deprived of the right to hold a respective position by a court;

(e) a person whose health status, according to a medical report, fails to meet the established requirements for holding a respective position;

(f) a person who, as a result of holding a position, will immediately supervise or be supervised by a parent, spouse, sister, brother, child, stepchild or a parent, sister, and brother of a spouse;

(g) an applicant for citizenship of a foreign country, except for the cases determined by law or the international agreements of Georgia;

(h) a person who received a negative evaluation as a result of a special check-up.

2. An employee shall have no right to hold a position in another public institution or private institution, and while performing official duties, to perform any paid work other than scientific, pedagogical and/or creative work. An employee may concurrently hold another position only within the system of the Ministry.

3. The restriction provided for by paragraph 2 of this Article shall not apply to a member of the medical personnel of the Service who carries out his/her activities in a penitentiary institution.

### **Article 14 – Documents required to be submitted by a person when applying for a post in the Service. The oath of an**



## **employee**

1. A candidate shall submit the documents determined by an order of the Minister to a person authorised to appoint employees. A failure to submit the above documents shall constitute grounds for refusal of employment. In addition, a candidate may be required to provide a health certificate issued by a relevant medical institution, as well as a diploma certified or recognised by the National Center for Educational Quality Enhancement, a legal entity under public law operating within the governance of the Ministry of Education, Science and Youth of Georgia.

2. The new employee of the Service shall take the following oath and confirm it with a signature: “Being aware of the great responsibility imposed on me before Georgia, I swear that I will faithfully serve the State, observe the Constitution and laws of Georgia, respect universally recognised human rights and freedoms, and fulfil my duties in good faith”.

## **Article 15 – Period of office. Probationary period**

1. An employee (except for those provided for by Article 16 of this Code) shall be recruited/appointed to the post for an indefinite term except for the cases provided for by paragraph 2 of this article.

2. The following persons shall be recruited for a definite term:

(a) a person substituting an employee who is temporarily absent from his/her position, until the employee returns to the Service, or until his/her discharge from office;

(b) an acting employee who is to be appointed to the position on a competition basis, until an employee is appointed to the position based on the competition results;

(c) a person employed under a labour agreement, for the period defined by the agreement.

3. A person with the authority to appoint can appoint a person for a probationary period of not more than 6 months.

4. During the probationary period, the satisfactoriness of the qualifications, and personal and professional qualities, of a person shall be verified with the requirements defined for the position to be held.

5. If, after expiry of the probationary period, a person has unsatisfactory results, he/she shall be dismissed from the Service under an appropriate legal act.

6. The probationary period shall not be applied when a person is appointed as a substitute, or acting in the position of a temporarily absent employee.

7. No person appointed for a probationary period may be transferred to another position or promoted, nor may he/she be obliged to act in a full position.

8. The time during which a person was absent due to temporary disability or for another valid reason shall be included in the probationary period. The probationary period shall be included in the total length of the service of a person.

## **Article 16 – Age limit for employees**

1. The following age limits shall be determined for employees:

(a) 60 years – for an employee with a lower special rank and middle special rank;

(b) 65 years – for an employee with the senior special rank;

2. An employee having attained the age limit for being in the Service shall be subject to dismissal, except for the cases provided for by this Code.

3. Based on the interests of the Service, and taking into account a medical opinion, the service term of an employee who has a special rank and has attained the age limit, may be prolonged for up to 5 years on the basis of his/her consent, by an order of the Minister. The above shall not exclude the possibility of the dismissal of an employee based on the respective grounds provided for by this Code.

## **Article 17 – Transfer of an employee to another position**

1. The employee may be transferred:

(a) to a higher position: in case of promotion, in accordance with the procedure established by the Minister, upon the recommendation of the manager of an employee and with the consent of the employee, provided that the employee has been holding his/her current position for at least 6 months;

(b) to an equivalent position:

(b.a) on the basis of a personal report;

(b.b) in order to meet the needs of the Service, with the consent of the employee;

(c) to a lower position:

(c.a) on the basis of a personal report;

(c.b) in order to meet the needs of the Service, with the consent of the employee;

(c.c) on the basis of the results of a qualifications test;

(c.d) if he/she has committed a disciplinary offence.

2. An employee may be transferred to another position taking into account appropriate qualification requirements, with his/her appropriate official retraining, if the position higher than the one he/she holds is a supervisory/managerial position and involves performing qualitatively different work.

3. An employee may be transferred to another position taking into account appropriate qualification requirements. The appointment of a person to the position of a different speciality shall be preceded by his/her appropriate official



retraining.

4. The employee may be transferred to another position by the order of a person authorised to appoint an employee to a respective position.

5. A person authorised to appoint an employee to a respective position may attach an employee to another structural subdivision of the Service, or structural unit or penitentiary facility, without transferring him/her to another position.

6. A person authorised to appoint an employee to a respective position may determine a workplace for an employee.

7. In the cases provided for by paragraphs 5 and 6 of this article, the consent of an employee shall be required.

#### **Article 18 – Execution of duties of an employee who is absent from the Service**

1. During emergency situations, when the absence of an employee poses a threat to the normal functioning of the Service, in order to replace an absent employee or occupy a vacant position, a person authorised to appoint an employee to a position shall be entitled to:

(a) distribute the duties of an absent employee among other employees without releasing them from their official duties;

(b) impose the duties of an absent employee on another employee (a substitute) and release that other employee from performing his/her official duties.

2. An employee may refuse the temporary performance of duties as provided for by paragraph 1 of this article if the performance thereof is contraindicated for the state of his/her health or requires higher qualifications or other professional training.

3. Based on paragraph 1 of this article, an employee may perform the duties of another employee who is absent from the Service in the same facility for not more than 1 month per calendar year. The duties of an absent employee may be performed for more than 1 month per calendar year with the consent of an acting employee.

4. An employee who, on the basis of paragraph 1(a) of this article, performs the duties of an employee absent from the Service, shall be given, in addition to his/her official remuneration, salary increments within the limited amount provided for by the Law of Georgia on Remuneration of Labour in Public Institutions, in the amount determined by an order of the General Director of the Service.

5. An employee who, on the basis of paragraph 1(b) of this article, is performing the duties of an employee absent from the Service, shall be given the official remuneration of the absent employee if it exceeds his/her own official remuneration. If the official remuneration of the absent employee is less than the official remuneration of his/her substituting employee, the substituting employee shall keep his/her own official remuneration.

#### **Article 19 – Incentives for employees**

1. The following forms of incentives shall be determined for an employee for his/her exemplary performance of official duties, and long and faithful service, and for the performance of extremely difficult or significant assignments:

(a) a commendation;

(b) a pecuniary reward;

(c) a valuable gift;

(d) the award of the diploma of the Ministry/Service;

(e) the award of badges;

(f) the award of the medallion of the Ministry/Service;

(g) the award of the medal of the Ministry/Service;

(h) early promotion to a higher special state rank;

(i) early release from a disciplinary sanction;

(j) the award of civilian or service guns.

2. Several forms of incentives may be applied to an employee at the same time.

3. For bravery and courage shown during the performance of duties, an employee may be nominated for the State award.

4. The procedures for the application of incentives to employees shall be determined by the Minister.

#### **Article 20 – Disciplinary misconduct and disciplinary sanctions of employees**

1. A disciplinary sanction may be imposed on an employee for committing a minor or gross disciplinary misconduct.

2. The disciplinary misconduct of an employee shall include the following:

(a) deliberately or negligently not fulfilling or improperly fulfilling an official duty;

(b) inflicting damage on the property of the Service, or the deliberate or negligent creation of the risk of causing such damage;

(c) committing indecent behaviour (a culpable act) against ethical standards that is intended to discredit an employee and the Service, irrespective of whether it is committed within or outside the Service;

(d) failing to fulfil the instructions of an immediate superior officer and/or a requirement established by the legislation of Georgia;

(e) violating ethical standards established for employees.

3. Disciplinary misconduct shall be gross if:

(a) the disciplinary misconduct has resulted in the defamation of a person who committed the disciplinary misconduct,



thereby excluding the proper fulfilment of official duties by this person in the future;

(b) the disciplinary misconduct has resulted in harm to the reputation of the Service or to an employee of the Service, to a third person or to the public interest;

(c) the disciplinary misconduct has resulted in significant material damage to the Service;

(d) an employee with disciplinary liability has committed another disciplinary misconduct;

(e) the case concerns the illicit use of a narcotic drug, its analogue or precursor without the prescription of a doctor if this act does not entail criminal liability.

4. The following disciplinary sanctions may be imposed on an employee for disciplinary misconduct:

(a) a rebuke;

(b) a warning;

(c) a reprimand;

(d) the deprivation of a badge;

(e) the demotion of a special state rank by one level;

(f) withholding official salary for not more than 10 working days;

(g) withholding 10% to 50% of official salary for one to six months;

(h) a demotion;

(i) dismissal/discharge from the Service.

5. The dismissal/discharge of an employee from the Service shall be allowed only in cases of gross disciplinary misconduct.

6. A disciplinary proceeding shall be carried out by the structural subdivision of the Service exercising internal control.

7. On the basis of the report of the structural subdivision of the Service exercising internal control, the General Director of the Service shall decide upon the imposition of a disciplinary sanction on an employee.

8. The imposition of a disciplinary sanction on an employee shall not be allowed during his/her temporary disability, leave or business trip, and if more than 1 year has passed since the moment of committing a disciplinary offence.

9. When imposing a disciplinary sanction on an employee, the content, gravity and consequences of the disciplinary misconduct, the circumstances of its commission, and the personality and merits of an employee, shall be taken into account.

10. Two or more than two disciplinary sanctions may not be imposed on an employee for the same disciplinary misconduct.

11. An employee shall be considered as being subject to a disciplinary sanction for one year after the disciplinary measure is imposed.

12. A disciplinary sanction may be lifted early if an employee has not committed further disciplinary misconduct and has shown himself/herself to be a conscientious person. A disciplinary sanction may also be lifted early for special merit.

13. The Minister shall approve ethical norms and disciplinary regulations for employees.

## **Chapter V – Rights and Obligations of Employees, Conditions of Service, Guarantees of Legal, Social and Safety Protection of Employees**

### **Article 21 – Rights and obligations of employees;**

1. An employee shall represent the Service when exercising his/her official powers.

2. An employee shall have the right to:

(a) make relevant decisions, within his/her authority, in order to fulfil the duties imposed on him/her;

(b) request and receive information required for the exercise of official powers in the prescribed manner;

(c) be provided with organisational and technical equipment and conditions required for the fulfilment of official functions;

(d) submit proposals regarding the improvement of his/her official activities to a directly senior officer and receive consultations necessary for work;

(e) use physical force, special equipment and firearms, within his/her competence, in order to fulfil obligations in accordance with the procedures provided for by the legislation of Georgia;

(f) exercise other powers granted by the legislation of Georgia and official instructions.

3. An employee shall have the obligation to:

(a) protect the rights of accused/convicted and other persons while performing official duties;

(b) properly perform the duties imposed on him/her by official instructions;

(c) follow the norms of professional ethics;

(d) observe the legal acts related to his/her official activities, without special indication;

(e) perform the legal orders, regulations and indications issued by a senior officer;

(f) observe the requirements of the internal regulations;

(g) take care of state property and protect relevant material assets;

(h) not disseminate state and commercial secrets, the personal data of other persons and other information (in consideration of Article 50(4) of the Criminal Procedure Code of Georgia) that became known to him/her in relation to



- the fulfilment of official duties while exercising official powers, and after dismissal from the Service;
- (i) efficiently and correctly manage organisational processes within the Service by way of the economic use and spending of resources; comply with the principle of economy and efficiency, and not abuse or embezzle official resources while fulfilling official duties;
  - (j) be impartial and be guided solely by the public interest while exercising official powers;
  - (k) observe labour discipline, reasonably use labour hours, not allow any act that impedes the operation of the Service or discredits its reputation;
  - (l) keep safe the official ID and the service weapon, and use them in good faith solely for official purposes and not for obtaining advantage; if the service weapon and/or official ID are lost, immediately inform the structural subdivision of the Service exercising internal control, the Weapon Service and a relevant agency of the Ministry of Internal Affairs of Georgia. The loss of the official ID and the service weapon may serve as a basis for the imposition of disciplinary liability on an employee;
  - (m) fulfil other duties imposed on him/her by the legislation of Georgia and official instructions.

4. An employee of the Service shall be prohibited from:

- (a) being at work under the influence of alcohol, or narcotic or psychotropic substances;
- (b) participating in gambling and/or games of chance (except for promotional draws; including games organised in a system-based and electronic form);
- (c) driving an official car in a state of drug and/or alcoholic intoxication. Such an act shall be considered disciplinary misconduct as provided for by Article 20(2)(c);
- (d) establishing such relations (entering into a transaction, etc.) with an accused person/convicted person in a penitentiary facility of the Service, or knowingly with persons under Article 120(1) of this Code, that are not included in the official rights and obligations; handing an accused person/convicted person such an item and/or substance, or accepting from him/her of such an item and/or substance (including for storage or for other purpose) that is not related to an official activity.

5. An employee shall be prohibited from being a member of a political party and from participating in political activities. The membership of a political party shall be terminated for a person who has been recruited to the Service. An employee shall not be permitted to act upon political beliefs while exercising his/her activities. The implementation of security measures by an employee against an accused person/convicted person or subjecting an accused person/convicted person to liability due to his/her political beliefs or party affiliation shall be prohibited and shall result in liability as established by law.

6. Other rights and obligations of an employee, in accordance with his/her official functions, shall be defined by the official instructions of an employee that shall be approved by the General Director of the Service.

7. The procedure for using physical force, special means and a firearm by an employee shall be defined by the legislation of Georgia and the official instructions of an employee.

## **Article 22 – Working hours of employees**

1. The working hours of employees shall be defined in accordance with the Law of Georgia on Public Service unless otherwise provided for by paragraph 2 of this article.

2. For the employees of certain subdivisions of the Service and/or certain employees determined by an order of the Minister, working hours and/or working conditions different from those provided for by the Law of Georgia on Public Service shall be established, namely:

- (a) employees shall work not more than a 48-hour week, and irregular working hours;
- (b) working on holidays and weekends shall be voluntary for employees (except for employees working in shifts). In such case they shall be paid in accordance with the procedure established by the legislation of Georgia;
- (c) working hours for employees who work in shifts shall not exceed 24 hours per shift, except in special cases determined by the director of a penitentiary institution. Equal duration of shifts shall be established for employees who work in shifts;
- (d) employees may be switched to a special regime by an order of the Minister.

## **Article 23 – Leave of employees**

1. The following forms of leave shall be determined for employees:

- (a) annual paid leave;
- (b) additional short-term leave;
- (c) unpaid leave;
- (d) study leave;
- (e) maternity, child care leave and new-born adoption leave.

2. If necessary for official purposes, the leave of an employee may be terminated and he/she may be called back to resume working (except when an employee is on leave in the case provided for by paragraph 1(e) of this article).

3. An employee shall be entitled to take leave by an order of a person authorised to appoint an employee to the position.

4. An employee shall be entitled to annual paid leave for a period of 24 working days.

5. The period of temporary disability of an employee during his/her annual paid leave shall not be included in the period





of this leave and shall be paid in accordance with the procedure established by the legislation of Georgia.

6. Annual paid leave shall be granted to an employee within a calendar year, in accordance with the schedule of leave. Unused paid leave from the previous year may be granted to an employee in the first quarter of the following year. The duration of annual paid leave for a newly appointed employee shall be calculated in proportion to the number of days served: two and a half days for each full month from the first day of recruitment.

7. An employee who has used his/her annual paid leave, due to a special situation, may be granted additional short-term leave within one year for not more than 10 days. The additional short-term leave of an employee shall be paid and shall not be included in the account of annual paid leave.

8. An employee shall have the right to use unpaid leave during the period of employment in the Service for not more than one year, unless it conflicts with the interests of the Service.

9. An employee may be entitled to study leave to raise his/her qualifications for not more than 3 months once in five years with the retention of an official salary. If an employee is granted study leave at the initiative of the Service, his/her expenses related to the study leave shall be fully compensated.

10. An employee, upon request, shall be granted maternity and parental leave in the amount of 730 calendar days. Out of the 730 calendar days of the maternity and parental leave, 183 calendar days shall be paid, while in the case of childbirth complications or giving birth to twins, 200 calendar days shall be paid. The payment shall be made from the budget of the Service, in the amount of the remuneration of the labour of an employee. Employees shall have the right to distribute maternity and child care leave at their discretion over the pregnancy and postnatal periods.

11. Employees shall have the right, until their children attain the age of one year, to request to be granted the whole remaining unpaid vacation for maternity and parental purposes.

12. Employees who have adopted a child under the age of one year, upon their request, shall be granted adoption leave of 550 calendar days from the birth of the child. 90 calendar days of the leave shall be paid. The payment shall be made from the budget of the Service, in the amount of the remuneration of the labour of an employee.

13. Upon the submission of documents evidencing a medical examination during a pregnancy period, the hours of absence of an employee from work due to medical conditions shall be considered as excusable and she shall retain her remuneration.

14. Only a parent who is actually taking care of an adopted child may enjoy the leave provided for by paragraphs 10 and 12 of this article. In this case an employee shall be entitled to leave of 550 calendar days after the birth of a child. 90 calendar days of the leave shall be paid if the mother of a new-born child has not enjoyed the leave provided for by this article.

#### **Article 24 – Strike, assembly and demonstrations**

1. An employee shall be prohibited from going on strike, and participating in one.

2. An employee shall be prohibited from organising and/or conducting an assembly or a demonstration, and from participating in either.

#### **Article 25 – Legal and safety protection guarantees of employees**

1. When performing official duties, an employee shall be representing the state authority and shall be protected by the State. Every employee shall be obligated to obey his/her orders that are compliant with powers under the legislation of Georgia.

2. Interference in the official activities of an employee shall be inadmissible.

3. The State shall protect the dignity of an employee. Hindering an employee during his/her performance of official duties, discrediting his/her honour and dignity, resisting and threatening him/her, or inflicting violence on him/her, or infringing upon his/her life, health or property, shall result in liability as determined by the legislation of Georgia.

4. An employee who is aware of a clearly unlawful order/instruction must refuse to follow it and must notify the structural subdivision of the Service exercising internal control and a relevant investigation body.

5. An employee shall have the right to apply to a court to defend his/her rights and freedoms.

6. If an employee is placed under a threat in connection with his/her official activities, the safety of the employee of the special and civil divisions of the Service and/or his/her family members shall be ensured by the State under the procedure determined by an order of the Minister.

7. Profession Day of the Service shall be celebrated on 8 September each year.

#### **Article 26 – Special state ranks of employees**

1. An employee shall be awarded a special state rank in accordance with the procedure provided for by the legislation of Georgia.

2. Special ranks for positions that attract special state ranks shall be determined by the Minister.

3. Issues related to special state ranks are regulated by the Law of Georgia on Special State Ranks and by an order of the Minister.

