

CHAPTER I

General Provisions

Article 1. Scope of application of the law

1. This law regulates the system of those agencies entitled to execute non-custodial penalties and probation related measures, defines the status and legal framework of their activities, powers and authorities of the persons who are entitled to execute non-custodial sentences and probation, rules and procedures of service by them, guarantees of their social and legal protection, rights and obligations of offenders, the rules and conditions of fining applied to an offender in case of violation of the regime established by the law, rules and conditions for execution of non-custodial sentences and application of probation measures.
2. The Minister of Probation of Georgia (hereinafter – Minister of Probation) is entitled to issue the Order on the issues stipulated in this Law, to fulfill the law.

Article 2. Statutory acts regarding non-custodial sentences and probation

1. Following statutory acts of non-custodial punishments type shall be executable under procedure and conditions set down by this law:
  - a. Banning with the purpose of punishment from holding a certain position or pursuing a particular occupation;
  - b. Banning with the purpose of punishment a legal entity from practicing a particular occupation;
  - c. Imposition of community services with the purpose of punishment;
  - d. Imposition of correctional work with the purpose of punishment;
  - e. Restriction of Liberty as a sanction.
2. Following statutory acts of probation type shall be executable under procedure and conditions set down by this law:
  - a. Regarding imposition of a conditional sentence;
  - b. Regarding early release from the sentence;
  - c. Regarding suspension of enforcement of sentence (for pregnant woman – up to 1 year after childbirth).
3. The statutory acts provided for in the paragraph 2 of this article may, along with designating the type of punishment, also may contain requirements of educational and/or medical nature. The latter can be only applied under a procedure prescribed by the Law.
4. The free community service undertaken by a subject of diversion shall be also implemented according to the rules and conditions established by this law.

Law of Georgia #5266 from November 11, 2011 – web-site, 24.11.2011.

Law of Georgia #5626 from December 27, 2011 – web-site, 12.01.2012.

Law of Georgia #6215 from May 15, 2012 – web-site, 29.05.2012.

Article 3. The National Agency of Execution of Non-custodial Sentences and Probation

1. Enforcement of legislative acts and related to non-custodial sentences, preparation of individual assessment report in line with the Code of Juvenile Justice, which are determined by the Article 2 of this law is provided by the National Agency of Execution of Non-Custodial Sentences and Probation (hereinafter - “The National Probation Agency”) through the territorial bodies of the National Probation Agency – Bureaus of Execution of Non-Custodial Sentences and Probation (hereinafter - Probation Bureaus) and through the Liberty Restriction Establishment.

1<sup>1</sup>. In order to enforce the legislative acts determined by the Article 2 of this Law, to identify convicted and his/her position, register them, to assess their risks and needs, to provide individual planning of enforcement of punishment, to provide control and supervision of convicted, to file finished enforcement case in line with the

legislation of Georgia, to decide issue of trial punishment and to prepare individual assessment report) the National Agency of Probation and its territorial units within the scope of authority defined by the legislation of Georgia and as defined in the regulations, proceed personal data prescribed by the law of Georgia “Protection of personal data” (including data of special category). They are entitled in this order to have access to relevant government agencies and non government institutions, to get proceeded and partially proceeded data, as well get and read and use such information.

2. Pursuant to the Article 17<sup>1</sup> of the Imprisonment Code National Probation Agency, through Probation Bureaus, provides arrangement of video meetings outside the custodial establishment.

Law of Georgia #1933 from November 3, 2009 – SSM I, #35, 19.11.2009, Art. 238

Law of Georgia # 4047 from December 15, 2010 – SSM I, #75, 27.12.2010, Art. 481

Law of Georgia #5626 from December 27, 2011 – web-site, 12.01.2012.

Law of Georgia #6215 from May 15, 2012 – web-site, 29.05.2012.

#### Article 4. The National Probation Agency

1. The National Probation Agency is a legal entity of public law under the jurisdiction of the Ministry of Corrections of Georgia. The authority of the National Probation Agency is defined by the statute that is approved by the Minister of Corrections of Georgia.

2. The National Probation Agency is managed by the Head of the Agency who is appointed to and dismissed from his/her position by the Minister of Corrections and Legal Assistance.