#### **Article 27 – Remuneration and social protection of employees**



1. The social protection of an employee shall be ensured by the State.
2. An employee shall be entitled to compulsory state life and health insurance. Furthermore, it shall be possible to insure his/her spouse and minor children through the resources of the State Budget of Georgia.
3. During the period of being on assignment in the Human Resources Department, an employee shall, for two months, maintain the salary commensurate with his/her last position held.
4. An employee who, for performing official duties, uses a state-owned transport vehicle or a personal transport vehicle shall be provided with fuel by the State.
5. In order to perform official activities, an employee shall be entitled to remuneration which includes:
  - (a) an official salary determined by the Minister;
  - (b) an increment for the years of service in accordance with the established procedure (the years of service shall include the years of service with a military and/or special state rank, including service at other state institutions of Georgia, except for compulsory military service);
  - (c) a salary relevant to the special state rank as determined by an order of the Minister.
6. An employee may be paid an increment taking into account overtime and the difficulty of the work performed, in accordance with the procedure established by an order of the Minister.
7. A rank salary or an increment provided for by this article shall not be paid to an employee, or it may be reduced, during a period of disciplinary liability imposed on him/her.
8. A salary and an increment provided for by this article shall be paid to an employee in the form of a non-cash settlement.
9. The source of the formation of the payroll fund of employees shall be the relevant budget. A reduction in budget assignments may not be the basis for a reduction of the salary of an employee.
10. The procedure for the remuneration of employees shall be determined by an order of the Minister.
11. If an employee dies while performing official duties, a lump sum financial allowance of GEL 15 000 shall be paid to his/her family (inheritor). If an employee, while performing official duties, in particular, preventing an offence, or arresting an offender, dies during an attack related to the official duties, or dies as a result of injuries, a lump sum financial allowance of GEL 30 000 shall be paid to his/her family (inheritor) from the State Budget of Georgia. In the case provided for by this paragraph, the burial expenses of an employee shall be paid by the State.
12. If an employee injures his/her health while performing official duties, a lump sum financial allowance shall be paid to him/her, in accordance with an order of the General Director of the Service, in the following amounts:
  - (a) for serious injury to health – GEL 7 000;
  - (b) for less serious injury to health – GEL 4 000;
  - (c) for slight injury to health – GEL 2 000.
13. An employee and his family members shall receive state compensation in accordance with the procedure and amount established by the Law of Georgia on State Compensation and State Academic Stipends.
14. The norms of material and food provision for employees of certain divisions of the Service shall be determined by an order of the Minister.
15. In accordance with the legislation of Georgia, within the assignments allocated from the State Budget, on the basis of appropriate substantiation, additional social protection guaranties and allowances may be determined by an order of the Minister, which are not provided for by this Code.
16. Any injury that has been incurred when performing official duties shall be fully compensated for from the State Budget of Georgia.
17. This article (except for paragraphs (3), (7) and (14)) shall also apply to the General Director of the Service, his/her first deputy and deputy.

#### **Article 28 – Garments of the special form (uniform) of an employee, and official ID card**

1. An employee of certain divisions of the Service as determined by an order of the Minister shall usually exercise official powers wearing the garments of special form (uniform). The samples of the garments of special form (uniform) and the procedure for using them shall be approved by the Minister.
2. The samples of the insignias and emblems of the garments of special form (uniform) of an employee, and the procedure for using them, shall be approved by the Minister in accordance with the procedure established by the Law of Georgia on Symbols of State Importance.
3. An employee shall have an official ID card. The form of the official ID card of an employee shall be approved by an order of the Minister.

### **Chapter VI – Suspension of Official Relations of Employee, Termination of his/her Official Powers, his/her Dismissal/Discharge from the Service and Reinstatement**

#### **Article 29 – Suspension of official relationships with an employee**

1. The suspension of the official relations of an employee shall mean his/her temporary discharge from fulfilling official duties and the release of the Service from the obligation to provide a job for the employee.



2. During the period of suspension of official relations, an employee shall, in the cases (except as provided for by paragraph 4 of this article) and in accordance with the procedure determined by law, maintain the official/rank salary and salary increments and/or shall be granted other compensation.

3. The grounds for the suspension of official relationships with an employee are the following:

- (a) a written application/report, if a person with the authority to appoint an employee to position is not against suspending official relations (for not more than 5 days in a year);
- (b) the leave of an employee;
- (c) the temporary disability of an employee;
- (d) the nomination of an employee for the Parliament of Georgia, the highest representative body of the Autonomous Republics of Abkhazia and Adjara, a representative body of a municipality and/or executive body elections – mayoral election, unless otherwise determined by law;
- (e) the suspension of an employee from the Service in the cases provided for by paragraphs (4) and (5) of this article, and on other legal grounds;
- (f) any other case of temporary discharge of an employee in accordance with the law;
- (g) the placement of an employee on assignment in the Human Resources Department;
- (h) the case provided for by paragraph 6 of this article.

4. An immediate or a superior officer shall not allow that an employee is under the influence of alcohol, narcotic or psychotropic substances. A person who has been suspended from office on this basis shall not be paid salary for the duration of the period of suspension.

5. A person who has the right to impose a disciplinary sanction on an employee can suspend an employee from service during disciplinary proceedings. A person suspended from service shall maintain the official/rank salary and salary increments.

6. A person with the authority to appoint an employee to position may temporarily remove an employee from the post due to a criminal prosecution initiated against him/her, until the termination of the prosecution or the delivery of final judgement.

7. If an employee who has been temporarily removed from position is acquitted, he/she shall be restored to the same position, or if it is impossible, to an equivalent position. An acquitted person shall be given compensation for unpaid salary for the entire period of enforced absence from the position.

### **Article 30 – Grounds for the termination of official powers of an employee, his/her dismissal/discharge from the position**

1. The grounds for the termination of the official powers of an employee shall be the following:

- (a) dismissal/discharge from the position;
- (b) the termination of his/her citizenship of Georgia;
- (c) the declaration as missing or the pronouncement of death in accordance with the procedure established by law;
- (d) the decision of a court declaring a person as a person with limited legal capacity, or a beneficiary of support, unless otherwise determined by a judgement;
- (e) the expiry of the period of the placement of an employee on assignment in the Human Resources Department;
- (f) death.

2. An employee may be dismissed/discharged from the position for the following reasons:

- (a) if he/she changes job;
- (b) a violation of established requirements for employment;
- (c) the lack of documents required in order to hold the respective position;
- (d) the liquidation of the Service, the structural subdivision/unit of the Service, or the penitentiary institution, or due to staff reduction;
- (e) reaching an age limit for working in the Service;
- (f) if he/she has committed a grave disciplinary offence;
- (g) if he/she, a single time, intentionally or by negligence, has grossly violated official and/or imposed duties;
- (h) long-term disability;
- (i) on the basis of a legally effective judgement of conviction in a criminal case;
- (j) a state of health preventing him/her from properly fulfilling his/her official duties;
- (k) unsatisfactory professional skills;
- (l) on the basis of a personal report;
- (m) the expiry of the period of the placement of an employee on assignment in the Human Resources Department;
- (n) a failure to renew a certificate (where a renewal of the certificate is required);
- (o) a refusal to take a training course;
- (p) the unsatisfactory passing of a training course or a professional re-training course;
- (q) if the consumption of substances/psychotropic substances/new psychoactive substances included in Lists I and II of the substances subject to special control in Georgia is confirmed (except where these substances are consumed by an employee for treatment purposes);
- (r) a refusal to undergo examination, based on a periodic and random selection principle, for testing for the consumption



of substances subject to special control in Georgia;

(s) official incompatibility;

(t) other grounds explicitly provided for by law.

3. An employee who voluntarily abandons the Service for more than five days shall be considered discharged from the second day after the voluntary abandonment of the Service.

4. A person dismissed/discharged from the Service shall return any material assets officially assigned to him/her.

5. Based on an order issued by an authorised person, an employee who has been discharged from his/her position may be assigned to the Human Resources Department for no more than four months in the following circumstances:

(a) during a lay off or reorganisation that results in staff reduction;

(b) during the liquidation of a structural subdivision/unit of the Service or the liquidation of a penitentiary institution;

(c) on the basis of a personal report.

6. An employee placed in temporary assignment in the Human Resources Department may be assigned to temporarily perform his/her duties.

7. An employee placed in temporary assignment in the Human Resources Department shall be deemed notified about possible dismissal from office from the moment of his/her placement in temporary assignment in the Human Resources Department.

### **Article 31 – Reinstatement of an employee**

1. An employee who has been unlawfully dismissed/discharged shall be reinstated.

2. The basis for reinstatement of an employee to a relevant position shall be the conclusion of a performance examination or a legally enforceable court judgement, as well as the application of an acquitted person for reinstatement.

3. A wrongfully dismissed/discharged employee shall have the right to claim a declaration of the dismissal/discharge as wrongful, a change of the ground for the dismissal/discharge, and the official salary. The employee shall receive the lost official salary for the period of involuntary absence, and an increment for the years of service as defined by the legislation of Georgia, and the rank salary.

4. If an order, decree or decision on dismissing/discharging or transferring an employee from the Service is declared as illegal by a court, an employee shall be subject to immediate restoration to the Service, except where he/she refuses to be restored to the Service.

5. The declaration of an order, decree or decision on dismissing/discharging or transferring an employee from the Service as invalid by a court shall not lead to the immediate restoration of an employee to the Service if, under the court decision, the institution has the obligation to issue a new order, decree or decision after the examination and evaluation of circumstances related to the dismissal/discharge or transfer of an employee from the Service. An employee shall receive the lost salary he/she has claimed in the amount determined by paragraph 3 of this article only if an employee is restored to the Service. In any other case, the lost salary shall not be paid.

6. An employee who has been dismissed/discharged from position in accordance with this Code shall be reinstated on the basis of a personal application in the case of the existence of a judgement of acquittal.

7. An employee shall be reinstated to the same position or an equal position with his/her consent.

## **Chapter VII – Penitentiary Institutions**

### **Article 32 – Penitentiary institution and its management**

1. A penitentiary institution shall be an independent organisation that is not a legal person and operates within the system of the Service. A penitentiary institution, in exercising certain functions assigned to it by this Code, shall act as an administrative body.

2. A penitentiary institution shall be established or shut down by the Minister, and the maximum permissible number of accused persons/convicted persons to be placed in a penitentiary institution shall be determined by an order of the Minister.

3. The powers, structure and the procedure for the management of a penitentiary institution, and other matters provided for by Article 57 of this Code, shall be determined by the statute of a penitentiary institution. The statute of a penitentiary institution shall be approved by the Minister upon the recommendation of the General Director of the Service.

4. A penitentiary institution shall be headed by the director of the penitentiary institution. The director of a penitentiary institution shall be appointed to and dismissed from the post by the General Director of the Service in agreement with the Minister.

### **Article 33 – Types of penitentiary institutions**

1. The types of penitentiary institutions are the following:

(a) detention facilities;

(b) prison facilities;

(c) treatment facilities for accused persons/convicted persons.

2. The Minister shall be authorised to establish and shut down a mixed-type penitentiary institution.



3. A detention facility shall be a closed, specially protected, cell-type facility that is intended to isolate accused persons for the purpose of the enforcement of the measure of restraint.
4. 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.
5. In a detention facility, accused persons are placed in special accommodation where it is possible to carry out visual and/or electronic surveillance and control in accordance with the Article 58 of this Code.
6. A prison facility shall be a facility for the enforcement of a sentence under Article 40(1)(g) and (h) of the Criminal Code of Georgia.
7. Prison facilities shall be the following:
  - (a) a pre-release facility;
  - (b) a low-risk prison facility;
  - (c) a semi-open prison facility;
  - (d) a closed prison facility;
  - (e) a special risk prison facility;
  - (f) a special facility for women;
  - (g) a juvenile rehabilitation facility.
8. A treatment facility for accused and convicted persons shall ensure the assessment, prevention, diagnosis and treatment of the health condition of accused and convicted persons in both outpatient and inpatient settings.

## **Chapter VIII – Prison Facilities**

### **Article 34 – A pre-release facility**

1. A pre-release prison facility shall be a protected facility, with armed security guards, surrounded by a special protective fence, where convicted persons are under permanent surveillance.
2. In a pre-release prison facility convicted persons shall be placed in a dormitory where it is possible to carry out visual and/or electronic surveillance and control in accordance with Article 58 of this Code.
3. In a pre-release prison facility convicted persons shall have the right to independently move throughout the territory of the facility in accordance with the established procedure.
4. In a pre-release prison facility convicted persons may leave the premises of the facility under the conditions and for a period determined by an order of the General Director of the Service.
5. In a pre-release prison facility the enforcement of imprisonment shall be carried out in accordance with this Code, unless otherwise provided for by this chapter.
6. The procedure for the placement of a convicted person in a pre-release prison facility shall be determined by an order of the Minister.
7. A convicted person of low or medium danger, whose actual term of serving a sentence does not exceed one year, may be placed in a pre-release prison facility. The placement of a juvenile in a pre-release prison facility shall be inadmissible.
8. A convicted person shall be placed in a pre-release prison facility on the basis of his/her written consent by an order of the General Director of the Service. In his/her written consent the convicted person shall state that he/she agrees to fulfil the obligations determined for a pre-release facility, and to study and/or work and participate in the rehabilitation activities offered by the facility.
9. When making a decision, the General Director of the Service, in the case provided for by paragraph 8 of this article, shall take into account the personal qualities of a convicted person, the circumstances of the commission of the offence, the onset of unlawful consequences, behaviour, the risk of escape from the prison facility, and the threats which the convicted person may pose to a prison facility.
10. The rights and duties determined for convicted persons of a relevant risk shall apply to convicted persons who are staying in a detention facility, taking into account the infrastructure existing in the facility.
11. A convicted female may also be placed in a pre-release prison facility. In addition, she shall be subject to the rights provided for by paragraphs 5 and 6 of Article 39 of this Code.
12. A convicted person in a pre-release prison facility may be given the right to leave the facility upon a decision of the General Director of the Service for one of the following reasons and for the following periods of time:
  - (a) in the case of study and/or work outside the pre-release facility, in accordance with the work and/or study schedule;
  - (b) on rest days and public holidays, as determined by the legislation of Georgia;
  - (c) in the case of a reasonable request, for no more than three days per week.
13. In the case provided for by paragraph 12 of this article, the late appearance or non-appearance of a convicted person in a pre-release facility shall entail liability as defined by the Criminal Code of Georgia, except for the case where the late appearance or non-appearance was caused by one of the following circumstances:
  - (a) the health status of a convicted person which prevents him/her from fulfilling the obligation undertaken by him/her, which shall be verified by an appropriate certificate issued by a doctor;
  - (b) the violation of the established regime by a convicted person for reasons which are beyond his/her control, during the



existence of force-majeure circumstances, in particular, during natural hazards, accident, fire, mass disorder, military action, quarantine, or in the case of a state of emergency, and/or during the existence of such circumstances which make it physically impossible to appear in a pre-release facility, and which is certified by a document issued by an appropriate state institution.

14. A convicted person who has left a pre-release facility as provided for by paragraph 12 of this article shall be prohibited from crossing the State Border of Georgia.

15. The period of leaving a pre-release facility under paragraph 12 of this article shall be counted towards the total term of a sentence.

16. If a convicted person fails to fulfil an undertaken obligation, and/or violates the requirements determined by the statute of a pre-release facility, and/or if his/her behaviour in a penitentiary institution has significantly worsened, the director of the pre-release facility shall apply to the General Director of the Service with a petition to transfer the convicted person to another penitentiary institution.

### **Article 35 – Low-risk prison facility**

1. A low-risk prison facility shall be 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 shall be placed in a dormitory where it is possible to carry out visual and/or electronic surveillance and control in accordance with Article 58 of this Code.

3. In a low-risk prison facility, as a rule, convicted persons shall be placed where the personal qualities of the convicted person, the circumstances, purpose, and outcome of the crime, and the behaviour of the convicted person, indicate that the threat that he/she could pose to a prison facility or surrounding people, or to the security of public, state and/or law enforcement bodies, is low.

4. A convicted person shall be placed in a low-risk prison facility on the basis of his/her written consent. In his/her written consent the convicted person shall state that he/she agrees to fulfil the obligations determined for a low-risk prison facility, and to study and/or work and participate in rehabilitation activities offered by the facility. The procedure for the placement of a convicted person in a low-risk prison facility shall be determined by an order of the Minister.

5. In a low-risk prison facility convicted persons have the right to independently move throughout the territory of the facility in accordance with the established procedure.

6. A convicted person in a low-risk prison facility shall be required to study and/or work and participate in rehabilitation activities offered by the facility.

### **Article 36 – Semi-open prison facilities**

1. A semi-open prison facility shall be a 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 shall be placed in a dormitory where it is possible to carry out visual and/or electronic surveillance and control in accordance with Article 58 of this Code.

3. In a semi-open prison facility convicted persons have the right to independently move throughout the territory of the facility in accordance with the established procedure.

4. As a rule, the following persons shall serve their sentences in a semi-open prison facility: a person who is convicted of a crime of little gravity or a grave crime whose term of sentence does not exceed 10 years; a convicted person who has been transferred from a prison facility of different type, in accordance with the procedure determined by this Code; a woman sentenced to a fixed-term prison sentence.

5. Other convicted persons may also be placed in a semi-open prison facility depending on the risk factor.

### **Article 37 – Closed prison facility**

1. A closed prison facility shall be a protected facility, with armed security guards, surrounded by a special protective fence that is equipped with an alarm system, where convicted persons are under permanent surveillance.

2. In a closed prison facility convicted persons shall be placed in special cells where it is possible to carry out visual and/or electronic surveillance and control in accordance with Article 58 of this Code.

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

4. Other convicted persons may also be placed in a closed prison facility depending on the risk factor.

### **Article 38 – Special risk prison facility**

1. A special risk prison facility shall be a protected facility, with armed security guards, surrounded by a special protective fence that is equipped with an alarm system, where special security measures are taken, and convicted persons are under permanent surveillance.



2. In a special risk prison facility convicted persons shall be placed in special cells for one or two persons and their visual and/or electronic surveillance and control shall be carried out permanently. Audio surveillance and control shall be permitted only in cases provided for by the legislation of Georgia. The procedure for the placement of a convicted person in a cell for one or two persons shall be determined by the statute of the facility.
3. In a special risk prison facility the enforcement of imprisonment shall be carried out in accordance with this Code unless otherwise provided for by this article.
4. In a special risk prison facility, as a rule, convicted persons of high risk shall be placed to serve a sentence, where the personal qualities of the convicted person, the criminal influence of the convicted person, the circumstances, purpose, and outcome of the crime, and the behaviour of the convicted person, indicate that the convicted person poses or could pose a threat to the prison facility or surrounding people, or to the security of public, state and/or law enforcement authorities.
5. Convicted persons placed in a special risk prison facility shall not enjoy:
  - (a) the right to labour;
  - (b) the right to temporary leave from a penitentiary institution related to special personal circumstances;
  - (c) the right to short leave.
6. The correspondence sent by a person provided for by Article 115(8) to a convicted person shall be examined in accordance with the procedure established by paragraph 7 of the same article.
7. In a special risk prison facility convicted persons shall have the right to receive a parcel in accordance with the procedure established in the facility.

### **Article 39 – Special facility for women**

1. A special facility for women shall be a protected facility, with armed security guards, surrounded by a special protective fence, where convicted persons are under permanent surveillance.
2. Female convicted persons including juveniles shall be placed in special facilities for women.
3. In general, in a special facility for women, convicted persons shall be placed in a dormitory where it is possible to carry out visual and/or electronic surveillance and control in accordance with Article 58 of this Code.
4. A special facility for women, as a rule, shall be treated as equivalent to a semi-open prison facility, except for the cases provided for by this Code. In a special facility for women convicted persons may be placed depending on the risk, taking into account the infrastructure of that facility.
5. When necessary, in a special facility for women, a special department for pregnant women and children shall be equipped. If so requested by a mother, with the permission of a guardianship and custodianship authority, and with the consent of the director of the facility, the mother and her child under the age of three may live together. A special facility for women shall be obliged to provide suitable conditions.
6. The Service shall provide food, medical services, and hygiene and sanitary conditions to children under the age of three in a special facility for women. The nutritional standards, and hygiene and sanitary conditions for children under the age of three in a special facility for women shall be determined by a joint order of the Minister and the Minister of Internally Displaced Persons from the Occupied Territories, Labour, Health and Social Affairs of Georgia.
7. A convicted woman, whose child under the age of three has left a special facility for women, may, by a decision of the General Director of the Service, for the purposes of relations with the child, during one year after the child has left the facility, leave the facility on rest days and public holidays provided for by the legislation of Georgia. The procedure for leaving a special facility for women by a convicted woman on rest days and public holidays shall be defined by an order of the Minister. During the review of the matter, the danger which may be posed by a convicted woman to the public shall be taken into account, as well as the fact of committing the crime, the nature of the committed crime, its motive, aim, and consequences, the risk of a repeated crime, the behaviour of a convicted woman while serving her sentence, the personal characteristics of the convicted woman, and other circumstances which may affect the decision of the General Director of the Service.
8. In the case provided for by paragraph 7 of this article, the late appearance or non-appearance of a convicted woman in a special prison facility for women shall entail the liability defined by the Criminal Code of Georgia, except where the late appearance or non-appearance was caused by one of the following circumstances:
  - (a) the health status of the convicted person which prevents her from fulfilling the obligation undertaken by her, which shall be verified by an appropriate certificate issued by a doctor;
  - (b) the violation of the established regime by a convicted woman for reasons which are beyond her control, during the existence of force-majeure circumstances, in particular, during natural hazards, accident, fire, mass disorder, military action, quarantine, or in a state of emergency, and/or during the existence of other circumstances, which make it physically impossible to appear in a special prison facility for women, and which is certified by a document issued by an appropriate state institution.
9. A convicted person who has left a special facility for women in accordance with paragraph 7 of this article shall be prohibited from crossing the State Border of Georgia.
10. If, in the case provided for by paragraph 5 of this article, a convicted woman systematically evades the fulfilment of parental duties, or improperly fulfils parental duties, or abuses parental rights, the director of a special facility for women shall immediately inform the guardianship and custodianship authority thereof, in accordance with the procedure



provided for by the legislation of Georgia, for a further response.

11. In a special facility for women, convicted persons have the right to independently move throughout the territory of the facility in accordance with the procedure established by the statute of that facility.

12. The procedures and conditions for leaving a facility by a child living with his/her mother in a special facility for women due to attaining the age of three shall be determined by a joint order of the Minister and the Minister of Internally Displaced Persons from the Occupied Territories, Labour, Health and Social Affairs of Georgia.

13. The period of leaving a special facility for women under paragraph 7 of this article shall be counted towards the total term of a sentence.

#### **Article 40 – Juvenile rehabilitation facility**

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

### **Book II**

#### **Enforcement of Detention and Imprisonment**

##### **Chapter IX – Grounds for the enforcement of detention and imprisonment, proceedings regarding the personal file of an accused person/convicted person**

#### **Article 41 – Procedure for the placement of an accused person/convicted person in a penitentiary institution**

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 person or other identification document with a photograph issued by an administrative body, and a detention report if the preparation of a detention report is provided for by the legislation of Georgia.

2. To place a convicted person in a prison facility, it is necessary to have the final judgement of conviction delivered by a court in a criminal case, and entered into legal force, on the basis of which the person is sentenced to imprisonment, the identity card of the convicted person or other identification document with a photograph issued by an administrative body, and a detention report if the preparation of a detention report is provided for by the legislation of Georgia.

#### **Article 42 – Notice of the admission of an accused person/convicted person into a place of detention/a place of imprisonment**

1. A detention facility shall, immediately or not later than one working day after admitting an accused person into a place of detention, notify an investigator, a prosecutor, a court and a close relative of the accused person, or, at the request of the accused person, another person and/or his/her lawyer.

2. A detention facility shall, not later than 24 hours after admitting an accused person into a place of imprisonment, notify the Ministry of Internal Affairs of Georgia.

3. A prison facility shall, immediately or not later than one working day after admitting a convicted person into a place of imprisonment, notify the sentencing court and close relative of the convicted person, as well as, at the request of the convicted person, another person or his/her lawyer.

#### **Article 43 – Register of accused persons/convicted persons**

An accused person who is admitted to a detention facility shall be registered in the register of accused persons, and a convicted person who has been transferred to a prison facility in accordance with this Code shall be registered in the register of convicted persons. The register of accused persons/register of convicted persons may be produced in an electronic form, in accordance with the procedure approved by an order of the Minister.

#### **Article 44 – Personal file of an accused person/convicted person**

1. The personal file of an accused person/convicted person shall be maintained from the placement of an accused person/convicted person in a penitentiary institution until his/her release. After the release of an accused person/convicted person, his/her personal file shall be stored in the archives. The procedure for producing the personal file of an accused person/convicted person, the list of attached documents and the retention period in the archives of the Service, shall be determined by the Minister.

2. The personal file of an accused person/convicted person shall include data on incentives and disciplinary responsibility.

3. The control and the supervision of completing the personal file of an accused person/convicted person shall be carried out by the relevant structural subdivision of the Service.

4. In the case of a transfer of an accused person/convicted person to another penitentiary institution, his/her personal file shall be sent to the relevant facility.

5. An accused person/convicted person shall have the right to be aware of his/her personal file. A specially authorised person shall also have the right to be aware of the personal file of an accused person/convicted person. The list of specially





authorised persons shall be approved by the Minister.

## Chapter X – Enforcement of Detention

### Article 45 – Place of enforcement of detention

A person who has been convicted in accordance with the procedure established by the Criminal Procedure Code of Georgia shall be placed in a detention facility.

### Article 46 – Conditions of accused persons in detention

1. The hygiene and sanitary conditions of a detention facility shall comply with the standards established by the legislation of Georgia.
2. Persons in detention facilities shall be placed in cells.
3. In penitentiary institutions persons accused in the same criminal case shall be placed in cells separately. A penitentiary institution shall be obliged to take measures to prevent their interaction with each other. Upon the decision of an investigator, a prosecutor or a court, this rule may also apply to other accused persons.

### Article 47 – Admission of an accused person to a detention facility

1. Upon admission to a detention facility an accused person shall be photographed and fingerprinted. Where there is the relevant infrastructure in a detention facility, fingerprinting may be carried out in an electronic form, and appropriate data shall be stored in an electronic archive. The photos, their negatives, the fingerprint card and the verbal portrait of the accused person shall be kept in the personal file of the accused person.
2. Not later than seven days after photographing and fingerprinting, the electronic versions of the fingerprint card and photograph shall be sent by a detention facility to the Ministry of Internal Affairs.
3. 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. A detention facility employee of the same sex shall search the accused person.
4. Upon admission to a detention facility, an accused person shall undergo a medical examination which shall be carried out by the doctor of the detention facility. The relevant certificate of the medical examination of the accused person shall be produced. If injuries are discovered on the body of the accused person, the doctor of the detention facility shall immediately notify a relevant investigation body in accordance with the order provided for by Article 139(6) of this Code.
5. An authorised person of a detention facility shall immediately inform an accused person of his/her rights and obligations, the procedure for treating him/her by employees, the procedure for receiving information by him/her and the filing of a complaint, the grounds for and types of disciplinary liability, the procedure for disciplinary proceedings, and other requirements related to him/her in a language understandable to him/her.

### Article 48 – Removal and transfer of an accused person from a detention facility

1. The procedure for the removal and transfer of an accused person from a detention facility shall be determined by the Minister.
2. When there are circumstances as specified in Article 191<sup>1</sup> of the Criminal Procedure Code of Georgia, if the General Director of the Service is assigned, under a ruling of a judge, to take extraordinary measures necessary to provide security for the accused person concerned, the decision to transfer the accused person to another detention facility shall be made by the General Director of the Service if the application of measures is necessary for the security of the accused person.
3. When transferring an accused person from a detention facility, the receiving penitentiary institution shall immediately, or not later than one working day after accepting the accused person, notify an investigator, a prosecutor, a court and a close relative of the accused person about his/her transfer, and at the request of the accused person, notify another person and/or a defence lawyer where there is relevant information on him/her.
4. The doctor of a detention facility shall carry out a medical examination of an accused person in the case of the removal or transfer of the accused person. Upon the medical examination of the accused person a relevant medical certificate shall be drawn up.

### Article 49 – Visitation rights of an accused person

An accused person may enjoy the right to a short visit and a long visit in accordance with the procedure established by Articles 120 and 122 of this Code.

### Article 50 – 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, an investigator or a prosecutor may issue a permit for the accused person to temporarily leave the detention facility for up to two days. The expenses associated with the temporary leave from the detention facility shall be borne by the State Budget of Georgia.



2. The procedure for temporary leave from a detention facility by an accused person shall be determined by the Minister.

### **Article 51 – Conditions regarding an accused person in a detention facility**

1. In a detention facility an accused person shall have:

(a) the rights provided for by Article 94(3) of this Code;

(b) the right to receive and send correspondence under the control of the detention facility and at his/her own expense and the right to a telephone conversation in accordance with the procedure established by Articles 115 and 116 of this Code.

2. Accused persons participate in rehabilitation programmes only with their consent in accordance with the procedure established by an order of the Minister. Articles 136 and 137 of this Code shall apply to the rehabilitation programmes of accused persons taking into account the specifics of the status of an accused person.

3. An accused person shall be released from a detention facility in accordance with the procedure established by the Criminal Procedure Code of Georgia.

## **Chapter XI – Enforcement of Imprisonment**

### **Article 52 – Place of Enforcement of Imprisonment**

1. A convicted person shall serve his/her sentence in the territory of Georgia except for the cases provided for by the international treaties of Georgia.

2. The type of prison facility for a convicted person shall be determined by the General Director of the Service in accordance with the procedure established by legislation.

3. In general, a convicted person shall serve his/her sentence in a prison facility located close to his/her place of residence or that of his/her relative, except for the cases provided for by paragraph 4 of this article.

4. By a decision of the General Director of the Service, a convicted person may be transferred to another penitentiary institution to continue serving a sentence in the following cases:

(a) where there is a risk of danger (the ‘risk’) from the convicted person, or for the purposes of preparing the convicted person for release;

(b) where the statute of the penitentiary institution is systematically violated by the convicted person;

(c) for the purposes of ensuring the safety of the convicted person and other persons;

(d) for the purposes of ensuring the safety of the penitentiary institution;

(e) when the convicted person is ill;

(f) when a penitentiary institution is reorganised;

(g) when a penitentiary institution is liquidated;

(h) when a penitentiary institution is overcrowded;

(i) where the circumstances specified in Article 66(1) of this Code exist;

(j) where there are circumstances specified in Article 191<sup>1</sup> of the Criminal Procedure Code of Georgia, if the General Director of the Service is assigned, under the ruling of a judge, to take the extraordinary measures necessary to provide security for the convicted person concerned, and when the application of such measures is required for the security of the convicted person;

(k) where the convicted person has given consent;

(l) in other important and reasonable circumstances.

5. The assessment and regular reassessment of the risks related to a convicted person shall be ensured by the Risk Assessment Group (the ‘Group’). The types of risks related to a convicted person, the criteria for the assessment of the risks, the procedure for risk assessment and reassessment, the rules for the transfer of a convicted person to another prison facility, and the powers and procedures of the Group, shall be determined by an order of the Minister.

6. The organisational and legal support for the activities of the Group shall be ensured by the relevant structural subdivision of the Service, which is authorised by a procedure established by the legislation of Georgia to process and store the personal data of convicted persons (including the personal data of a special category) in order to discuss issues related to determining risks.

7. When transferring a convicted person to another penitentiary institution on the grounds provided for by paragraph 4 of this article, the convicted person shall be subject to the rules as established for convicted persons of this risk in the new penitentiary institution.

8. A convicted person transferred to another penitentiary institution on the grounds specified in paragraph 4(c)-(l) of this article shall be returned to the penitentiary institution from which he/she had been transferred upon the elimination of these grounds.

### **Article 53 – Sending a convicted person to serve sentence**

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

2. An appropriate structural unit of the Service shall send the convicted person to serve the sentence not later than 20



days after receiving the copy of the decision of the General Director of the Service.

3. Within 60 days after receiving the convicted person to serve the sentence on the basis of paragraph 2 of this article, the director of the relevant penitentiary institution shall submit information to the team as provided for by the legislation of Georgia for the purposes of determining the risk of the convicted person.

4. The General Director of the Service shall be authorised to transfer the convicted person whose behaviour and attitude has changed to radically negative behaviour in the penitentiary institution, and/or whose stay in the same penitentiary institution is unjustifiable, to a closed prison facility for the purposes of reassessing the risk; such transfer shall be temporary, but not more than for 20 working days. Within the mentioned period the team shall ensure the reassessment of the convicted person in accordance with the procedure established by the legislation of Georgia. In such case the rights and obligations determined for a convicted person placed in the closed prison facility shall apply to the convicted person concerned.

5. The procedure for the transfer of a convicted person in a prison facility shall be determined by an order of the Minister.

#### **Article 54 – 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 prison facility where he/she would have been placed based on the risks, and that can be exercised in the detention facility. The procedure and conditions for the movement of a convicted person throughout the territory of a detention facility shall be determined by the Minister.

2. Keeping 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.

#### **Article 55 – Procedure for admitting convicted persons to a prison facility**

1. The admission of convicted persons to a prison facility shall be ensured by an authorised employee(s) of the prison facility, in accordance with the procedure established by the statute of the facility.

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 employees, the procedures for obtaining information and filing complaints, and disciplinary and other requirements.

#### **Article 56 – Placing convicted persons separately**

1. In general, the following are placed separately in prison facilities:

(a) women;

(b) juveniles;

(c) persons being convicted for the first time;

(d) persons who have been recognised as victims in relation with an offence(s) provided for by Article/Articles 143<sup>1</sup> and/or 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, the consequences of unlawful actions, or the behaviour demonstrated in the detention facility, pose a serious threat to the security of the facility and others.

2. Persons suffering from unmanageable infectious diseases shall be separately placed in the medical unit of a penitentiary institution.

3. The Minister may, in agreement with the Minister of Internally Displaced Persons from the Occupied Territories, Labour, Health and Social Affairs of Georgia, establish a different procedure for placing convicted persons separately.

### **Chapter XII – Operation of Penitentiary Institutions. Security of Penitentiary Institutions**

#### **Article 57 – Statute of a penitentiary institution. Daily routine of a penitentiary institution and organisation of a legal regime**

1. The statute of a penitentiary institution shall contain the following provisions:

(a) the procedure for admitting an accused person/convicted person to a penitentiary institution;

(b) the procedure for the distribution of accused persons/convicted persons in a penitentiary institution;

(c) the separate placement of different categories of accused persons/convicted persons, in accordance with the procedure established by this Code;

(d) the procedure for entering a penitentiary institution;

(e) the isolation and protection of accused persons/convicted persons;

(f) the permanent surveillance of accused persons/convicted persons;

(g) the fulfilment by accused persons/convicted persons of obligations imposed on them;

(h) the protection of the rights and lawful interests of accused persons/convicted persons;



- (i) the personal security of accused persons/convicted persons and the staff of an institution;
- (j) the rules of conduct for accused persons/convicted persons during working and rest hours;
- (k) the list of jobs and positions for which convicted persons may not be employed;
- (l) the list of individual activities that accused persons/convicted persons are allowed to carry out;
- (m) the list and number of items that accused persons/convicted persons are allowed to keep;
- (n) the list of food products, articles of prime necessity, hygiene products and other items that may be purchased by accused persons/convicted persons in the shop available in the territory of the penitentiary institution;
- (o) the list of food products, articles, items, substances and documents that accused persons/convicted persons are not allowed to purchase, keep, carry, use and/or utilise, and that give rise to criminal liability;
- (p) the procedure for seizing items that accused persons/convicted persons are not allowed to use;
- (q) the procedures for conducting searches and checks;
- (r) the procedure for sending and receiving correspondence and parcels.

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

3. The appropriate structural subdivision of the Service shall inspect the belongings, clothes and means of transportation of persons entering or leaving a penitentiary institution.

4. Money or other valuables seized from an accused person/convicted person shall be transferred for storage to a penitentiary institution, in accordance with the procedure established by the statute of the penitentiary institution.

5. The procedure for bringing to a penitentiary institution food products, articles, items, substances and documents that accused persons/convicted persons are not allowed to purchase, keep, carry, use and/or utilise, and that gives rise to the criminal liability of an accused person/convicted person shall be determined by an order of the Minister;

6. The General Director of the Service shall be authorised, for the purposes of the normal functioning of a penitentiary institution and/or in the case of the existence of other important grounds, in accordance with the procedure established by the order provided for by paragraph 5 of this article, to issue a special written permit for bringing to a penitentiary institution food products, articles, items, substances and documents that accused persons/convicted persons are not allowed to purchase, keep, carry, use and/or utilise, and that gives rise to the criminal liability of an accused person/convicted person.

7. The General Director of the Service shall approve the daily routine of an institution.

8. The procedure for the organisation of the legal regime of a penitentiary institution shall be determined by an order of the Minister.

#### **Article 58 – Surveillance and control of accused persons/convicted persons through visual and/or electronic means**

1. In the case of a reasonable assumption, by a decision of the director of the penitentiary institution, based on security and other lawful interests of accused persons/convicted persons or other persons, to prevent suicide, self-injury, violence against accused persons/convicted persons or other persons, or damage to property, and to avert other crimes and offences, surveillance and control through visual and/or electronic means may be conducted. Electronic surveillance shall be conducted through audio and video devices and/or other technical means of control. The Service may, through electronic means, record the process of surveillance and control, and the information received as a result of this process.

2. A penitentiary institution shall warn an accused person/convicted person about the carrying out of surveillance and/or of audio and video recording through electronic means, except for the cases provided for by the legislation of Georgia.

3. In the case specified in paragraph 2 of this article, an order on the carrying out of surveillance of an accused person/convicted person shall be presented to the accused person/convicted person, which shall be certified by the signature of the accused person/convicted person. If the accused person/convicted person refuses to sign the order, a relevant record shall be made.

4. A decision to conduct surveillance and control through visual and/or electronic means shall be 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 surveillance is conducted in accordance with the procedure established by the legislation of Georgia, and in cases provided for by law. Visual and/or electronic surveillance may be conducted in public bathrooms only for the prevention of the suicide and self-damage of an accused person/convicted person.

6. The relevant structural subdivision of the Service may conduct visual surveillance of a meeting of an accused person/convicted person with persons defined by Article 60(1) of this Code, and by an order of the Minister, except for the case provided for by Article 69(10) of this Code, 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 penitentiary institution shall place an appropriate warning sign in a prominent place, except for the case provided for by the legislation of Georgia.

8. Upon the elimination of circumstances specified in paragraph 1 of this article, the director of a penitentiary institution shall make a decision on ceasing electronic surveillance. No electronic and/or visual surveillance or control of an accused



person/convicted person shall be conducted for the purpose of punishment.

9. When carrying out surveillance and control through electronic means, where the disciplinary misconduct of an accused person/convicted person is identified, the director of a penitentiary institution shall make a decision to store in the archives the relevant material for the purposes of using it as evidence in the disciplinary proceedings. Archived material shall be stored for not longer than one month after the end of the disciplinary proceedings, and in the case of an appeal against the use of a disciplinary measure, not longer than one month after the final decision of a court.

10. An accused person/convicted person shall be made aware of any material archived under this article in a penitentiary institution, in accordance with the procedure established by the legislation of Georgia. The above material may be handed to the accused person/convicted person and/or his/her lawyer/legal representative only in the cases provided for by the Criminal Procedure Code of Georgia, and/or on the basis of the decision of a court.

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

#### **Article 59 – Carrying out operative and investigative measures in a penitentiary institution**

1. Operative and investigative measures may be carried out in a penitentiary institution within the scope of the information and analytical support of the management of penitentiary institutions and/or within the scope of the operative and investigative support of a criminal investigation.

2. The information and analytical support of the management of penitentiary institutions shall mean the collection, processing and analysis of information and data within the scope of the protection of safety in a penitentiary institution for one of the following purposes:

(a) the identification and prevention of crimes and other offences in a penitentiary institution;

(b) the identification and assessment of criminal connections and influences;

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

3. The power determined by paragraph 2 of this article shall be exercised by the operative divisions of the Service.

4. Within the scope of information and analytical support of the management of penitentiary institutions, an operative division of the Service may obtain information and data in a penitentiary institution from open and secret sources as a result of conducting operational-investigative measures as provided for by Article 7(2)(a), (b), (e)-(g) and (j) of the Law of Georgia on Operative-Investigative Activities. In addition, the operative-investigative measure specified in sub-paragraph (g) of the same paragraph must be carried out as prescribed by this Code.

5. The information and analytical support of the management of penitentiary institutions shall be commenced on the basis of an order of the General Director of the Service. This order shall be issued in an exceptional case, upon the written petition of the head of an appropriate structural subdivision of the Service and/or the director of a penitentiary institution. The petition shall justify the necessity, purpose and scope for conducting a relevant activity.

6. If elements of an alleged crime are detected in the information and data obtained by a division for the purpose of paragraph 2 of this article, a relevant structural subdivision of the Service shall, in accordance with the procedure established by the legislation of Georgia, notify the relevant investigation body, and if elements of official misconduct are detected, it shall notify the Internal Monitoring Structural Subdivision of the Service.

7. The relevant structural subdivision of the Service and the security division of a penitentiary institution shall, in accordance with the procedure established by the legislation of Georgia, provide an investigation with operational and operational-technical support within the penitentiary institution.

8. Operational-investigative measures conducted in a penitentiary institution shall be subject to prosecutorial supervision and judicial control in accordance with the procedure established by the legislation of Georgia.