3. The Deputy Head of The National Probation Agency is appointed to and dismissed from his/her position by the Head of the National Probation Agency by agreement with the Minister of Corrections and Legal Assistance.

4. The staff list and the budget of the National Probation Agency is approved by the Head of the National Probation Agency by agreement with the Minister of Corrections and Legal Assistance.

5. The National Probation Agency is funded from the State budget of Georgia and other incomes defined by the legislation of Georgia.

6. Other officers of the National Probation Agency are appointed to and dismissed from their positions by the Head of the National Probation Agency

7. The Head of the National Probation Agency approves internal regulation of the establishment and rehabilitation programs.

Law of Georgia #434 from October 31, 2008 – SSM I, #31, 12.11.2008, Art. 204

Law of Georgia #964 from December 30, 2008 – SSM I, #41, 30.12.2008, Art. 336

Law of Georgia #1933 from November 3, 2009 – SSM I, #35, 19.11.2009, Art. 238

Law of Georgia #5626 from December 27, 2011 – web-site, 12.01.2012.

Law of Georgia #1781 from December 13, 2013 – web-site, 28.12.2013.

#### Article 5. Probation Bureau

The statutory acts provided for in this law shall be dispatched for enforcement to the probation bureau according to the offender's place of residence (mailing address or registration address).

1. In case if offender has no residential place on the territory of Georgia (mailing address or registration address), the statutory act issuing authority is obliged to state relevant Probation Bureau in the statutory act, where offender will appear. When the decision is made, the statutory act issuing authority must consider possibility of fulfillment of assigned liability by the offender.

2. A probation bureau shall be managed by the head of the probation bureau.

3. Enforcement of the statutory acts provided for in this law, except the statutory act provided for in the Article 2 of this law, shall be ensured by a probation officer.

4. Activities of the probation bureau are guided by the Constitution of Georgia, given law, statute of the probation bureau and other legal acts of Georgia.

5. Typical statute of the probation bureau is approved by the Minister of Corrections and Legal Assistance under submission by the Head of the National Probation Agency.

Law of Georgia #1933 from November 3, 2009 – SSM I, #35, 19.11.2009, Art. 238

Law of Georgia # 4047 from December 15, 2010 – SSM I, #75, 27.12.2010, Art. 481

Law of Georgia # 1470 from October 4, 2013 – web-site 16.10.2013

Law of Georgia # 1781 from December 13, 2013 – web-site 28.12.2013

Law of Georgia # 2324 from April 30, 2014 – web-site 13.05.2014

#### Article 6. Main principles regulating the activities of the National Probation Agency

1. The activities of the National Probation Agency are based on the principles of legitimacy, protection of individual honor and dignity, humanism, publicity, integrity of the system of the Agency and its centralized administration.

2. Any officer of the National Probation Agency is obliged to respect human rights and fundamental freedoms and protect equality before the law irrespective of race, skin color, language, gender, religion, political or other creed, national, ethnic or social belonging, origin, proprietary or social status, place of residence and other characteristics.

Law of Georgia #1933 from November 3, 2009 – SSM I, #35, 19.11.2009, Art. 238

Law of Georgia # 4047 from December 15, 2010 – SSM I, #75, 27.12.2010, Art. 481

#### Article 7. Goals of the National Probation Agency

1. Goals of the National Probation Agency are enforcement of legal acts determined by this law, prevention of new crimes, protection of the safety of the society, re-socialization of offender (his/her integration into society) and rehabilitation (correction of a convict and his/her return to society).

2. Its goals the National Probation Agency fulfills through offenders' risks and needs assessment, individual sentence planning, obligatory surveillance and control over offenders, support to his/her re-socialization and rehabilitation and provision of assistance.

3. The National Probation Agency, by agreement with the Minister of Corrections and Legal Assistance, is authorized to finance from its own incomes cultural, social, health care and other activities aimed at re-socialization and rehabilitation of offenders.

4. The National Probation Agency is authorized to establish commercial and/or non-commercial legal entities aimed at accomplishment of goals set forth in given article.

4<sup>1</sup>. Commercial and/or non-commercial legal entities established by the National Probation Agency provide infrastructure and material-technical support of meetings set forth in the Articles 17<sup>2</sup> and 17<sup>3</sup> of the Imprisonment Code. The fees prescribed by the Article 17<sup>2</sup> of the Imprisonment Code are transferred to the bank account of the commercial and/or non-commercial legal entity.