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

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

#### **Article 60 – Investigation of crimes committed in penitentiary institutions**

1. Crimes committed in a penitentiary institution shall be investigated in accordance with the procedure established by 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.

3. The rights and conditions determined for convicted persons of relevant risk shall apply to those convicted persons who have been transferred to a detention facility on the basis of paragraph 2 of this article, taking into account the infrastructure existing in the facility. On the basis of a well-grounded decision of an investigator/prosecutor, the rights to a visit, telephone conversation and correspondence of a convicted person may be restricted.



### **Article 61 – Protection of penitentiary institutions**

1. A penitentiary institution as well as its outer perimeter (including the external prohibited zone of a penitentiary institution) shall be protected by an appropriate structural subdivision of the Service. Its powers shall not extend to the internal security system.
2. In individual cases, the General Director of the Service may form reinforced security groups within an appropriate structural subdivision of the Service or a penitentiary institution.
3. The procedure for the protection of other subjects subordinate to a penitentiary institution and the Service shall be determined by an order of the Minister.

### **Article 62 – Security measures**

1. To avoid self-injury, or damage to other persons and property, to prevent crimes and other offences in a penitentiary institution, to prevent the non-compliance by an accused person/convicted person of a lawful demand of an employee, to repel attacks, and to suppress collective disobedience and/or mass unrest, the following security measures may be applied, on the basis of a justified decision by an authorised person, to accused persons/convicted persons:
  - (a) the use of special means;
  - (b) the separation from other accused persons/convicted persons;
  - (c) temporary transfer to another penitentiary institution;
  - (d) placement in a solitary cell for not more than 24 hours;
  - (e) the establishment of a temporary or additional crossing point;
  - (f) transfer to a de-escalation room.
2. The application of security measures shall cease immediately after the threat for which this measure has been applied has been 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 person/convicted person shall be determined by an order of the Minister.
4. After a security measure has been applied, the management of the penitentiary institution concerned shall conduct a medical examination of an accused person/convicted person with the help of medical personnel. A relevant report shall be drawn up after the medical examination. The form of this act shall be approved by an order of the Minister.
5. A temporary crossing point or additional crossing point as provided for by paragraph 1(e) of this article shall be organised on the basis of an order issued by the director of a penitentiary institution. Through the temporary crossing point, an authorised employee of a penitentiary institution shall exercise visual control over an accused person/convicted person in accordance with the procedure established by the legislation of Georgia.
6. Security measures shall not be applied to punish an accused person/convicted person.

### **Article 63 – Special means and the procedure for using them**

1. The following special means may be applied to an accused person/convicted person:
  - (a) handcuffs;
  - (b) strait jacket;
  - (c) restraining chair;
  - (d) restraining bed;
  - (e) baton;
  - (f) tear gas;
  - (g) pepper gas;
  - (h) non-lethal weapons;
  - (i) acoustic means;
  - (j) flash bang device of psychological effect;
  - (k) water cannon;
  - (l) police dog.
2. When performing official duties, for implementing a security measure, special means shall be used in the following cases:
  - (a) handcuffs shall be used against an accused person/convicted person who, by his/her actions, offers resistance to an employee and/or does not obey his/her lawful demands; poses a threat to his/her own and/or life and/or health of another person; causes or attempts to cause damage to the property of other persons/state property; attempts to escape;
  - (b) a strait jacket, a restraining chair and a restraining bed shall be used against an accused person/convicted person who injures or attempts to injure himself or another person; who damages or attempts to damage the property of other persons/state property; also, whose action is strongly aggressive. This special means shall be used under the observation of a doctor;
  - (c) a baton shall be used to prevent an accused person/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 person/convicted person, to prevent a crime or other offence, 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 person/convicted person against other persons and/or against a protected facility; to prevent mass unrest and/or the 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 a 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 person/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 shall be used to suppress mass unrest and/or a violation of order, to repel a group attack on a protected facility, and to apprehend an armed person;
- (h) a police dog shall be used when an accused person/convicted person escapes or attempts to escape; it shall also be used to detect prohibited items and to repel an attack.
3. Special means shall be used in extreme cases, when other means are ineffective. The use of special means shall be proportionate to the threat and shall cause as little damage as possible to the object of the measure while achieving the legitimate aim.
4. Special means may be used by a specially authorised person of the Service who has completed the appropriate training.
5. A person authorised to use special means shall notify an appropriate person about the use of special means and give that person reasonable time to comply with the lawful demand, except when the delay may cause damage to human life and health, and/or property, or may cause other grave consequences, or when such notification is unjustified or impossible under the existing circumstances.
6. Liability for a decision to use special means shall rest with the person who makes the decision to use special means, and liability for the use of special means shall rest with the person who uses special means, in accordance with the procedure established by the legislation of Georgia.
7. The director and doctor or nurse of the penitentiary institution concerned shall be immediately notified of the use of special means, except when the special means are used under paragraph 1(a) of this article. An accused person/convicted person shall, as soon as possible, undergo a medical examination after special means have been used against him/her.
8. A relevant report shall be prepared on the use of special means. The report shall specify the type of special means used, the grounds for using them, and other information. The form of the report shall be approved by an order of the Minister.
9. After the grounds for the use of special means are eliminated, the director of the penitentiary institution concerned shall prepare and immediately submit a report to the General Director of the Service.
10. The head of the unit or convoy shall immediately notify the authorised person and a doctor or a nurse of the Service about the use of special means against an accused person/convicted person to ensure safety and/or to prevent his/her escape during the removal/transfer or extradition of an accused person/convicted person, except for using special means under paragraph 1(a) of this article.
11. The use of special means, except for those under paragraph 1(b)-(d) of this article, may also be allowed to repel an attack on a penitentiary institution from outside.
12. The special means specified in paragraph 1(g) of this article shall be used in extreme cases, when the special means defined in paragraph 1(a)-(f) and (h)-(l) of this article are ineffective to eliminate the existing threat. The special means specified in paragraph 1(f) and (g) of this article may not be used in enclosed spaces, in medical facilities for accused persons/convicted persons, or against those persons who already are under control of a relevant authorised person.
13. An accused person/convicted person may not be handcuffed to a hard surface, except for extreme cases when the legitimate aim defined by this article cannot be achieved by other means.
14. Special means that cause severe injuries to accused persons/convicted persons and are associated with unjustified risk or are prohibited by the international agreements and international acts of Georgia may not be used in penitentiary institutions, or when removing/transferring accused persons/convicted persons.
15. Only the special means specified in paragraph 1(a) of this article may be used against women, and for preventing collective disobedience and/or mass unrest, repelling an attack and apprehending an armed person, the special means specified in paragraph 1(e), (f), (k) of this article may also be used.
16. As a rule, a person having the right to use special means shall not use the special means specified in paragraph 1 of this article knowingly against pregnant women, except for the special means specified in paragraph 1(a) of this article.
17. When using special means, the health status and limited capacities of a person shall be taken into account, as far as possible.
18. The types of special means available for an employee, and the procedure and conditions for storing, carrying and using these means, shall be determined by an order of the Minister.

#### **Article 64 – Procedure for using firearms**

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



the legitimate purpose and the threat.

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

3. The following shall be considered as an escape:

(a) crossing the protective barrier of a penitentiary institution by an accused person/convicted person;

(b) crossing the security line, established in accordance with the procedure defined by an order of the Minister, by an accused person/convicted person when removing/transferring him/her from a penitentiary institution.

4. Persons authorised to use firearms shall warn the relevant person of their intention to use firearms, give him 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, and/or property, or may have other grave consequences, or when such warning is unjustified or impossible in the existing circumstances.

5. It is forbidden for an employee who is in direct contact with an accused person/convicted person to carry and/or keep firearms in the territory of a penitentiary institution.

6. Firearms shall not be carried into the territory of a penitentiary institution, except in the existence of circumstances as provided for by paragraphs 1 and 2 of this article, and while ensuring the protection provided for by Article 61(1) of this Code.

### **Article 65 – External prohibited area of a penitentiary institution**

1. The external prohibited area of a penitentiary institution shall be an outer perimeter of the external protective barrier of an institution.

2. The radius of the external prohibited area of a penitentiary institution shall be individually defined by an order of the Minister taking into account the external infrastructure of the relevant penitentiary institution. Several radii of the external prohibited area may be determined for a penitentiary institution.

3. The radius of the external prohibited area of a penitentiary institution shall be fenced and/or appropriate prohibition signs shall be placed at the border of an external prohibited area.

4. It shall be prohibited to break the regime determined by the legislation of Georgia within the external prohibited area of a penitentiary institution, in particular, to stay within this area and/or enter this area with a vehicle (except when performing official duties), to take and/or use pyrotechnics, fireworks, or poisonous, highly inflammable and/or other items/substances, to incite/call for the violation of requirements determined by law, to incite/call for unrest/disobedience, or to provide information unlawfully to persons placed in a penitentiary institution, from the external prohibited area of a penitentiary institution, or from its vicinity. It shall be also prohibited to bring into the penitentiary institution, and/or to hand over to persons placed in penitentiary institutions, items and/or substances by evading the procedure established by the legislation of Georgia.

5. The violation of the requirements of paragraph 4 of this article shall entail responsibility in accordance with the procedure established by the legislation of Georgia.

6. When committing an offence under this article, if an offender fails to obey the lawful instructions of an employee of the Service and/or if an offender cannot be identified, an authorised person may apply to the police in order to prevent or reveal the offence. The police shall immediately appear at the place of the offence and carry out actions as provided for by the Administrative Offences Code of Georgia and other legislative and subordinate normative acts of Georgia.

7. Holding meetings or demonstrations within the external prohibited area of a penitentiary institution or in the territory within a 20-metre radius from this area shall be prohibited.

8. Any construction in the territory within a 100-metre radius from the external prohibited area of a penitentiary institution shall be agreed upon with the Service. In addition, infrastructural works may be conducted within the external prohibited area of a penitentiary institution, with the consent of the General Director of the Service, for the proper operation of a penitentiary institution.

### **Article 66 – Special conditions in penitentiary institutions**

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

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

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

4. The director of a penitentiary institution shall immediately notify the General Director of the Service of the independent introduction of special conditions as provided for by paragraph 1 of this article. Within 24 hours after





receiving the notification, the General Director of the Service shall decide whether to maintain or cancel the 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 a penitentiary institution is unable to carry out large-scale operational and preventive measures in the institution for the seizure of prohibited items, substances and food products because of a serious risk of collective disobedience and mass unrest, or if public security is under threat, the security of the institution may be enhanced with the Special Forces of the Ministry of Internal Affairs of Georgia and/or the State Security Service of Georgia, based on a relevant request of the Minister and/or decisions of the Minister of Internal Affairs of Georgia and/or the Head of the State Security Service of Georgia.

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

#### **Article 67 – Management of crisis situations in penitentiary institutions**

1. A crisis situation in a penitentiary institution shall be a situation where the violation of the legal and/or security regime poses a 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 measures provided for by this Code.

2. A situation shall be assessed as a crisis situation by the director of a penitentiary institution. He/she shall immediately notify the General Director of the Service. If the General Director of the Service, after the 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 a crisis situation, the officers of special intervention squads of the Service may carry out actions in the territory of a penitentiary institution. They may use special equipment and firearms as provided for by Articles 63 and 64 of this Code in accordance with the procedure established by the legislation of Georgia.

4. A decision on the involvement of the special intervention squads of the Service in a crisis situation management process shall be made by the General Director of the Service with the consent of the Minister.

5. In the management of a crisis situation, the Service 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. In the management of a crisis situation, the Service shall, with the observance of security requirements, provide the public with appropriate information.

#### **Article 68 – Plan of additional security measures**

To prevent attacks, escapes from penitentiary institutions, and other crimes and offences during mass unrests, and during a state of emergency or martial law declared in the country, and if the Service cannot manage a crisis situation with its own forces, additional security measures shall be taken in accordance with a pre-developed plan. A pre-developed plan shall be approved by a joint order of the Minister and the Minister of Internal Affairs of Georgia in prior agreement with the State Security Service of Georgia. Measures to be taken by the State Security Service of Georgia may also be determined under the plan.

#### **Article 69 – 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;

(c) the Prime Minister of Georgia;

(d) authorised persons of the system of the Prosecutor's Office;

(e) the Public Defender of Georgia;

(f) the Minister and persons authorised by the Minister;

(g) members of the Special Prevention Group;

(h) authorised persons of the Special Investigation Service.

2. The procedure for entering a penitentiary institution with a special permit shall be defined by the Minister.

3. No audio or video device or other types of recording equipment shall be brought into the territory of a penitentiary institution without a special permit, except for the cases provided for by paragraph 8 of this article. The special permit shall be issued by the General Director of the Service.

4. Accused persons/convicted persons may be photographed, filmed, and 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 Service. An accused person/convicted person shall be warned in advance that he/she is being recorded.

7. A penitentiary institution may take a photo or video of an accused person/convicted person under the procedure established by an order of the Minister, in accordance with the requirements of the Law of Georgia on Personal Data



Protection.

8. The Public Defender of Georgia, or a member of the Special Preventive Group, with the 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 persons/convicted persons, to take photos of accused persons/convicted persons and/or of the conditions of their accommodation, walking areas, medical units, catering facilities, common-use shower facilities, common-use toilets and visitation rooms.

9. An employee of a penitentiary institution shall be authorised to demand, at any time, from a person specified in paragraph 8 of this article, to check the photo recording mode of a camera to prevent it from video recording, and if the video recording mode is detected, the employee shall be authorised to stop it immediately.

10. The Public Defender of Georgia, or a member of the Special Preventive Group, shall have the right to meet with an accused person/convicted person in a special room, where the surveillance and control using visual and/or electronic means provided for by Article 58 of this Code is carried out. The special room shall be set up in accordance with the statute of a penitentiary institution so that the safety of the Public Defender of Georgia and a member of the Special Preventive Group is ensured.

11. The rules of conduct of representatives of organisations (except for representatives of the Special Preventive Group and organisations provided for by the international obligations of Georgia) who are in the territory of a penitentiary institution with the prior consent of the Service shall be determined by an order of the Minister.

### **Chapter XIII – Disciplinary Liability of Accused Person/Convicted Person. Disciplinary Liability of Convicted Person**

#### **Article 70 – Disciplinary violation**

A disciplinary violation shall be an act that breaches the statute of a facility, and prejudices order and safety, and does not involve the elements of a crime, namely:

- (a) the violation of hygiene and sanitary standards;
- (b) the violation of fire safety rules;
- (c) disobedience or other kinds of resistance to the employees of a facility and other authorised persons in the performance of their duties;
- (d) the verbal abuse of another person or other humiliation of his/her dignity;
- (e) the damage/destruction of the property of a facility or of other persons (including the alteration of its appearance);
- (f) unauthorised movement or the crossing of boundaries established by a facility;
- (g) the carrying out of activities in the territory of a facility to receive profits, without the permission of the director of a penitentiary institution;
- (h) interference in the functioning of devices/systems in the territory of a facility without the permission of the director of a penitentiary institution, and the unauthorised alteration of the design and functions of the premises of a facility;
- (i) the manufacturing, possession or use of prohibited items in the territory of a facility by an accused person/convicted person that do not entail criminal liability;
- (j) the making of noise or other actions that disturb order and interfere with the normal operation of a facility;
- (k) the unlawful transfer of any information from one cell to another or outside a facility;
- (l) the violation of the statute and daily routine of a facility, and of other norms established by the legislation of Georgia.

#### **Article 71 – Disciplinary sanction**

1. In the case of a disciplinary violation, disciplinary liability shall be imposed on an accused person/convicted person. A disciplinary sanction used for a disciplinary violation shall be proportionate to the relevant action.

2. A disciplinary sanction/measure against an accused person/convicted person shall be used only on the basis of disciplinary proceedings, after the fact of a disciplinary violation has been identified.

3. In the case of a collective violation, a disciplinary sanction that has to be imposed on accused persons/convicted persons shall be determined individually.

4. If the circumstances of a disciplinary violation give rise to the use of safety measures as provided for by Article 62 of this Code, a disciplinary measure shall be used before the beginning of the disciplinary proceedings provided for by this chapter.

#### **Article 72 – Types of disciplinary sanctions**

1. Types of disciplinary sanctions shall be:

- (a) a warning;
- (b) a reprimand;
- (c) the restriction of the right to work for not more than three months;
- (d) the restriction of the right to use allowed items (except for necessary food products and medication prescribed by a doctor) for not more than three months;
- (e) the restriction of the right to receive parcels and/or money remittances for not more than three months;



- (f) the transfer to a cell type accommodation for up to three months;
  - (g) placement in a solitary cell for up to 14 days;
  - (h) the restriction of the right to telephone conversations for not more than three months;
  - (i) the restriction of the right to receive and send private correspondence for not more than three months;
  - (j) the restriction of the right to use the shop located in the territory of a penitentiary facility for not more than three months;
  - (k) the withholding of short visit privileges for not more than six times a year;
  - (l) the restriction of the right to use a personal TV or radio set for not more than three months;
  - (m) the restriction of the right to sell items (manufactured articles) produced as a result of individual activities for not more than three months.
2. An accused person/convicted person in a pre-release facility may also be restricted from exercising the right provided for by Article 34(12) of this Code for up to two months.
3. An accused person/convicted person in a pre-release facility may be restricted from exercising the rights provided for by paragraphs 1(c)-(e) and 1(h)-(j) of this article for up to one month.
4. The disciplinary sanctions provided for by paragraphs 1(f) and 1(k)-(m) shall not be used against an accused person/convicted person in a pre-release facility.
5. The measures provided for by paragraphs 1(f) and 1(g) of this article shall not apply to pregnant women, a mother of minor children (who has a child under the age of three, or who enjoys the right to the relationship with her child on rest days and holidays in accordance with Article 39(7) of this Code) and to accused persons/convicted persons over 65 years of age.
6. The rights provided for by paragraph 1(h)-(j) of this article may not be restricted for longer than six months in a one-year period.
7. The rights provided for by paragraph 1(h), (i) and (k) of this article may not be restricted simultaneously.
8. During the validity period of a disciplinary sanction as provided for by paragraph 1(h) of this article, the right to telephone conversations shall be maintained for a convicted person/accused person for calling on the hotline telephone number of the Special Investigation Service, the Public Defender of Georgia or the General Inspection of the Ministry of Justice of Georgia.
9. The restriction provided for by paragraph 1(i) of this article for a disciplinary violation shall not apply to correspondence where the addressee or sender 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 a human rights international agreement ratified by the Parliament of Georgia, a ministry of Georgia, the Service, the Public Defender of Georgia, a defence lawyer, a prosecutor, or the Local Council of the Service.

### **Article 73 – Rights of an accused person/convicted person charged with a disciplinary violation**

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

- (a) be informed of the essence and grounds of a violation in a language understandable to him/her;
- (b) have sufficient time and means to prepare a defence where there is an oral hearing of the case;
- (c) enjoy legal aid, including, as established by the Law of Georgia on Legal Aid, in cases provided for by Article 87(1)(f) and (g) of this Code, if so requested by him/her where there is oral hearing of the case;
- (d) request the attendance of witnesses during the review of a disciplinary violation and question witnesses where there is oral hearing of the case;
- (e) enjoy interpreter services free of charge if he/she does not understand the language of proceedings.

### **Article 74 – Disciplinary proceedings**

- 1. Cases of disciplinary violation are reviewed without oral hearing by the director of a facility or a person authorised by him/her. If the director of a 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.
- 2. During the review of the case of a disciplinary violation without an oral hearing, an accused person/convicted person shall have the right to be represented by a lawyer.
- 3. An accused person/convicted person shall be informed of his/her right to give an explanation, provide evidence, file a motion, speak his/her native language, use interpreter services, and to appeal against an order imposing a disciplinary measure.
- 4. An accused person/convicted person shall submit an explanation of a disciplinary violation committed by him/her, and in case of his/her refusal to do so, the authorised person of a penitentiary institution shall prepare a relevant report.
- 5. 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.
- 6. During the oral hearing, an accused person/convicted person shall have the right to sit and make notes.
- 7. In applying a disciplinary measure to an accused person/convicted person, his/her personality 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 evidence.