4<sup>2</sup>. Commercial and/or non-commercial legal entities established by the National Probation Agency, based on the decision by the Minister of Corrections and Legal Assistance may perform any other activity which supports functionality of system of the Ministry of Corrections and Legal Assistance.

5. The electronic monitoring devices and other respective equipment in ownership of the National Probation Agency can be used for other purposes other than defined in this article. In this case the National Probation Agency may get remuneration for the services of provision of these devices; remuneration shall be transferred to the account of the National Probation Agency and shall be used for accomplishment of its tasks and goals.

Law of Georgia #1933 from November 3, 2009 – SSM I, #35, 19.11.2009, Art.

238 Law of Georgia # 4047 from December 15, 2010 – SSM I, #75, 27.12.2010,

Art. 481 Law of Georgia #5266 from November 11, 2011 – web-site, 24.11.2011.

Law of Georgia #5626 from December 27, 2011 – web-site, 12.01.2012.

## Article 7<sup>1</sup>. Liberty Restriction Establishment

1. For the purposes of achievement of the goals defined by the Article 39 of the Criminal Code of Georgia, the National Probation Agency has its territorial bodies – liberty restriction establishment (hereinafter establishment) managed by the head of the Establishment.

1<sup>1</sup>. In the establishment the officer of the liberty restriction establishment is responsible for provision of execution of statutory act prescribed by the sub-paragraph “e” of the paragraph I of the Article of 2 of this law.

2. While exercising its activities, the Establishment shall be guided by the Constitution of Georgia, this law, charter of the establishment and other normative acts.
3. The conditions within the Establishment shall not affect the honor and dignity of a convict;
4. The conditions within the Establishment shall comply with the sanitary and hygiene norms established in the Georgian legislation and shall not damage human dignity.
5. The establishments are:
  - The Establishment of adult convicts;
  - The Establishment of juvenile convicts;
  - The Establishment of women convicts.
6. The following convicts shall serve a sentence at the Establishment:
  - a) convicts who have been sentenced to restriction of liberty;
  - b) convicts, whose unserved part of the sentence in the form of imprisonment has been replaced with restriction of liberty;
7. Ensuring the functioning of the Establishment, including provision of convicts with relevant insurance, food, work, training, health care and living conditions shall be the responsibility of the National Probation Agency.
- 7<sup>1</sup>. The convicted is obliged, after get known the decision by the relevant local board of the Ministry of Corrections of Georgia and after entering into force of verdict by the court, immediately, but not later than 2 working days, in order to enforce punishment defined as a mean of restriction of liberty, to visit relevant institution. Failure to fulfill this obligation, is not basis of submission petition defined in the sub-sections “a” or “b” of the paragraph 5, Article 21 of this Law.
8. The rules of activities of the Establishment, structure, maximum number of convicts to be admitted, conditions mentioned in paragraph 4 of this article, incentives for convicts and disciplinary liability of convicts, rules for treatment with hunger strikes, isolation of convicts, supervision via electronic means and moving to other establishment shall be defined by the model charter of the Establishment, that is proposed by the head of the National Probation Bureau to the Minister of Corrections of Georgia for approval.
9. Food and sanitary and hygiene related regulations for convicts in the establishment are defined by the joint order by the Ministry of Corrections and Legal Assistance of Georgia and the Minister of Health, Labour and Social Affairs of Georgia.

Law of Georgia #5626 from December 27, 2011 – web-site, 12.01.2012.

Law of Georgia #1470 from October 4, 2013 – web-site, 16.10.2013. Law

of Georgia #1781 from December 13, 2013 – web-site, 28.12.2013.

## Article 7<sup>2</sup>. Criminological Research of the National Probation Agency

Ministry of Corrections and Legal Assistance of Georgia supports National Probation Agency in conducting of criminological researches aiming re-socialization of convicts, crime prevention and scientific study of rehabilitation programs.

Law of Georgia #1470 from October 4, 2013 – web-site, 16.10.2013. Law

of Georgia #1781 from December 13, 2013 – web-site, 28.12.2013.