8. An accused person/convicted person may be represented by a lawyer during the review of a case in an oral hearing which relates to the imposition of disciplinary measures as provided for by Article 72(1)(f) and (g) of this Code. Prior to the oral hearing, the accused person/convicted person shall be informed of the right to engage a private lawyer and, in the case of the relevant consent, this right shall be exercised within three hours after the accused person/convicted person is notified of this right. If the lawyer fails to appear within the specified period of time, a public lawyer shall be appointed for the accused person/convicted person with his/her consent. If the accused person/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 person/convicted person.

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

#### **Article 75 – Order on the application of a disciplinary measure**

1. The right to issue an order on the application of a disciplinary measure shall be vested in the director of a facility or a person authorised by him/her. An 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 ten 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 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. The use of interpreter 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 a legitimate aim. An imposed disciplinary sanction shall be proportionate to the gravity and nature of the committed violation. An order shall be in written form and shall indicate the procedure for an appeal.

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

7. The material circumstances of a disciplinary violation shall be included in the personal file of the accused person/convicted person.

8. The enforcement of a disciplinary measure shall commence within one month after its imposition on an accused person/convicted person.

9. In the case of the transfer of an accused person/convicted person to another penitentiary institution, the enforcement of the imposed disciplinary sanction shall continue in accordance with general procedures.

#### **Article 76 – Appealing disciplinary sanctions**

1. An accused person/convicted person may, on a one-time basis, appeal to a court the disciplinary measure imposed on him/her within ten 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 person/convicted person to a medical facility due to a worsened 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 person/convicted person returns to the facility.

#### **Article 77 – Guarantees for an accused person/convicted person during the application of disciplinary measures**

1. Two or more disciplinary measures may not be imposed for one disciplinary violation except for the case of placing an accused person/convicted person in a solitary cell as provided for by Article 78(2) of this Code.

2. Disciplinary measures shall not humiliate an accused person/convicted person or 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 person/convicted person is subjected to the measures provided for by Article 72(1)(f) and (g) of this Code, he/she shall be considered as not having been subject 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 early if the purpose of the



measure has been achieved.

6. The director of a penitentiary institution shall be authorised to lift early a disciplinary sanction imposed by the director of another penitentiary institution from an accused person/convicted person placed in a penitentiary institution subordinated to him/her.

### **Article 78 – 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 person/convicted person placed in a solitary cell shall not enjoy short and long visits, telephone conversations, or purchase food products, and he/she shall not enjoy the right to labour and individual activities. He/she shall have the right to stay in the open air for not less than one hour a day.

3. An accused person/convicted person placed in a solitary cell shall maintain the right to have educational material available to him/her and participate in the educational process if this does not hinder the enforcement of a disciplinary sanction.

4. The right to telephone conversations shall be maintained for a convicted person/accused person placed in a solitary cell for calling on the hotline telephone number of the Special Investigation Service, the Public Defender of Georgia and the General Inspection of the Ministry of Justice of Georgia.

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

6. A solitary cell shall have lighting and ventilation. An accused person/convicted person shall be provided with a chair and a bed. Upon request, he/she shall have the right to receive reading material.

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

8. The relevant authorised person of a penitentiary institution shall inform medical personnel about the placement of a person in a solitary cell. The person placed in a solitary cell shall be under the special and daily observation of the medical personnel. If necessary, the duration of placement in a solitary cell may be reduced on the basis of a report of a doctor.

### **Article 79 – Prevention of disciplinary violation**

1. A penitentiary institution shall take relevant measures to prevent and avoid disciplinary violations.

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

### **Article 80 – Imposition of disciplinary arrest on an accused person**

1. If a convicted person repeatedly commits a disciplinary violation as provided for by this Code during the period of the application of a disciplinary measure, he/she may be subject to disciplinary arrest for not more than 30 days and nights. This procedure shall not apply to the case provided for by paragraph 2 of this article.

2. If a convicted person placed in a special risk prison facility commits a disciplinary violation as defined in Article 70(c), (d), and/or (k) of this Code, he/she may be subject to disciplinary arrest for not more than 60 days and nights.

3. A disciplinary arrest shall be applied against convicted persons placed in closed prison facilities and special risk prison facilities.

4. The total period of disciplinary arrests imposed on a convicted person during one year shall not exceed 60 days and nights, and in the case provided for by paragraph 2 of this article, it shall not exceed 150 days and nights.

5. A disciplinary arrest shall not be imposed on convicted persons over 65 years old.

6. The director of a penitentiary institution and a person authorised by him/her shall have the right to issue an order on the imposition of a disciplinary arrest. This right shall be delegated by an individual administrative act.

7. An order on the imposition of disciplinary arrest shall contain:

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

(b) the date, time and place of drawing up the order;

(c) a 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 person committing the disciplinary violation (surname, first name, date of birth, etc.);

(f) the place, time (year, month, date, hour, minute) of the disciplinary violation, and the essence of the violation. If the time of committing the violation cannot be determined, the time of the detection of the violation shall be regarded as the time of committing the violation;

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

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

(i) the motion on the imposition of the disciplinary arrest, without indicating the term of the sanction.

8. When issuing an order imposing disciplinary arrest, a convicted person shall be informed of his/her right to read the order, give explanations, provide evidence, file motions, speak the native language, use the services of an interpreter and/or a lawyer (defence lawyer), and appeal the order imposing disciplinary arrest. The order imposing disciplinary arrest shall indicate that the convicted person has been informed of his/her rights.



9. The use of the services of an interpreter and/or a lawyer (defence lawyer) shall be indicated in an order on the imposition of disciplinary arrest.
10. A convicted person committing a disciplinary violation, a witness or a victim shall have the right to submit written explanations and/or comments, which must be attached to the order on the imposition of disciplinary arrest.
11. Immediately upon its issuance, a copy of an order on the imposition of disciplinary arrest shall be handed to a convicted person.
12. An order imposing disciplinary arrest shall be submitted to a competent court within 24 hours, according to the location of the penitentiary institution. The burden of proof shall rest with the official issuing the order.
13. A judge shall review an order imposing disciplinary arrest alone in an open court session, within 48 hours after the submission of the order. A reasoned decision shall be immediately delivered after the review of the case. The delivery of a reasoned decision shall not be postponed.
14. A court shall review a case in accordance with the procedure 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.
15. 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 rights guaranteed under the Administrative Procedure Code of Georgia. Based on the principle of equality of arms, he/she shall have the right to provide evidence, participate in the examination of 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 a case, a convicted person may speak his/her native language and use the services of an interpreter and/or a lawyer (defence lawyer). The court shall appoint a lawyer (defence lawyer) for him/her at the expense of the State if the convicted person cannot afford to hire a lawyer (defence lawyer).
16. The time taken to present a convicted person before court and the time taken by the court of first instance to deliver a decision shall be counted towards the total term of a disciplinary arrest.

#### **Article 81 – Court decision (ruling) on the imposition of disciplinary arrest**

1. A court decision (ruling) on the imposition of disciplinary arrest shall not be based on a presumption. A court decision (ruling) shall be delivered only if, in the course of the hearing, the commission of the disciplinary violation by a person is proved based on solid evidence examined by the court.
2. A court decision (ruling) on the imposition of disciplinary arrest 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 with the observance of 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 disciplinary arrest is proportionate to the personality of the person committing the disciplinary offence, and to the gravity of the disciplinary violation committed by him/her.
6. When imposing a disciplinary arrest, 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 the act performed by the person is unlawful;
  - (c) whether or not the person is to be charged with the commission of the act;
  - (d) whether or not administrative arrest is to be imposed on the person, and to what extent;
  - (e) what will happen to the items of material evidence.
7. 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 6 of this article according to each violation separately, and as a whole.
8. The court may jointly review the imposition of disciplinary arrest on several persons charged with the commission of a disciplinary violation, based on the motion of the issuer of the order on the imposition of disciplinary arrest or on its own initiative.
9. In the case provided for by paragraph 8 of this article, the issues referred to in paragraph 6 of this article shall be decided for each person separately.

#### **Article 82 – 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 the copy of the decision (ruling) is delivered to them in accordance with the procedure provided for by the Civil Procedure Code of Georgia. The court shall immediately forward the submitted appeal to an appellate court, and to the opposite party.
2. An appellate court shall review an appeal as a panel of three judges, in an open court hearing. An appellate court shall review a case and deliver a decision (ruling) in accordance with the procedure, and within the period of time established by this Code for the court of first instance.
3. The decision (ruling) of an appellate court shall be final and without appeal.

#### **Article 83 – Organisation and control of enforcement of disciplinary arrest**



1. A court that has delivered a decision (ruling) shall refer the decision (ruling) on the imposition of disciplinary arrest for enforcement. The Service shall organise and control the enforcement process.
2. The procedure for serving the term of disciplinary arrest by a convicted person, the typical form of an order on the imposition of disciplinary arrest, and the form of the movement of a convicted person, shall be defined by an order of the Minister.
3. The term of disciplinary arrest shall not be counted towards the total term of a sentence to be served by a convicted person.

## **Chapter XIV – Inspection and Monitoring of Enforcement of Detention and Imprisonment**

### **Article 84 – Inspection and monitoring of enforcement of detention and imprisonment**

The structural subdivision of the Service carrying out internal control shall monitor how the employees of the Service observe human rights and comply with the requirements of the legislation of Georgia; it shall carry out system monitoring of penitentiary institutions, as well as the review of claims by accused persons/convicted persons, in accordance with the procedure established by an order of the Minister.

### **Article 85 – Special Prevention Group**

The activities carried out in the Service and at a penitentiary institution in order to combat and prevent torture, inhuman treatment and punishment shall be carried out by a special prevention group, in accordance with the procedure established by the Organic Law of Georgia on the Public Defender of Georgia.

## **Chapter XV – Release from Sentence**

### **Article 86 – Grounds for releasing a convicted 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 a sentence has been commuted to a less severe sentence;
  - (d) a sentence has been changed or reversed in accordance with the procedure established 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) a court defers the enforcement of a judgement.
2. The list of those serious and incurable diseases that represent grounds for the release of convicted persons from their sentence shall be approved by the Minister of Internally Displaced Persons from the Occupied Territories, Labour, Health and Social Affairs of Georgia.

### **Article 87 – General procedures for release**

1. A released convicted person shall be released in accordance with 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 shall be given an appropriate certificate.
2. In the case provided for by this article, the dactylography of a convicted person must be conducted in accordance with Article 47(1) of this Code upon his/her release.
3. Personal belongings and clothes/shoes kept by a penitentiary institution shall be returned to a released convicted person.
4. If a released convicted person does not have personal clothes/shoes or if they are not appropriate for the season, a penitentiary institution shall provide him/her with clothes/shoes suitable for the season free of charge.
5. Upon release, a convicted person shall acquire the right to freely dispose of the amount accumulated in his/her personal account.

### **Article 88 – Release of a convicted person from the remaining sentence due to illness**

1. To release a convicted person from the remaining sentence due to his/her illness, the convicted person, his/her lawyer/legal representative or the director of a penitentiary institution shall, in accordance with the procedure established by law, apply to the Joint Standing Commission of the Ministry and the Ministry of Internally Displaced Persons from the Occupied Territories, Labour, Health and Social Affairs of Georgia, or a court, and request the release of the convicted person on the basis of a medical report.
2. The Joint Standing Commission of the Ministry and the Ministry of Internally Displaced Persons from the Occupied Territories, Labour, Health and Social Affairs of Georgia shall make a decision on the release of a convicted person from the remaining sentence where there are circumstances as provided for by Article 74(2) of the Criminal Code of Georgia, on the basis of an assessment of the council of physicians.
3. The procedure for setting up the Joint Standing Commission of the Ministry and the Ministry of Internally Displaced



Persons from the Occupied Territories, Labour, Health and Social Affairs of Georgia, and the rules of operation and powers of the Commission, as well as the procedure for setting up a council of physicians and their powers, shall be defined by a joint order of the Minister and the Minister of Internally Displaced Persons from the Occupied Territories, Labour, Health and Social Affairs of Georgia.

4. In the case provided for by paragraph 1 of this article, a court shall deliver its judgment on the release of a convicted person from the remaining sentence in accordance with Article 74(1) of the Criminal Code of Georgia.

5. During the review of the matter referred to in paragraph 4 of this article, the court shall take into account the appropriateness of the imposed imprisonment, personal characteristics, the facts of the crime committed in the past, the nature, grounds, the purpose of the crime, and the outcome of the crime, the risk of committing a repeated crime, the behaviour of the convicted person in the process of serving his/her sentence, and other circumstances which may affect the decision of the court.

### **Article 89 – 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 a sentence of imprisonment imposed for committing a crime of little gravity;
- (b) at least two thirds of the term of a sentence of imprisonment imposed for committing a grave crime;
- (c) at least three quarters of the term of a sentence of imprisonment imposed for committing an especially grave crime;
- (d) three quarters of the term of a sentence of imprisonment imposed on a person who was previously released on parole, and the release on parole was revoked based on paragraph 4 of this article;
- (e) three quarters of the term of a sentence of imprisonment imposed on a person whose previous term of sentence, which had not been actually served by him/her, was changed by a less severe sentence, and whose changed sentence was set aside on the basis of Article 73(10) of the Criminal Code of Georgia.

2. The term of imprisonment actually served by a convicted person shall not be less than six months.

3. The conduct of a convicted person released on parole shall be monitored by the LEPL called the National Agency for Crime Prevention, Execution of Non-Custodial Sentences and Probation (the 'Agency') under the governance of the Ministry, the territorial body called Crime Prevention, Execution of Non-Custodial Sentences and Probation (the 'Bureau') who exercises the relevant powers, and the conduct of a convicted military servant shall be monitored by the administration of a relevant military unit.

4. If, during the unserved term of a sentence, a convicted person:

- (a) regularly and/or grossly avoids the fulfilment of 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, in accordance with the procedure established 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.

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

### **Article 90 – Local Council of the Service**

1. The Local Council of the Service (the 'Council') shall be 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. The Council shall consist of five members: The Council shall be composed of:

- (a) one employee of the Service;
- (b) one employee of the 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 can perform the functions of the members of the Council with professional and ethical standards.

4. A person(s) defined by:

- (a) paragraph 2(a) of this article shall be selected and appointed as a member(s) of the Council by the General Director of the Service;
- (b) paragraph 2(b) of this article shall be appointed as a member(s) of the Council by the General Director of the Service upon recommendation of the Head of the Agency;
- (c) paragraph 2(c) of the same article shall be appointed as a member of the Council by the General Director of the Service upon the recommendation of the High Council of Justice of Georgia;
- (d) paragraph 2(d) and (e) of the same article shall be appointed as a member(s) of the Council by the General Director of





the Service upon the recommendation of the Coordination Council of the Service.

5. The Coordination Council of the Service shall be created in accordance with the procedure established by the legislation of Georgia in order to select and nominate for the Council membership representatives from non-governmental organisations, general educational institutions and higher educational institutions. The rights and duties of the Coordination Council of the Service and its rules of procedure shall be determined by an order of the Minister.

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

7. A member of the Council shall be appointed for one year.

8. A member of the Council may be dismissed from office by an order of the General Director of the Service on any of the following grounds:

(a) personal written request;

(b) the decision of a court declaring the person as a person with limited legal capacity, or a beneficiary of support, unless otherwise determined by a judgement;

(c) the entry into legal force of a judgement of conviction against the person;

(d) the expiration of the term of office as defined by paragraph 7 of this article;

(e) the declaration of a person as missing in accordance with the procedure established by law;

(f) death;

(g) failure to attend three consecutive Council meetings without valid reason;

(h) dismissal from the position held at the time of appointment as a member of the Council;

(i) the dishonest and/or improper performance of his/her duties;

(j) the liquidation/reorganisation of the Council in accordance with the legislation of Georgia.

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

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

11. A person participating in a Council meeting shall, in compliance with the legislation of Georgia, keep confidential the personal data that he/she became aware of as a result of his/her participation in the meeting.

#### **Article 91 – Decision of the Council on release on parole**

1. If a convicted person (except for a high risk convicted person) has actually served the term established by law for release on parole, the penitentiary institution shall immediately file a relevant application with the Council and notify the convicted person about it. If additional time is required to obtain and process the necessary information, a penitentiary institution 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 shall review a case by oral hearing and/or without oral hearing, in compliance with administrative procedures. When reviewing without oral hearing, the decision to deny parole, or to admit the case for oral hearing, or to release a convicted person on parole, is taken by the Council according to the assessment criteria determined by the Minister. The decision shall include the main circumstances of a case and the details of the convicted person.

4. When reviewing the application of a penitentiary institution, the Council shall take into account the conduct of a convicted person during his/her imprisonment, the criminal acts committed by him/her in the past, his/her personality, family status, the nature of the crime committed, and other circumstances that may influence the decision of the Council.

5. The Council shall conduct an oral hearing if it considers that it is necessary to obtain additional information from a convicted person to decide his/her release on parole. By oral hearing, the Council shall decide to deny or grant release on parole to the convicted person.

6. The decision of the Council to deny release on parole to a convicted person may be appealed to a court under an administrative procedure.

7. If the Council decides to deny release on parole to a convicted person, an application with the same request may be reviewed only after six months, except when the outstanding sentence does not exceed six months and/or there exists a special circumstance. The issue of release on parole of convicted persons shall be considered every six months. If the outstanding sentence does not exceed six months, the Council shall review the matter of granting release on parole to a convicted person on the basis of his/her written application.

8. In the case of releasing a convicted person on parole, the Council shall be authorised to apply to the Agency in accordance with the procedures determined by an order of the Minister, with the recommendation to determine additional conditions for the convicted person.

#### **Article 92 – Decision of the Council on commuting a sentence**

1. A convicted person, his/her defence lawyer/legal representative (except for a highly dangerous convicted person,



his/her defence lawyer/legal representative) may, in accordance with the procedure established by law, submit to the Council documents necessary to review the issue of commuting the outstanding sentence of the convicted person, and a relevant application.

2. A convicted person, his/her defence lawyer/legal representative, and close relatives, may submit additional information to the Council.

3. The Council shall review a case by oral hearing and/or without oral hearing, in compliance with administrative procedures.

4. When reviewing a relevant application without oral hearing, the Council shall take into account the conduct of a convicted person during his/her imprisonment, the criminal acts committed by him/her in the past, his/her personality, family status, the nature of the crime committed by him/her, and other circumstances that may influence the decision of the Council.

5. The Council shall conduct an oral hearing if it considers that it is necessary to obtain additional information from a convicted person to decide his/her release on parole. At the oral hearing, the Council shall decide whether or not the outstanding part of a sentence is to be commuted to a less severe sentence.

6. When reviewing a relevant application, the Council shall take into account the conduct of a convicted person during his/her imprisonment, the criminal acts committed by him/her in the past, his/her personality, family status, the nature of the crime committed, and other circumstances that may influence the decision of the Council.

7. The Council shall make a decision to commute the outstanding part of a sentence to a less severe sentence with the consent of a convicted person.

8. The decision of the Council to deny commuting the outstanding part of a sentence to a less severe sentence may be appealed to a court in an administrative proceeding.

9. If the Council decides to deny commuting the outstanding part of a sentence to a less severe sentence, 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 exists a special circumstance.

10. The decision of the Council shall include the main circumstances of a case and the details of a convicted person.

### **Article 93 – Obligations of a penitentiary institution when releasing a convicted person from the penitentiary institution and in the existence of other circumstances**

1. A penitentiary institution shall, not later than three months before release on parole, and/or expiry of the term established by law for commuting the outstanding part of a sentence to a less severe sentence, notify the Agency about the risks to the family of a convicted person and to the social environment, and the assessment of needs. Coordinated activities between the Service and the Agency for the preparation of the convicted person for release shall be determined by an order of the Minister.

2. A penitentiary institution shall, not later than three months before the term of imprisonment expires, notify the municipal bodies concerned, according to the place of residence of a convicted person, about the release of the convicted person from a penitentiary institution, about his/her place of residence, capacity for work, and profession.

3. A penitentiary institution shall notify the release of a convicted person to the appropriate structural subdivision of the Ministry of Internal Affairs of Georgia in accordance with the procedure established by an order of the Minister.

4. A penitentiary institution shall explain to a person convicted for the commission of a crime against sexual freedom and inviolability as provided for by the Law of Georgia on Combating Crimes against Sexual Freedom and Inviolability, when releasing him/her from a penitentiary institution, the restrictions (deprivation of rights) provided for by the Law of Georgia on Combating Crimes against Sexual Freedom and Inviolability.

5. A penitentiary institution shall immediately send a written notification to the Ministry of Internal Affairs of Georgia about releasing a person convicted for the commission of a crime against sexual freedom and inviolability as provided for by the Law of Georgia on Combating Crimes against Sexual Freedom and Inviolability from the penitentiary institution, about his/her escape from the penitentiary institution, his/her taking short leave from the penitentiary institution in accordance with the procedure established by Article 125 of this Code, and his/her leaving a pre-release facility in accordance with the procedure established by Article 34(12) of this Code.

6. A penitentiary institution shall have the obligation to immediately notify the Ministry of Internal Affairs of Georgia about releasing a person convicted for violence against women and/or for domestic violence from the penitentiary institution, about his/her escape from the penitentiary institution, his/her taking short leave from the penitentiary institution in accordance with the procedure established by Article 125 of this Code, and his/her leaving a pre-release facility in accordance with the procedure established by Article 34(12) of this Code.

## **Book III**

### **Legal Status of Accused and Convicted Persons. Re-socialisation of Convicted Persons**

#### **Chapter XVI – Legal Status of Accused and Convicted Persons**

### **Article 94 – Grounds for the legal status of the accused and convicted persons. Rights of accused and convicted persons**



1. The State shall protect the rights and freedoms of accused and convicted persons, their legal, social and personal safety, and ensure the enforcement of detention and imprisonment.
2. During the detention of accused persons and imprisonment of convicted persons, they shall be guaranteed the rights and freedoms recognised under the Constitution of Georgia, the treaties and international agreements of Georgia, this Code, and other legislative and subordinate normative acts.
3. An accused person/convicted person shall have the right to:
  - (a) in accordance with the procedure established by the legislation of Georgia, be provided 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 supervision and with the permission of the director of a penitentiary institution, and have the inventory necessary for those activities, and to sell the items (manufactured articles) produced as a result of individual activities with the support of a penitentiary institution;
  - (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 a penitentiary facility for a short period of time in connection with special personal circumstances;
  - (i) enjoy relevant rehabilitation programmes.
4. A convicted person shall, in accordance with the procedure established by the legislation of Georgia, additionally enjoy the right to:
  - (a) leave a prison facility for a short period of time;
  - (b) receive education at the first and second stages of academic higher education, while convicted persons placed in a juvenile rehabilitation facility may enjoy the right to receive education at the first stage of academic higher education.
  - (c) receive professional development and retraining.
5. An accused person/convicted person shall have the right to participate in religious ceremonies and meet with clergymen, have in immediate possession and use religious literature and objects of worship. The Minister shall define the procedure for the participation of an accused person/convicted person in religious ceremonies and for his/her meeting with clergymen.
6. The procedures for selling items (manufactured articles) produced as a result of individual activities, and the procedures for providing such individual activities for these purposes, shall be approved by the Minister.

#### **Article 95 – Legal aid**

1. An accused person/convicted person shall have the right to meet with his/her defence lawyer in accordance with the procedure established by the legislation of Georgia.
2. An accused person/convicted person shall have the right to meet with his/her defence lawyer who carries out activities provided for by law without any limitations or interference. The employee of a penitentiary institution shall be authorised to monitor the meeting of an accused person/convicted person with a defence lawyer visually and without listening, using remote surveillance and visual recording equipment. The procedure for meeting with a defence lawyer shall be determined by an order of the Minister.
3. Meetings with the defence lawyer shall not fall under the visits provided for by this Code.

#### **Article 96 – Right to health care**

1. An accused person/convicted person shall have the right to use necessary medical services. If necessary, an accused person/convicted person shall have access to medicinal products allowed in a penitentiary institution. If so requested, an accused person/convicted person shall have the right to purchase at his/her own expense medicinal products with similar properties or more valuable medicinal products than those procured by a penitentiary institution. In the case of a reasonable request, with the permission of the General Director of the Service, an accused person/convicted person may engage a personal physician at his/her own expense.
2. Upon admission to a penitentiary institution, an accused person/convicted person shall undergo a medical examination, and a relevant report shall be prepared and kept in his/her personal file.

#### **Article 97 – Incentives for accused persons/convicted persons**

1. The forms of incentives for convicted persons shall be:
  - (a) a commendation;



- (b) the early lifting of a disciplinary penalty;
- (c) granting the right to an additional telephone conversation;
- (d) granting the right to additional short leave from the facility;
- (e) granting the right to an additional short visit;
- (f) granting the right to a short visit as an exception, by a decision of the director of the penitentiary institution, and with the consent of the General Director of the Service;
- (g) granting the right to a short visit, by a decision of the director of the penitentiary institution, which is not provided for by Article 120 of this Code;
- (h) granting the right to an additional long visit;
- (i) granting the right to an additional video visit;
- (j) the right to receive in a parcel or by post those items, substances and/or articles that a convicted person may not, as a rule, keep in a prison facility, but which are not prohibited;
- (k) granting the right to an additional family visit;
- (l) granting the right to use a computer, but without the availability of the internet.

2. The form of incentive provided for by:

- (a) paragraph 1(d) of this article shall not apply to convicted persons in a closed prison facility or special risk prison facility;
- (b) paragraph 1(e)-(h) of this article shall not apply to convicted persons in a pre-release facility;
- (c) paragraph 1(j) of this article shall apply only to convicted persons in a pre-release facility;
- (d) paragraph 1(k) of this article shall apply only to convicted women;
- (e) paragraph 1(l) of this article shall apply only to convicted persons in a closed prison facility.

3. Only the incentives provided for by paragraph 1(b), (f) and (g) shall apply to accused persons.

4. When applying a form of incentive to accused persons/convicted persons, his/her participation in educational programmes and his/her personal qualities shall be taken into account.

**Article 98 – Material liability of accused persons/convicted persons**

1. An accused person/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 on them:

- (a) in the amount provided for by the labour legislation of Georgia if damage is caused in the course of the fulfilment of labour obligations;
- (b) in the amount provided for by the civil legislation of Georgia if 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 person/convicted person shall cover medical treatment expenses and compensate damages caused to a penitentiary institution, and expenses related to the suppression of his/her escape from the relevant facility.

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

4. If the action of an accused person/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.

**Article 99 – Obligations of accused persons/convicted persons**

1. An accused person/convicted person shall comply with the procedures and conditions for the enforcement of detention and imprisonment as established by the legislation of Georgia, and fulfil his/her obligations and the lawful requests of the employees of the Service.

2. An accused person/convicted person shall:

- (a) adhere to the statute of a relevant penitentiary institution and to other requirements provided for by the legislation of Georgia, and fulfil the lawful requests of the employees of the Service;
- (b) keep safe the assets of a penitentiary institution or of other persons, and not damage them;
- (c) treat other accused persons/convicted persons and the employees of a facility with courtesy;
- (d) keep food products and personal belongings in designated areas and storage facilities;
- (e) maintain personal hygiene, keep his/her clothing, bed and living and working space clean and tidy;
- (f) if he/she so desires, work only at the workplace allocated by the director of a penitentiary institution, in accordance with the procedures and conditions established by the legislation of Georgia;
- (g) not commit acts prohibited by the statute of a respective penitentiary institution and the legislation of Georgia.

**Chapter XVII – Claims and Complaints of Accused Persons/Convicted Persons**

**Article 100 – Claims and the procedure for filing claims**

1. By filing a claim, an accused person/convicted person may claim those rights the granting of which falls within the powers of a penitentiary institution.



2. An accused person/convicted person shall have the right to file a written claim either individually or collectively. A claim may be confidential.
3. A claim shall be registered with a penitentiary institution, and a registration number shall be given to an accused person/convicted person.
4. An accused person/convicted person shall have the right to submit a claim to the director of a facility or to a person authorised by him/her, who shall respond to the claim in writing within five days.
5. The refusal of the claim must be reasoned.

#### **Article 101 – Right to file a complaint**

1. The action (action or inaction) of an employee carrying out activities in the field of enforcement, a legal act, a decision, or any other violation of the rights provided for by this Code, shall serve as grounds for filing a complaint.
2. An accused person/convicted person shall have the right to 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 relevant grounds.
4. The lawyer, legal representative or close relative of an accused person/convicted person may also file a complaint if:
  - (a) he/she reasonably believes that the rights of an accused person/convicted person have been violated;
  - (b) the health status of an accused person/convicted person does not allow him/her to file a complaint himself/herself.
5. Upon the request of an accused person/convicted person, a penitentiary institution shall provide him/her with a sufficient quantity of items necessary to file a complaint, including writing means, paper, and envelopes for confidential complaints.
6. An accused person/convicted person may not be restricted from, or denied, the right referred to in paragraph 5 because he/she is filing a complaint.
7. A penitentiary institution shall resolve the problem of an accused person/convicted on site. A non-confidential complaint that may be resolved by a penitentiary institution on site shall be resolved without waiting for the outcome of the review of a complaint by a body or a person to whom the complaint was sent.
8. Immediately upon the admission of an accused person/convicted person to a facility, a designated person shall allow him/her to read written information about his/her rights and obligations, including the procedure for filing complaints and appeals as provided for by law.
9. An illiterate accused person/convicted person shall be provided with this information verbally, after which an authorised person shall prepare a relevant report on the provision of information to an accused person/convicted person. The report shall be signed by an accused person/convicted person.

#### **Article 102 – Addressee of a complaint**

1. An accused person/convicted person may file a complaint with the director of a penitentiary institution if the complaint concerns the activities of an employee of the penitentiary institution, or he/she may file a complaint with the General Director of the Service if the complaint concerns the activities of an employee of the Service.
2. An accused person/convicted person may appeal against the rejection of a complaint by the director of a penitentiary institution with the General Director of the Service. An accused person/convicted person may also file a complaint with the General Director of the Service, concerning the activities of the director of a penitentiary institution.
3. An accused person/convicted person may file a complaint with the Minister, concerning the activities of the General Director of the Service.
4. A person against whose action, legal act or decision a complaint is filed may not participate in deciding the complaint.
5. An accused person/convicted person may, at any time, file a complaint with the Public Defender of Georgia/Special Preventive Group/Special Investigation Service.

#### **Article 103 – Procedure for filing a complaint**

1. To determine the addressee of a complaint or to solve other technical issues, an accused person/convicted person may request the consultation of the employees of the Social Services Department of a facility.
2. An accused person/convicted person may request the consultation of a lawyer when preparing a complaint. Expenses for the lawyer shall be covered in accordance with the procedure established by law.
3. A complaint shall be submitted in writing in accordance with the form approved by the Minister.
4. If an accused person/convicted person does not speak the official language of Georgia, and does not understand the language of the proceedings, he/she shall have the right to use interpreter services free of charge.
5. An accused person/convicted person shall receive a reply in the official language of Georgia, and if necessary, the procedure provided for by paragraph 4 of this article shall apply.

#### **Article 104 – Complaints boxes for accused persons/convicted persons**

1. A complaints box shall be placed in the territory of a facility, in a place accessible to all accused persons/convicted persons where visual and/or electronic surveillance is not carried out. 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. The social worker of a penitentiary institution shall open, lock and seal the complaints box at the end of each working day in the presence of the director or the deputy director of the penitentiary institution.
5. Upon opening a complaints box, the envelopes shall be visually examined and registered according to their numbers.
6. The social worker of a penitentiary institution shall ensure the registration and recording of complaints.
7. 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 105 – Procedure for forwarding complaints**

1. A penitentiary institution shall forward a submitted complaint to the addressee not later than the next working day after receiving the complaint.
2. Complaints addressed to the director of a penitentiary institution or to a person authorised by him/her shall be immediately delivered to them, through an appropriate structural unit of the penitentiary institution.
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.

#### **Article 106 – 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 General Director of the Service shall review a complaint within 10 working days after receiving it. The General Director of the Service 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 for the cases provided for by paragraphs 1 and 2 of this article.

#### **Article 107 – Confidential complaints**

1. An accused person/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 thereon.
3. A penitentiary institution shall ensure the confidentiality of complaints. Where the addressee of confidential complaint is not indicated, or if it is impossible to identify the addressee indicated thereon, a penitentiary institution shall display the information about the number of the envelope, as well as the information about the grounds for refusing to send the complaint near the complaints box, in a place which is visible to everyone. An accused person/convicted person shall have the right to withdraw a confidential complaint within two weeks. A penitentiary institution shall keep the complaint for not more than 10 working days, and shall destroy it immediately after the expiry of this period.

#### **Article 108 – Complaints related to torture and inhuman and degrading treatment**

1. Complaints related to torture and inhuman and degrading treatment fall under special cases and shall be reviewed immediately.
2. The director of a facility or a person authorised by him/her, the Special Prevention Group and the Special Investigation Service, shall be notified within 24 hours about a complaint related to torture and inhuman and degrading treatment.

#### **Article 109 – Outcomes of the review of complaints. Appealing the decision**

1. An accused person/convicted person shall be notified of the outcome of the review of the complaint and his/her signed acknowledgement shall be obtained within five days after the decision is delivered. The outcome of the review of a complaint shall be included in the personal file of an accused person/convicted person.
2. A substantiated response shall be given to each individual request in a complaint.
3. If a complaint is rejected, an accused person/convicted person shall receive a substantiated response.
4. The outcome of the review of a complaint may be appealed to a court under an administrative procedure.

### **Chapter XVIII – Living Conditions of Accused and Convicted Persons**

#### **Article 110 – Living Conditions of accused persons/convicted persons**

1. Premises allocated to accused persons/convicted persons shall comply with the hygienic and sanitary norms established by a joint order of the Minister and the Minister of Internally Displaced Persons from the Occupied Territories, Labour, Health and Social Affairs of Georgia, and shall ensure the preservation of the health of an accused person/convicted



person.

2. The living space standard per person in medical and prison facilities of accused persons/convicted persons shall not be less than 4 m<sup>2</sup>.

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

4. Pregnant women, nursing mothers, sick persons, persons with disabilities, and elderly persons (females from 60 years of age and males from 65 years of age) must have living conditions customised to their specific needs.

5. A penitentiary institution shall provide an accused person/convicted person with decent living conditions within reasonable limits, which shall be compatible with the infrastructure of the penitentiary institution and shall not endanger the normal functioning of the institution. The list of permitted household items and appliances in the use/possession of accused persons/convicted persons shall be determined by the statute of a penitentiary institution.

#### **Article 111 – Food for accused persons/convicted persons**

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

2. The nutritional standards for accused persons/convicted persons shall be determined by a joint order of the Minister and the Minister of Internally Displaced Persons from the Occupied Territories, Labour, Health and Social Affairs of Georgia.

3. A penitentiary institution shall provide accused persons/convicted persons with at least three meals a day.

4. Women, pregnant women, nursing mothers, sick persons, persons with disabilities, and elderly persons (females from 60 years of age and males from 65 years of age) must be provided with nutritional conditions corresponding to their status.

5. An accused person/convicted person may purchase additional food products and articles of prime necessity in shops available in the territory of a penitentiary institution, with the money that he/she earned while working in a detention/prison facility, or that was transferred to his/her personal account by close relatives or other persons. Spending personal money to purchase food products and articles of prime necessity shall be allowed within the limits defined by an order of the Minister, and only by cashless settlement.

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

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

8. In a penitentiary institution, the conditions of detention of an accused person/convicted person who is on a hunger strike shall be determined by an order of the Minister.

#### **Article 112 – Personal hygiene of an accused person/convicted person**

1. An accused person/convicted person shall be able 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 person/convicted person shall be provided with the possibility to take a shower twice a week, and with a barber service at least once a month. A penitentiary institution may require an accused person/convicted person to have his/her hair shaved off if so requested by a doctor or on the grounds of hygienic necessity.

#### **Article 113 – Clothes and bed linen of accused persons/convicted persons**

1. If an accused person/convicted person does not have his/her personal clothes/shoes, and/or other personal belongings required for maintaining personal hygiene, a penitentiary institution shall provide him/her with special clothes/shoes according to the season, and/or other personal belongings required for maintaining personal hygiene, the form of which shall not be degrading of human dignity.

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

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

4. A penitentiary institution may provide an accused person/convicted person with special clothes/shoes, the form of which shall not be degrading of human dignity. An accused person/convicted person shall be obliged to wear special clothes/shoes.

#### **Article 114 – Spending time in the open air**

1. An accused person/convicted person shall have the right to stay in the open air for at least one hour each day. The outdoor location must be arranged so that meteorological conditions do not hinder the exercise of the relevant right.

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



**Article 115 – Correspondence rights of accused persons/convicted persons**

1. An accused person/convicted person shall have the right to send and receive an unlimited number of letters in accordance with the procedure provided for by the legislation of Georgia, except for the cases provided for by this Code. Correspondence between the accused persons/convicted persons placed in a penitentiary institution shall not be permitted, except for the cases when they are members of the same family (a parent (adoptive parent), step-mother, step-father, child (adopted child), step-child, spouse, a person with whom he/she has a common child, sister, brother). The right to correspond with a family member in a penitentiary institution may be restricted for an accused person upon the reasoned decision of an investigator or prosecutor, and for a convicted person upon a reasoned decision of the director of a penitentiary institution.
2. An accused person, as well as a convicted person transferred to a detention facility in connection with the investigation of an offence committed in a penitentiary institution, may be restricted in his/her right to correspondence by the reasoned decision of an investigator or prosecutor.
3. The right of an accused person/convicted person shall be restricted on the basis of a written application of an addressee. The right of an accused person/convicted person, who is sentenced for violence against women and/or domestic violence, to maintain correspondence with an affected person shall be restricted on the basis of the written application of the affected person.
4. A penitentiary institution shall ensure the delivery of incoming letters to an accused person/convicted person, and the sending of his/her letters to the addressees. Letters of a personal nature shall be sent to an addressee at the expense of the accused person/convicted person.
5. A penitentiary institution shall, at the request of an accused person/convicted person, provide him/her with writing means and paper, and an accused person/convicted person with disabilities shall be provided with appropriate means for correspondence. An accused person/convicted person shall be provided with a reasonable amount of means for correspondence, and paper.
6. The correspondence of an accused person/convicted person shall be subject to inspection. The inspection includes visual inspection, without reading its content, and 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 the rights and freedoms of other persons, the relevant employee of a penitentiary institution may read the correspondence and, if necessary, not send it to the addressee. The sender shall be immediately notified of this action, and the correspondence shall be sent to a relevant investigative body.
7. Correspondence received in a sealed envelope shall be opened in the presence of an accused person/convicted person. Such correspondence shall be subject to visual inspection, without reading its content.
8. A penitentiary institution shall be prohibited from stopping and/or inspecting the correspondence of an accused person/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, the Member of the Parliament of Georgia, 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 Service, the Public Defender of Georgia, the Special Investigation Service, a defence lawyer, a prosecutor, or the Council.

**Article 116 – Telephone conversations**

1. An accused person/convicted person shall have the right to telephone conversations in accordance with the procedure established by this Code. Telephone conversations between accused persons/convicted persons placed within penitentiary facilities shall be prohibited except where they are family members of the accused person/convicted person provided for by Article 115(1) of this Code. An accused person/convicted person shall apply to the director of a penitentiary institution 10 days before exercising the right to a telephone conversation with a family member in a penitentiary institution. The right to a telephone conversation with a family member in a penitentiary institution may be restricted for an accused person upon the reasoned decision of an investigator or prosecutor, and for a convicted person upon a reasoned decision of the director of a penitentiary institution.
2. Telephone conversations shall be conducted at the expense of an accused person/convicted person and under the control of a penitentiary institution.
3. A convicted person shall have the right to:
  - (a) an unlimited number of telephone conversations per month at his/her own expense, each not less than 15 minutes, in low-risk prison facilities or pre-release facilities, and as a form of incentive, unlimited telephone conversations at his/her own expense;
  - (b) an unlimited number of telephone conversations per month at his/her own expense, not less than 30 minutes per 24 hours, in a semi-open prison facility, and as a form of incentive, unlimited telephone conversations, each not less than 15 minutes, at his/her own expense;
  - (c) not less than three telephone conversations per month at his/her own expense, each not less than 15 minutes, in a closed prison facility, and as a form of incentive, unlimited telephone conversations, each not less than 15 minutes, at





his/her own expense;

(d) not less than two telephone conversations per month at his/her own expense, each not less than 15 minutes, in a special risk prison facility, and as a form of incentive, one telephone conversation, not less than 15 minutes, at his/her own expense;

(e) not less than five telephone conversations per month at her own expense, each not less than 15 minutes, in a special facility for women, and as a form of incentive, unlimited telephone conversations, each not less than 15 minutes, at her own expense;

4. An accused person shall have the right to not less than three telephone conversations per month, each not less than 15 minutes.