## CHAPTER II

Legal status of the Officer of the National Probation Agency, guarantees of his/her social and legal protection  
Law of Georgia #1933 from November 3, 2009 – SSM I, #35, 19.11.2009, Art. 238

### Article 8. Legal Status of the Officer of the National Probation Agency

1. Officer of the National Probation Agency while discharging his/her official duties shall be deemed as representative of the official authorities and his/her lawful instructions shall be bindingly followed.
2. Non compliance with lawful instructions of an officer of the National Probation Agency shall ensure liabilities under the law.
3. Damage caused by illicit steps of an officer of the National Probation Agency while in discharge of the official duties shall be indemnified in accordance with the order established by the legislation of Georgia.

Law of Georgia #1933 from November 3, 2009 – SSM I, #35, 19.11.2009, Art. 238

Law of Georgia # 4047 from December 15, 2010 – SSM I, #75, 27.12.2010, Art. 481

### Article 9. Guarantees of Social and Legal Protection of the Officer of the National Probation Agency

1. The law of Georgia “On Public Service” shall be applied to an officer of the National Probation Agency, if not otherwise determined by this law.
2. Officer of the National Probation Agency is given a special official rank in accordance with the order established by the Georgian legislation.
3. (Withdrawn).
4. (Withdrawn).

Law of Georgia #1933 from November 3, 2009 – SSM I, #35, 19.11.2009, Art. 238

Law of Georgia # 4047 from December 15, 2010 – SSM I, #75, 27.12.2010, Art. 481

### Article 9<sup>1</sup>. Probation Officer

1. Probation Officer may be a citizen of Georgia, who speaks official language of Georgia and has higher education.
2. Probation officer passes a special training course for probation officers at the Penitentiary and Probation Training Center - legal entity of public law under jurisdiction of the Ministry of Corrections and Legal Assistance of Georgia and after completion of the training course takes appropriate examination.
3. National Probation Agency provides the probation officer with official stamp.
4. Probation officer may be granted job uniform of approved type at the expense of the state.

Law of Georgia # 4047 from December 15, 2010 – SSM I, #75, 27.12.2010, Art. 481.

Law of Georgia # 1470 from October 4, 2013 – SSM I, web-site, 16.10.2013.

Law of Georgia # 1781 from December 13, 2013 – SSM I, web-site, 28.12.2013.

### Article 9<sup>2</sup>.

1. Liberty restriction officer may be a citizen of Georgia, who speaks official language of Georgia and has higher education.
2. Liberty restriction officer passes a special training course for liberty restriction officers at the Penitentiary and Probation Training Center - legal entity of public law under jurisdiction of the Ministry of Corrections and Legal Assistance of Georgia and after completion of the training course takes appropriate examination.
3. National Probation Agency provides the liberty restriction officer with official stamp.
4. Liberty restriction officer may be granted job uniform of approved type at the expense of the state.
5. In order to provide safety in the establishment, the liberty restriction officer may have special devices - baton and handcuffs, provision and use of which is determined by the Minister of Corrections and Legal Assistance.

Law of Georgia # 1470 from October 4, 2013 – SSM I, web-site, 16.10.2013.

Law of Georgia # 1781 from December 13, 2013 – SSM I, web-site, 28.12.2013.

### CHAPTER III Rights and Obligations of the Offenders

#### Article 10. Offender's General Rights

1. All offenders, irrespective of their race, color of the skin, gender, religion, political or other beliefs, national, ethnic and social belongings, origin, property or class status, place of residence are equally covered by the following rights:
  - a. Right to life and health;
  - b. Right to personal security and integrity;
  - c. Right to respect the personal dignity;
  - d. Right to be protected from torture, cruel, inhuman or degrading treatment;
  - e. Right to health care;
  - f. Right to social security;
  - g. Right to personal privacy;
  - h. Freedom of religion, confession, opinion and conscience;
  - i. Right to be protected from all kinds of discrimination;
  - j. Right to self-development;
  - k. Right to file a complaint;
  - l. Right to defense;
  - m. Right to benefit from the courses of social adaptation;
  - n. Right to receive a written explanation of his/her rights and obligations in the State language (if the offender does not speak the State language, this information shall be provided in his/her native language or other understandable language). Should the offender be illiterate his/her rights and obligations are explained to the offender verbally in his/her native language or other understandable language through a translator;
  - o. Other rights as provided for in the Georgian legislation.