5. The Minister shall have the authority to determine a higher number of telephone conversations than provided for by paragraphs 3 and 4 of this article by the statute of a relevant penitentiary institution, taking into account the infrastructure of the institution and other important circumstances.

6. If there are special circumstances (the birthday of an accused person/convicted person or a member of the family of an accused person/convicted person provided for by Article 115(1) of this Code, the birth of a child, other circumstances), upon the decision of the director of the relevant penitentiary institution, an accused person/convicted person whose right to telephone conversations is not restricted in accordance with paragraph 7 of this article may be granted the right to an additional telephone conversation, which shall be carried out for the length determined by the relevant penitentiary institution.

7. An accused person, as well as a convicted person transferred to a detention facility in connection with the investigation of an offence committed in a penitentiary institution, may be restricted from the right to telephone conversation by a reasoned decision of an investigator or prosecutor.

8. Telephone conversations as provided for by paragraph 3(d) of this article may be carried out only to the prior determined telephone numbers and in a certain amount, which do not include the hotline of the Special Investigation Service, the Public Defender of Georgia, the General Inspection of the Ministry of Justice of Georgia and the telephone number of the lawyer of a convicted person. The procedure for carrying out telephone conversations by convicted persons shall be determined by the statute of a penitentiary institution.

9. The limits determined for telephone conversations provided for by paragraphs 3-5 of this article, as well as the restriction provided for by paragraph 7 of this article, shall not apply to telephone conversations by accused persons/convicted persons made to the hotline of the Special Investigation Service, the Public Defender of Georgia or the General Inspection of the Ministry of Justice of Georgia. Telephone conversations made to the above hotlines shall be carried out at the expense of a penitentiary institution. The procedure for carrying out a telephone conversation by an accused person/convicted person shall be determined by the statute of a penitentiary institution.

10. If there is a well-grounded belief that the dissemination of information will pose a threat to public order, public security or the rights and freedoms of other persons, the relevant subdivision of the Service shall have the right to listen to and record the telephone conversations of convicted persons in special risk prison facilities. A convicted person shall be notified in advance about listening to and recording telephone conversations, except for cases provided for by the Criminal Procedure Code of Georgia.

11. The right of an accused person/convicted person to telephone conversations shall be restricted on the basis of a written application of an addressee. The right of a person accused of or convicted for violence against women and/or domestic violence to maintain telephone conversations with an affected person shall be restricted on the basis of a written application from the affected person.

#### **Article 117 – Receiving and sending parcels and money**

1. An accused person/convicted person may receive from or send to a close relative parcels and a money remittance, also, with the permission of the director of a penitentiary institution, receive from or send to another person parcels and a money remittance. If money is sent in cash, it shall not be handed over to the accused person/convicted person, and it shall be returned to the sender.

2. The right of an accused person/convicted person to send a parcel shall be restricted on the basis of a written application of an addressee. The right of a person accused of or convicted for violence against women and/or domestic violence to send a parcel to an affected person shall be restricted on the basis of a written application from the affected person.

#### **Article 118 – Mass media**

1. Accused persons/convicted persons may have access to the press. As a rule, radio and TV programmes shall be broadcast in a penitentiary facility. An accused person/convicted person may also use electronic rehabilitation and educational programmes at a penitentiary institution (except for special risk prison facilities).

2. Accused persons/convicted persons, except for those on whom disciplinary arrest has been imposed and/or who are placed in a solitary cell, may be granted the right to listen to radio and watch TV programmes during non-work times, in accordance with the procedure established by the statute of a detention/prison facility.

3. An accused person/convicted person or a group of accused persons/convicted persons shall have the right to purchase personal radio and/or TV sets in a shop located in the premises of a penitentiary institution. Accused persons/convicted



persons may purchase these devices at their own expense. The value of products existing in the above shop shall comply with the market value of products.

4. If the use of a personal radio and/or TV sets violates the statute of a penitentiary institution and disturbs the peace of other accused persons/convicted persons, the director of a penitentiary institution shall be authorised to take the equipment from the accused person/convicted person and hand it over to his/her close relative. If the accused person/convicted person does not have a close relative, the above devices shall be kept within the penitentiary institution.

5. The conditions for using the devices specified in paragraph 2 of this article shall be defined by the statute of a detention/prison facility.

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

#### **Article 119 – Visitation**

1. The complete isolation of accused persons/convicted persons shall be prohibited. Accused persons/convicted persons shall enjoy the right to all kinds of visitations free of charge.

2. Accused persons/convicted persons may be granted a right to a short visit in accordance with Article 120 of this Code.

3. A convicted woman may be granted the right to a family visit in accordance with Article 121 of this Code.

4. Accused persons/convicted persons may be granted the right to a long visit in accordance with Article 122 of this Code.

5. A convicted person in a penitentiary institution, except for convicted persons provided for by Article 123(1), may be granted the right to video visits.

6. Upon the written application of an accused person, a short visit may be substituted by a telephone conversation.

7. Upon a written application from an accused person:

(a) a short visit may be substituted by a telephone conversation;

(b) a long visit may be substituted by a short visit, video visit or telephone conversation;

(c) a family visit may be substituted by a short visit, video visit or telephone conversation.

8. The procedure for the substitution of a visit shall be defined by the statute of a penitentiary institution.

9. The right to short visits and long visits of an accused person may be restricted by a reasoned decision of an investigator or prosecutor.

10. A convicted person transferred to a detention facility in connection with the investigation of an offence committed in a penitentiary institution, may be restricted in the right to visits by a reasoned decision of an investigator or prosecutor.

11. Visitations among accused persons/convicted persons shall be prohibited.

#### **Article 120 – Short visits**

1. An accused person/convicted person, upon his/her written request, may be granted the right to a short visit to meet with close relatives (child, spouse, a person with whom he/she has a common child, parent (adoptive parent), step-mother, step-father, the parent of a spouse, 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 (the brother of a mother/father), aunt (the sister of a mother/father), cousin, a person with whom he/she lived and ran a common household for the most recent one year before being placed in a penitentiary institution).

2. A convicted person shall have the right to:

(a) four short visits per month in low-risk prison facilities and pre-release facilities, and as a form of incentive, two additional short visits per month;

(b) two short visits per month in semi-open prison facilities, and as a form of incentive, one additional short visit per month;

(c) one short visit per month in closed prison facilities, and as a form of incentive, one additional short visit per month;

(d) one short visit per month in special risk prison facilities, and as a form of incentive, one additional short visit per month;

(e) three short visits per month in special facilities for women, and as a form of incentive, one additional short visit per month;

3. An accused person shall have the right to four short visits within one month.

4. An accused person/convicted person, upon the recommendation of the director of a facility and with the consent of the General Director of the Service, as a form of incentive may be granted a short visit with a person who is not provided for by paragraph 1 of this article.

5. The control of the relationships of accused persons/convicted persons with persons provided for by paragraphs 1 and 4 of this article shall be carried out without violating human honour and dignity.

6. A meeting with an accused person/convicted person shall take place in the case of his/her consent.

7. Information about a request for a short visit shall be submitted to the director of a penitentiary institution in written form. The persons specified in paragraph 1 of this article shall provide the director of the penitentiary institution with a document certifying their close relationship with an accused person/convicted person.

8. Not later than five days after the receipt of a written application for a short visit, a penitentiary institution shall



organise a short visit, except when there are reasonable grounds for refusal, of which the applicant shall be notified on the same day.

9. The director of a penitentiary institution shall decide whether or not to grant the right to a short visit.

10. An accused person/convicted person shall be notified in writing of the consent or reasoned refusal of the director of a penitentiary institution to grant the right to a short visit.

11. The duration of a short visit shall be one to two hours. The representative of a penitentiary institution shall carry out the monitoring of short visits using visual and/or electronic means, but without listening. An accused person/convicted person and a person seeking a short visit with him/her shall be notified thereof in advance, except for cases provided for by the legislation of Georgia.

12. An accused person/convicted person who is a citizen of a foreign country shall have the right to meet with the diplomatic mission or the representative of a consular office of his/her native country or the authorised representative of the diplomatic mission of a country defending the interests of the country of an accused person/convicted person in Georgia. An accused person/convicted person who is a citizen of a foreign country or a stateless person shall have the right to have relationships with the diplomatic mission and consular office of his/her native country. The citizen of a country which has no diplomatic mission or consular office in Georgia shall have the right to have relationships with a diplomatic mission and consular office of a country which has undertaken the defence of his/her interests, or with an inter-state body defending his/her interests.

13. In addition to the number of visits specified in this article, an accused person/convicted person, as a form of incentive, may have the right to a short visit, as an exception, with the consent of the General Director of the Service, upon the decision of the director of a penitentiary institution, and in accordance with the procedure established by the legislation of Georgia. As an exception, an accused person/convicted person may be granted a short visit with a person who is not provided for by paragraph 1 of this article.

14. In the interest of investigation and safety, the employee of a detention facility who visually observes the short visit of a convicted person shall have the right to terminate the visit immediately.

15. The procedure for the enjoyment of the right to a short visit shall be defined by an order of the Minister.

#### **Article 121 – Family visit**

1. A family visit shall be a meeting of a convicted woman with the 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 the written application of a convicted woman, she may be granted the right to enjoy a family visit with her child, adopted child, step-child, grandchild, spouse, the person with whom she has a common child, parent (adoptive parent), grandmother, grandfather, sister and brother.

3. As an incentive, a convicted woman may be granted the right to a family visit with persons who are not provided for by paragraph 2 of this article.

4. A convicted woman shall have the right to one family visit within a month, and to one additional family visit as an incentive.

5. A convicted person shall apply in writing with a request to the director of a prison facility 10 days before exercising the right to a family visit. The persons specified in paragraph 2 of this article shall present to the director of a prison facility a document certifying their close relationship with a female convicted person.

6. Within five days after the application provided for by paragraph 5 of this article, the director of a prison facility shall make a decision on granting the right to a family visit, or on a reasoned refusal. A convicted person shall be notified of this decision in writing.

7. In the cases provided for by paragraph 3 of this article, the director of a prison facility shall file a petition with the General Director of the Service on granting the right to the family visit as a form of incentive. Within three days after receiving the petition, the General Director of the Service shall provide to the director of a prison facility either consent to a family visit as a form of incentive, or a reasoned refusal. Where the General Director of the Service consents, the director of a prison facility shall make a decision to grant a family visit as a form of incentive to a convicted person.

8. A prison facility shall organise a family visit within two days after the decision on granting the right to a family visit is received, and shall notify the applicant thereof.

9. A family visit shall last for three hours.

10. 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 of human dignity.

11. The organisation of a family visit as well as its infrastructural and logistical/technical support shall be ensured by the Service.

12. The procedure for the enjoyment of the right to a family visit in a penitentiary institution shall be determined by an order of the Minister.

#### **Article 122 – Long visits**

1. A long visit shall be 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 a convicted person, or of persons



- specified in paragraph 2 of this article, without the presence of the representative of a prison facility.
2. Based on the written application of an accused person/convicted person, he/she may be granted the right to enjoy a long visit with her child, adopted child, step-child, grandchild, spouse, the person with whom she has a common child, parent (adoptive parent), grandmother, grandfather, sister and brother.
  3. An accused person shall have the right to one long visit during the period of detention.
  4. A convicted person shall have the right to:
    - (a) six long visits per year in low-risk prison facilities or pre-release facilities, and as a form of incentive, three additional long visits per year;
    - (b) three long visits per year in semi-open prison facilities, and as a form of incentive, two additional long visits per year;
    - (c) two long visits per year in closed prison facilities, and as a form of incentive, one additional long visit per year;
    - (d) one long visit per year in special risk prison facilities, and as a form of incentive, one additional long visit per year;
    - (e) three long visits per year in special facilities for women, and as a form of incentive, two additional long visits per year.
  5. An application for a long visit shall be submitted to the director of the prison facility in writing at least two weeks prior to the visit. The person specified in paragraph 2 of this article shall present to the director of a prison facility a document certifying his/her close relationship with an accused person/convicted person.
  6. Not later than two weeks after receiving a written application for a long visit, the prison facility shall organise a long visit, except when there are reasonable grounds for refusal, of which the applicant shall be informed within 10 days.
  7. A long visit shall last for 23 hours. A long visit for the convicted persons may be extended once a year for not more than 47 hours based on the written request of convicted persons, and on the petition of the director of a facility and with the consent of the General Director of the Service.
  8. The right to a long visit shall not be granted to:
    - (a) convicted persons who have been placed in quarantine;
    - (b) convicted persons upon whom disciplinary arrest has been imposed, or who have been placed in a solitary cell;
    - (c) accused persons during the first three months of their imprisonment;
    - (d) accused persons who have been placed in solitary cells.
  9. The director of a penitentiary institution shall decide whether or not to grant the right to a long visit.
  10. An accused person/convicted person shall be notified in writing of the consent or reasoned refusal of the director of a penitentiary institution to grant the right to a long visit.
  11. The conditions in a room specially allocated for a long visit shall comply with the hygiene and sanitary norms established by the legislation of Georgia and shall not be degrading to human dignity.
  12. The organisation of a long visit as well as its infrastructural and logistical/technical support shall be ensured by the Service.
  13. The procedure for the enjoyment of the right to a long visit in a penitentiary institution shall be determined by an order of the Minister.

### **Article 123 – Video visits**

1. Convicted persons placed in a penitentiary institution (except for those provided for by Article 56(1)(f) of this Code), may enjoy a video visit (direct voice and visual teleconference) with a person determined by this article in accordance with the procedure established by this Code.
2. A convicted person shall be entitled to not more than one video visit with any person within 10 calendar days.
3. A convicted person in special risk prison facilities shall enjoy the right to two video visits within one year with his/her parent (adoptive parent), step-mother, step-father, child (adopted child), step-child, spouse, a person with whom he/she has a common child, sister, and brother.
4. As a form of incentive, a convicted person may be granted the right to one additional video visit per month, and a convicted person in a special risk prison facility, one additional video visit within one year.
5. The right to a video visit of a convicted person shall be restricted during a period of disciplinary measures, disciplinary arrest, or the introduction of special conditions, or in a period of crisis in a penitentiary institution.
6. The application for a video visit shall be submitted to the director of a penitentiary institution not later than seven days before the video visit takes place.
7. The director of a penitentiary institution shall decide whether or not to grant the right to a video visit.
8. The duration of a video visit with a convicted person shall not exceed 15 minutes.
9. A video visit may be terminated early:
  - (a) at the request of a convicted person;
  - (b) for the protection of safety.
10. The organisation of a video visit with a convicted person shall be ensured by a penitentiary institution.
11. Except for cases provided for by the legislation of Georgia, the representative of a penitentiary institution shall control video visits with a convicted person using visual and/or electronic means, but without listening. A convicted person and a person seeking a video visit with him/her must be notified thereof in advance.
12. The procedure for the conduct of video visits shall be defined by an order of the Minister.



## **Article 124 – Temporary leave of a convicted person from a healthcare facility for accused persons/convicted persons and from a prison facility in connection with special personal circumstances**

1. The General Director of the Service may allow an accused person/ convicted person to temporarily leave a healthcare facility for accused persons/convicted persons and a prison facility:
  - (a) if reliable information is received on the death or life-threatening illness of a close relative of the convicted person;
  - (b) to carry out a social activity;
  - (c) in connection with other special circumstances.
2. If it is necessary for a convicted person to participate in an investigative or other procedural action, the appropriate structural division of the Service shall, based on the application of an authorised body, ensure the participation of a convicted person in an investigative or other procedural action.
3. To acquire the right to 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 a prison facility. The petition shall contain the reason for temporary leave from a prison facility and indicate the place where the convicted person will spend the time allotted for staying outside a prison facility (the 'place of destination').
4. The right to temporary leave from a prison facility in connection with special personal circumstances shall not be granted to those convicted persons who have been transferred to a detention facility in accordance with Article 60(2) of this Code.
5. The period of temporary leave from a prison facility shall not exceed three days. The period shall include the time of travel of a convicted person to the place of destination.
6. The period of temporary leave from a prison facility shall be counted towards the total term of the sentence.
7. By a decision of the General Director of the Service, a convicted person shall be granted the right to temporary leave from a prison facility on the recommendation of the director of the facility, taking into account the personality of the convicted person and the gravity of the crime committed. If the right to leave is granted, the number of escorting officers shall be determined by an order of the General Director of the Service. Escorting shall be conducted from a prison facility to the place of destination and back.
8. Expenses for the temporary leave of a convicted person from a prison facility shall be covered by the convicted person or his/her family, except for expenses associated with the transportation of a convicted person to participate in an investigative or other procedural action. The right of a convicted person to temporarily leave a healthcare facility for accused persons/convicted persons and a prison facility in accordance with the procedures determined by the Minister may be exercised without covering relevant expenses.
9. The procedure for the temporary leave of a convicted person from a prison facility shall be determined by an order of the Minister.

## **Article 125 – Short leave of a convicted person from a prison facility**

1. A convicted person who serves his/her sentence in a low-risk prison facility or a semi-open prison facility, and on whom a disciplinary measure or disciplinary arrest has not been imposed, may enjoy the right short leave outside a prison facility twice a year. Pregnant women and women with children under the age of three may enjoy the right to a short leave outside the prison facility three times a year. Short leave outside a prison facility shall not be longer than five days. The period includes the time of travel of the convicted person to the place of destination.
2. A convicted person who enjoys the right provided for by Article 94(4)(b) of this Code, and on whom a disciplinary measure or disciplinary arrest has not been imposed, by a decision of the General Director of the Service, may be additionally granted short leave outside the prison facility twice a year for the purpose of facilitating the exercise of the right to obtain higher education. The requirements determined by paragraph 3 of this article shall not apply when exercising the right under this paragraph.
3. A period of short leave for a convicted person from a prison facility shall be based on an order of the General Director of the Service. A convicted person shall be granted the right to short leave from a prison facility after he/she has actually served:
  - (a) at least half of the term of a sentence of imprisonment imposed for committing a crime of little gravity;
  - (b) at least two thirds of the term of a sentence of imprisonment imposed for committing a grave crime;
  - (c) at least three quarters of the term of a sentence of imprisonment imposed for committing an especially grave crime.
4. A convicted person who serves his/her sentence in a closed prison facility shall be granted the right to short leave outside the prison facility by the General Director of the Service if the requirements provided for by paragraphs 1 and 3 are met, and if the convicted person is placed in a closed prison facility:
  - (a) to perform general upkeep duties;
  - (b) to ensure his/her personal safety;
  - (c) due to a contagious infectious disease.
5. In an exceptional case, upon a decision of the General Director of the Service, despite the time limits provided for by paragraph 3 of this article, a convicted person may be granted the right to short leave outside the prison facility.
6. The right to short leave for a convicted person outside the prison facility may be substituted by a short visit or a telephone conversation upon a written request of the convicted person, and in accordance with the procedure established



by the statute of the prison facility.

7. To acquire the right to short leave outside the prison facility, a convicted person, his/her defence lawyer/legal representative or close relative, shall file a petition with the General Director of the Service. The petition shall state the grounds for and purpose of the short leave of a convicted person outside the prison facility, and the place of destination.

8. When reviewing a petition on short leave of a convicted person outside the prison facility the following shall be taken into account:

- (a) the personality of the convicted person;
- (b) the marital status of the convicted person;
- (c) the gravity of the offence committed by the convicted person;
- (d) the place of destination;
- (e) other important circumstances that characterise the convicted person either positively or negatively.

9. When reviewing the petition on short leave of a convicted person outside the prison facility the General Director of the Service shall be authorised to apply the following protective measures:

- (a) bail of not less than 2000 GEL;
- (b) a personal guarantee;
- (c) a means of electronic control/monitoring.

10. Different protective measures for the short leave of a convicted person outside the prison facility may be applied simultaneously.

11. The short leave of a convicted person outside the prison facility shall be counted towards the total term of the sentence.

12. In the case of the short leave of a convicted person outside the prison facility, a convicted person shall appear at the Bureau on the same day and document the beginning of the short leave outside a prison facility. If a convicted person can not return to the above facility within the defined time limit, the Bureau shall be authorised to extend his/her time limit for not more than two days.

13. The expenses of the short leave of a convicted person outside a prison facility shall be reimbursed by the convicted person or his/her close relative, except for the expenses of using electronic means of control (monitoring). The cases of exemption from the reimbursement of expenses for short leave of a convicted person outside a prison facility may be determined by an order of the Minister.

14. In the case of a refusal to grant a convicted person short leave outside a prison facility, the reasoned refusal of the General Director of the Service may be appealed to a court.

15. During the period of the short leave of a convicted person outside a prison facility, his/her movement shall be controlled/monitored by the Agency.

16. The procedure for short leave from a prison facility, the procedure for the application of assurance measures to secure short leave from a prison facility, and for the enforcement of short leave from a prison facility, shall be determined by an order of the Minister.

#### **Article 126 – Assurance measures, bail and personal guarantee, to secure short leave from a prison facility**

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

2. The General Director of the Service shall take into account the personality of a guarantor and his/her financial condition.

3. If a petition for short leave from a prison facility is approved by the General Director of the Service, bail shall be deposited in the account of the Service within three days after the petition is approved.

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

5. If a convicted person, being on short leave from a prison facility, fails to return to the prison facility without a valid reason after the period of short leave expires, or commits 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 short leave from the prison facility, and fulfils the undertaken obligations entirely 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, or close relative of a convicted person, or another 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 General Director of the Service shall define the number of guarantors. In exceptional cases, only one, exceptionally reliable person may act as a guarantor.

9. A personal guarantee may be used only based on the petition or consent of guarantors, and based on the consent of a 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 a 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, a fine in the amount of not less than GEL 10 000 shall be imposed on each guarantor, in accordance with the procedure established by the legislation of Georgia.

## **Chapter XX – Labour of Accused Persons/Convicted Persons**

### **Article 127 – General principles of labour activities of accused persons/convicted persons**

1. The labour activities of accused persons/convicted persons shall be carried out in accordance with the procedure established by this Code and labour legislation of Georgia. An accused person/convicted person may not be forced to perform work that degrades human honour and dignity.

2. Accused persons/convicted persons shall be employed in and/or outside the territory of a penitentiary institution if a penitentiary institution is able to employ them.

3. An accused person/convicted person may also be employed by a governmental or non-governmental institution operating in the territory of a penitentiary institution.

4. An accused person/convicted person employed in the territory of a prison facility or employed by a governmental institution operating in the territory of a penitentiary institution shall not be deemed to be a public servant and the Law of Georgia on Public Service shall not apply to him/her.

5. The list of jobs for which an accused person/convicted person may not be employed shall be defined by the statute of a penitentiary institution.

6. An accused person/convicted person shall, in accordance with the labour legislation of Georgia, receive a salary for the work performed. The procedure and conditions for the remuneration of an accused person/convicted person shall be defined by the legislation of Georgia.

7. The salary of an accused person/convicted person shall be transferred to his/her personal bank account. An accused person/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.

### **Article 128 – Enterprises in the territory of a penitentiary institution**

1. An accused person/convicted person may be employed in accordance with the Law of Georgia on Entrepreneurs at enterprises set up on and/or outside the territory of a penitentiary institution.

2. As a rule, only accused persons/convicted persons shall be employed at an enterprise operating in the territory of a penitentiary institution. As an exception, an outside (not convicted) person may be invited to an enterprise on the basis of an employment contract, if the specific nature of the activity of the enterprise requires the performance of work that an accused person/convicted person cannot perform because of the lack of qualifications, or if an accused person/convicted person may not gain such qualifications through training in a short period of time, or if the work involves regularly leaving the territory of a penitentiary institution.

3. An accused person/convicted person shall be employed at an enterprise as established by the legislation of Georgia, with the organisational participation of the administration of a penitentiary institution. An accused person/convicted person may choose a job appropriate for him/her from the types of jobs proposed by a penitentiary institution.

4. A contract shall be concluded between an enterprise and the Service, under which the enterprise undertakes to adhere, in its activity, to the requirements established by the statute of a penitentiary institution in the territory of which it operates. The same obligation shall be imposed on an accused person/convicted person, which shall be specified in a labour contract concluded with an enterprise.

### **Article 129 – Working conditions**

1. A penitentiary institution and an employer shall create safe working conditions for accused persons/convicted persons. The working hours of accused persons/convicted persons, and the labour, safety and sanitary rules of an enterprise, shall be established in accordance with the labour legislation of Georgia.

2. Overtime work and work on public holidays shall be allowed only with the consent of an accused person/convicted person. Working hours shall not exceed eight hours a day.

3. Matters related to the employment of an accused person/convicted person (including matters related to assigning certain duties, or discharging from such duties) and the procedures for the remuneration, and the list of jobs that an accused person/convicted person is allowed to perform, shall be determined by the Minister. These could include small scale repair works for a penitentiary institution, and the procedures for the acceptance of completed works may be determined.

### **Article 130 – General maintenance duties**

1. The assignment of a convicted person to general maintenance duties in a penitentiary institution shall be documented



- by an order of the director of an institution.
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 an assignment of a convicted person 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 a remuneration, shall be defined by an order of the Minister.
  5. A penitentiary institution shall create as safe a working environment as possible for the life and health of a convicted person.

## **Chapter XXI – Education of Accused Persons/Convicted Persons**

### **Article 131 – Education of Accused Persons/Convicted Persons**

1. A penitentiary institution shall create conditions for the general and vocational education of accused persons/convicted persons.
2. The penitentiary institution shall arrange a library in an institution containing both educational literature and national and international legislation on the enforcement of imprisonment, in a language understandable to the accused persons/convicted persons.
3. An accused person/convicted person who does not speak the official language of Georgia shall be provided with conditions to learn it.

### **Article 132 – General education of accused persons/convicted persons**

1. An accused person/convicted person shall have an opportunity to receive complete general education in accordance with the procedure established by a joint order of the Minister and the Minister of Education, Science and Youth of Georgia.
2. General education shall be provided in a penitentiary institution under a programme approved by the Minister of Education, Science and Youth of Georgia, which must ensure the achievement of the goals set by the National Curriculum. Conditions for the organisation of the educational environment and the hourly schedule provided under the National Curriculum shall not apply to this educational programme.
3. General education in a penitentiary institution shall be financed under the programme approved by the Minister of Education, Science and Youth of Georgia, in a manner different from that established by the Law of Georgia on General Education.

### **Article 133 – Vocational education of accused persons/convicted persons**

1. In a penitentiary institution, an accused person/convicted person shall be provided with conditions for receiving vocational education.
2. In the course of the vocational education of accused persons/convicted persons, preference shall be given to professions that can be studied in the conditions of a penitentiary institution.
3. The procedure for obtaining vocational education by accused persons/convicted persons and the list of relevant specialities shall be defined by a joint order of the Minister and the Minister of Education, Science and Youth of Georgia.

### **Article 134 – Higher education of convicted persons**

1. Convicted persons shall enjoy the right to receive education at the first and second stages of academic higher education, while convicted persons placed in a juvenile rehabilitation facility may enjoy the right to receive education at the first stage of academic higher education. The procedure and conditions for receiving education at the first and second stages of academic higher education and the list of relevant specialities shall be determined on the basis of a joint order of the Minister and the Minister of Education, Science and Youth of Georgia.
2. A convicted person shall receive an academic higher education:
  - (a) in the form of digital learning, i.e. the provision of academic higher education to a convicted person through direct teleconference, via special electronic platforms;
  - (b) in the form of distance learning, i.e. the provision of academic higher education to a convicted person through a contact person, by providing study materials and using a written form of communication.
3. Higher academic education shall be provided to a convicted person, where possible, in the form of digital learning. A convicted person of high risk shall enjoy the right to receive education at the first and second stage of academic higher education in the form of distance learning.
4. The higher education of a convicted person shall be financed in accordance with procedures established by the Law of Georgia on Higher Education.
5. In the case provided for by Article 34(16) or Article 53(4) of this Code, the right of a convicted person to participate in the first and second stages of the academic higher education process shall be restricted until the respective ground is eliminated.





**Article 135 – Re-socialisation of convicted persons**

1. The re-socialisation of a convicted person means developing in the convicted person the sense of responsibility and respect towards society, other persons, moral standards, and towards the established rules of human coexistence.
2. The basic means for the re-socialisation of convicted persons shall be:
  - (a) serving a sentence in accordance with the established procedure;
  - (b) the implementation of rehabilitation programmes for convicted persons;
  - (c) employment;
  - (d) obtaining general, vocational and higher education;
  - (e) professional development and retraining;
  - (f) relationship with society.
3. The means of the re-socialisation of a convicted person shall be applied based on the type of sentence, the gravity of the committed crime, the personality of the convicted person, and his/her mental state and conduct.
4. The Service and penitentiary institutions shall ensure the re-socialisation of convicted persons through social workers and other persons who have appropriate qualifications.
5. The professional development and retraining of convicted persons shall be provided, in accordance with the procedure established by an order of the Minister, by the legal entity under public law operating within the governance of the Ministry called the Centre for Professional Development and Retraining of Convicted Persons (the ‘Centre for Professional Development and Retraining of Convicted Persons’).
6. The Centre for Professional Development and Retraining of Convicted Persons shall be authorised, in order to achieve the goals defined by the legislation of Georgia, to establish an entrepreneurial legal entity and/or a non-entrepreneurial legal entity.

**Article 136 – Objectives of rehabilitation programmes for convicted persons**

1. Rehabilitation work shall be conducted with a convicted person at a prison facility. The purpose of rehabilitation work is to:
  - (a) develop in a convicted person a sense of respect towards the law, other persons, labour, and towards the established rules and standards of human coexistence;
  - (b) create a normal psychological environment among 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 137 – Organising rehabilitation programmes for convicted persons**

1. The relevant authorised person of a facility shall ensure the organisation of rehabilitation programmes at a prison facility.
2. To rehabilitate convicted persons, the Service shall cooperate with state agencies and other organisations.
3. The daily routine of a prison facility shall include time when convicted persons participate in rehabilitation programmes.
4. Convicted persons shall 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.
6. For the purpose of the rehabilitation and re-socialisation of an adult convicted person in a penitentiary institution, the procedure for assessing relevant risks and needs, as well as for drawing up, implementing and monitoring individual plans (the procedure for the case management), shall be approved by an order of the Minister.
7. The procedure for the implementation of substitution treatment programmes for opioid-dependent persons in a penitentiary institution shall be defined by the joint order of the Minister and the Minister of Internally Displaced Persons from the Occupied Territories, Labour, Health and Social Affairs of Georgia.
8. To organise rehabilitation programmes, a relevant material and technical base shall be created in a prison facility and, if necessary, specialists shall be engaged.
9. To rehabilitate a person who has committed a domestic crime, compulsory training courses intended to change the violent attitude and behaviour of a person shall be conducted. The Service shall ensure the organisation of these training courses through cooperation with state agencies and other interested organisations experienced in the relevant field.

**Article 138 – Implementation of criminological research**

The Service shall facilitate the implementation of criminological research in its system, which shall be intended to



## Chapter XXIII – Providing Medical Services to Accused Persons/Convicted Persons

### Article 139 – Providing medical services to accused persons/convicted persons and monitoring health status of accused persons/convicted persons

1. Medical services shall be provided to accused persons/convicted persons in accordance with the medical service requirements established in the country in the field of healthcare.
2. The standards for the provision of medical services in a penitentiary institution, additional standards for the provision of medical services to persons with special needs, the package of preventive services, and the list of essential medications required for the provision of medical services, shall be determined by an order of the Minister.
3. Upon admission to a detention/prison facility, an accused person/convicted person shall undergo a medical examination.
4. The health status of an accused person/convicted person shall be checked at least once a year. Accused persons/convicted persons who are ill shall be provided with urgent treatment.
5. Information of a medical nature related to an accused person/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.
6. If injuries to his/her body are found while providing medical services to an accused person/convicted person, medical personnel shall inform a relevant investigative body thereof. If, during the provision of medical services, medical personnel notice any physical injuries on the body of an accused person/convicted person, and/or other circumstances that would cause an objective person to suspect possible torture and other cruel, inhuman or degrading treatment, medical personnel shall carry out a medical examination of the accused person/convicted person without his/her consent. The procedure for documenting damage to an accused person/convicted person as a result of possible torture and other cruel, inhuman or degrading treatment in a penitentiary institution shall be determined by an order of the Minister.
7. A suicide prevention programme for accused persons/convicted persons shall be approved by an order of the Minister.
8. The procedure for combating epidemics and pandemics extremely dangerous to health in penitentiary institutions shall be determined by an order of the Minister, in consideration of international norms in the field of the protection of health and the requirements of the Law of Georgia on Public Health.

### Article 140 – Medical treatment of accused persons/convicted persons in a detention/prison facility

1. A medical unit shall be set up in all detention/prison facilities.
2. If an accused person/convicted person cannot be treated at the medical unit of a penitentiary institution/prison facility, he/she may be transferred to a medical facility for accused persons/convicted persons, or to a civilian hospital.
3. The procedure for transferring an accused person/convicted person to a medical facility for accused persons/convicted persons, or to a civilian hospital, shall be determined by an order of the Minister.

### Article 141 – Conditions for accused persons/convicted persons in a civilian hospital

1. If an accused person/convicted person is removed to a civilian 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 the protection and supervision of accused persons/convicted persons. If necessary, a temporary guard may be enhanced with other officers.
3. Where an accused person/convicted person is confirmed to have a contagious disease, or there is a reasonable doubt that the accused person/convicted person is the carrier of a contagious disease, and he/she is admitted to a civilian hospital for treatment/diagnosis, the accused person/convicted person may also be monitored through the means of electronic surveillance upon a decision of the General Director of the Service.
4. During the stay of an accused person/convicted person in a civilian hospital:
  - (a) his/her close relatives (child, spouse, a partner with whom he/she has a common child, parent (adoptive parent), step-mother, step-father, spouse's parent, adopted child, stepchild and his/her descendants, grandchild, sister, brother, nephew/niece and their children, grandmother, grandfather, uncle (the brother of a mother/father), aunt (the sister of a mother/father), cousin, and the person with whom he/she lived and ran common household for the last one year before being placed in a penitentiary institution), on the recommendation of the doctor in charge and with the consent of the General Director of the Service, may visit the accused person/convicted person in accordance with the procedure and frequency established by the Minister;
  - (b) persons who are not named in paragraph 4(a) of this article may also visit an accused person/convicted person, on the recommendation of a doctor in charge and with the consent of the General Director of the Service;
  - (c) if the hospital cannot provide an accused person/convicted person with the services of a care giver, persons under paragraph 4(a) of this article may be allowed to be the care giver of an accused person/convicted person, on the recommendation of the head of the hospital and with the consent of the General Director of the Service;
  - (d) based on the treatment requirements, an accused person/convicted person may be allowed to receive additional food



- products, on the recommendation of a doctor in charge and with the consent of the General Director of the Service;
- (e) upon the request of an accused person/convicted person, he/she may receive a parcel with personal hygiene products/means, clothes, bed linen and other items with the consent of the General Director of the Service.
5. In order to visit an accused person/convicted person in a civilian hospital, in accordance with the internal regulations of the said medical institution, persons as provided for by Article 69(1) of this Code shall have the right to enter the hospital without a special permit.
6. If a convicted woman, who has a child under the age of three in a special prison facility for women, is removed to a civilian 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 General Director of the Service.
7. If a child under the age of three is removed to a civilian hospital on the recommendation of the doctor of a special prison facility for women 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 the substantiated decision of the General Director of the Service.
8. During the stay of an accused person/convicted person in a civilian hospital, the visiting rights provided for by Articles 119-123 of this Code shall not apply to him/her.
9. The general conditions and procedure for removing an accused person/convicted person to a civilian hospital and for his/her stay in the hospital shall be defined by an order of the Minister.

#### **Article 142 – Conducting a forensic psychiatric examination of a convicted person**

1. If a convicted person in a penitentiary institution, against whom legal proceedings have been completed, shows signs of mental disorder, and if the Psychiatric Commission of the Ministry considers it appropriate to provide involuntary in-patient mental treatment to the convicted person, the director of the penitentiary institution shall, based on the report of the Psychiatric Commission of the Service, refer to a competent expert institution for a forensic psychiatric examination.
2. Based on the expert opinion of a competent expert institution, by which the necessity of involuntary in-patient mental treatment is confirmed, the director of a penitentiary institution shall, within 48 hours, apply to a court and request the provision of involuntary in-patient mental treatment.
3. The powers and rules of operation of the Psychiatric Commission of the Service shall be defined by an order of the Minister.

### **Book IV Transitional and Final Provisions**

#### **Chapter XXIV – Transitional provisions**

#### **Article 143 – Visitation rights of accused person until 1 January 2026**

Until 1 January 2026, the living space standard per person in the medical and prison facilities of accused persons/convicted persons provided for by Article 110(2) shall not be less than 3 m<sup>2</sup>.

#### **Article 144 – Visit of an accused person/convicted person and the substitution of the visit of an accused person/convicted person until 1 January 2025**

1. Until 1 January 2025, an accused person shall have the right to only a short visit that shall be carried out in accordance with the procedure established by this Code.
2. Until 1 January 2025, the short visit of an accused person may be substituted by only a telephone conversation, in accordance with the procedure established by this Code.

#### **Article 145 – Temporary procedure for doing military service within the Service**

1. This article shall define the temporary procedure for doing military service by military conscripts called up for national military service before 1 January 2025. An issue that is not regulated by this article shall be regulated by the Defence Code, as well as by relevant normative acts adopted/issued on the basis of this Code and Defence Code.
2. Military service persons shall provide security for penitentiary institutions in accordance with Article 61 of this Code. The organisation and control of this function shall be carried out by the appropriate sub-division/unit of the Service as determined by an order of the Minister.
3. When performing official duties, a military service person shall be representing the State authority and shall be protected by the State. Every military service person shall be obligated to obey orders that are within the powers granted by the legislation of Georgia.
4. A military service person shall be authorised to use physical force, special equipment and firearms. The procedure for their use shall be defined by Articles 62-64 of this Code and other normative acts, including an order of the Minister.
5. The Service shall be obliged to provide military service persons with food or in lieu thereof an amount of compensation determined by an order of the Minister, as well as with appropriate uniforms, military clothing items and inventory, medical services, and state life and health insurance.



6. A military person holding a military rank shall receive a rank salary corresponding to his military rank. The amount thereof shall be determined by an order of the Minister.
7. If a military service person is injured, wounded or maimed during the performance of his duties or his disability status is established, a military service person shall receive the one-time allowance provided for by Article 149(4) of the Defence Code, and in the event of his death, a member of his family shall receive the one-time allowance provided for by Article 149(5) of the Defence Code.
8. The structural subdivision of the Service carrying out internal control shall monitor the protection of fundamental human rights, and the performance of official duties and the fulfilment of requirements established by the legislation of Georgia by a person having the status of a military service person.
9. The procedure for doing military service within the Service by military conscripts called up for national military service shall be determined by an order of the Minister.

#### **Article 146 – Measures to be implemented for the entry into force of this Code**

Within one year after the entry into force of this Code, the Ministry and other relevant bodies shall issue acts provided for by this Code, and ensure the compliance of the legal acts (including joint normative acts) issued on the basis of the legal acts provided for by Article 147 of this Code, with this Code.

### **Chapter XXV – Final Provisions**

#### **Article 147 – Normative acts to be invalidated**

1. The following shall be declared invalid:
  - (a) Law of Georgia – Imprisonment Code of 9 March 2010 (Legislative Herald of Georgia, No 12, 24.3.2010, Art. 49);
  - (b) Law of Georgia on Special Penitentiary Service of 1 May 2015 (Legislative Herald of Georgia (www.matsne.gov.ge), 18.5.2015, registration code: 100110000.05.001.017757).
2. Legal acts issued on the basis of the normative acts referred to in paragraph 1 of this article shall remain in legal force until they are no longer compliant with this Code.

#### **Article 148 – Entry of this Code into force**

1. This Code, except for Articles 1-145 and 147 of this Code, shall become effective upon publication.
2. Articles 1-145 and 147 of this Code shall become effective from 1 January 2024).

**President of Georgia**

**Salome Zourabichvili**

**Tbilisi,  
15 December 2023  
No 3988-XIII ობ -X ოპ**