#### Article 11. Offenders General Obligations

1. Depending on his/her legal status, an offender is under duty to comply with the rules and conditions of sentence serving set by the Georgian legislation, carry out duties imposed upon him/her and follow legitimate instructions of the National Probation Agency officers and other authorized staff members, not to leave the territory of Georgia without permission of the head of probation bureau. The offenders indicated in “a” subparagraph of the 1<sup>st</sup> paragraph of article 2 of this law and conditionally sentenced military servants, who, according to the part 2 of the Article 66 of Criminal Code of Georgia, are supervised and assisted by the high authorities of the respective military unit, are not obliged to apply for this kind of permission.
2. In case the offender fails to discharge his/her duties some coercive measures may be applied under procedure established by the Georgian legislation.

Specific obligations of the offender are defined by the

Law of Georgia #1933 from November 3, 2009 – SSM I, #35, 19.11.2009,

Art. Law of Georgia #6215 from May 15, 2012 – web-site, 29.05.2012.

### CHAPTER IV

Procedures and conditions of fining parolees and probationers for violation of the established regime of appearance to the probation bureau

Article 12. Violation of the Established Regime by an offender

1. The regime prescribed by the law for a probationer and a parolee includes an obligation of appearance once a week to the place and at the time fixed by the probation officer. It may also include fulfillment of other obligations envisaged by the Georgian legislation;

1<sup>1</sup>. Based on the risks and needs assessment the probation officer is entitled to oblige a conditionally sentenced or conditionally early released person to undertake mandatory rehabilitation course.

1<sup>2</sup>. Probation officer is entitled, in case of a reasonable suspect or periodically demand from the drug-abusing probationers and a person released on parole to take drug tests within 5 working days and submit a report.

If as a result of the tests prescribed by this paragraph, it is proved that offender has used drugs, excluding use of drugs for medical purposes, Probation Bureau is obliged to notify the fact to the Ministry of Internal Affairs.

1<sup>3</sup>. In case an offender appears at place and time defined by the probation office drunk, does not follow lawful requirements of the probation officer or misbehaves, the probation officer is authorized with the agreement of the head of the probation bureau to define special regime for the offender which means the obligation of the offender to appear to a place and in time defined by an officer no more than three times a week for no longer than three month.

1<sup>4</sup>. In case an offender does not comply with the request defined in paragraphs 1<sup>1</sup> and 1<sup>2</sup> of this article or intentionally avoids compliance this might be a ground for applying to a court with respective recommendation prescribed by the sub-paragraphs “e”, “f” or “g” of the paragraph 1 of the Article 21 of this law.

2. If the time of an offender’s appearance coincides with a non-working day envisaged by the Labor Code of Georgia, he/she is free from the obligation of appearing on that day.

3. If the end of the probation period coincides with a nonworking or rest day, an offender is released on the previous working day, about which the release certificate is issued to him/her.

4. By written agreement with the Head of the National Probation Agency the regime established for an offender can be mitigated, which implies the obligation of appearance to the probation bureau once in two weeks, and according to the order established by this law – the obligation of appearance once a month.

4<sup>1</sup>. If an offender is a disabled person (a person who because of a disease, trauma, has disorder of life functions of the body caused by mental or physical malfunction, which cases full or partial loose of workability and/or essential hardship of living) or is old (women above 65 and men above 70 years old), with the written agreement of the head of the Agency it is possible to mitigate regime for the offender and apply obligation of appearance at a probation bureau once in 3 month; also if a disabled person cannot move independently, the probation officer is obliged to conducts supervision through a visit to the offender’s home not less than once in three months.

5. In case of violation of the established regime by an offender, authorized person of the probation bureau draws up a report of administrative violation which is handed over to an offender directly or sent by mail (in case of sending by mail, the respective record is made).

5<sup>1</sup>. When a violation of defined regime is committed by an offender registered in the common database of the socially vulnerable families and whose economical index is lower than rate defined by the Georgian government the probation officer fills in a protocol about warning of the offender which shall be handed to the offender or send to him/her by mail (if it is sent by mail respective note is made).

6. Within 5 working days from the moment of familiarization with a report/warning on administrative violation, an offender is entitled to appeal it to the head of the bureau who considers the issue and makes a decision on it within the period of 15 working days.

7. Offender shall pay the fine imposed on him/her within the period of 30 days from the moment of familiarization with a report of administrative violation.

8. In case an offender violates regime defined in paragraph 1, 1<sup>3</sup>, 4 and 4<sup>1</sup> of this article - He/she shall be fined in the amount of 100 GEL, and in case of violation of the regime defined in paragraph 5<sup>1</sup> of this article – he/she shall be warned.
- 8<sup>1</sup>. In case the violation indicated in paragraph 8 of this article is repeated during a year from the commission of the first offence – he/she shall be fined in the amount of 200 GEL, and in case of violation of the regime defined in paragraph 5<sup>1</sup> of this article – he/she shall be warned repeatedly.
- 8<sup>2</sup>. In case the violation indicated in paragraph 8 of this article is committed third or more times during a year from the commission of the first offence – he/she shall be fined in the amount of 300 GEL, and in case of violation of the regime defined in paragraph 5<sup>1</sup> of this article – he/she shall be warned respectively.
9. In case of violation of a regime by an offender third or more times also can be considered as a ground for applying to the court with the recommendation. Along with the obligation to pay the fine/warning, the regime established for an offender can be also changed or aggravated.
10. If an offender becomes 18 years old or an offender is not any more registered in the common database of the socially vulnerable families and his/her economical index is not any more lower than rate defined by the Georgian government, in case of a violation of defined regime he/she shall be fined according to the rules and in the amount defined in paragraphs 8, 8<sup>1</sup> and 8<sup>2</sup> of this article.

Law of Georgia #1933 from November 3, 2009 – SSM I, #35, 19.11.2009, Art. 238  
 Law of Georgia #5266 from November 11, 2011 – web-site, 24.11.2011.

Law of Georgia #5626 from December 27, 2011 – web-site, 12.01.2012.

Law of Georgia #6215 from May 15, 2012 – web-site, 29.05.2012

Law of Georgia #1470 from October 4, 2013 – web-site, 16.10.2013

Law of Georgia #1781 from December 13, 2013 – web-site, 28.12.2013

Law of Georgia #2184 from April 4, 2014 – web-site, 14.04.2014

Article 12<sup>1</sup>. Circumstances for considering violation of the regime established by this law as valid

1. Offender's violation of the established regime shall be considered valid if one of the following circumstances are present:
  - a. Poor condition of offender's health status, that makes it impossible discharge of established regime, confirmed by appropriate health certificate issued by a physician;
  - b. Death of offender's close relative (parent, adopter, son/daughter, foster-child, grandfather, grandmother, grandchild, sister, brother, spouse (including divorced) or a person permanently residing with him/her;
  - c. Offender's official journey related to his/her official or professional, and/or sports, cultural or educational-scientific activities, confirmed by appropriate documentation;
  - d. Offender's violation of the established regime due to circumstances beyond his/her control, "superior force" (force majeure), particularly, in cases of natural calamity, accident, fire, mass riot, military operations, announcement of quarantine or the state of emergency, confirmed by the document issued by corresponding public institution;
  - e. Imposition of administrative imprisonment to the offender, as well as offender's participation in procedural actions determined by the criminal law of Georgia, or in the activities of law enforcement bodies determined by the law of Georgia "On Operational Investigation Activity", confirmed by appropriate document.
  - f. Serving in military service by the offender, confirmed by appropriate document, to be submitted to the Probation Bureau before starting military service by the offender.
2. The document, confirming the presence of circumstances envisaged by paragraph 1 of this article, is submitted by the offender to corresponding probation bureau in the order determined in the paragraph 6 of the Article 12 of this law.
3. Authorized person of the probation bureau shall not draw a report determined by paragraph 1 of the Article 13 of this law, in case the presence of circumstances determined by paragraph 1 of this Article is confirmed



in advance – prior to offender’s violation of the regime established by this law.

4. Except the conditions in the paragraph one of this Article, which prevented the offender to fulfill the modes in line with the law, the decision about making the failure as valid in the case prescribed by the paragraph 6 of Article 12 of this Law, is made by the Head of Probation Agency based on approval of the Head of National Agency of Probation.

Article 13. Proceeding with cases of administrative violations and the procedure of payment of the fine imposed for violation of the established regime

1. In case of violation of the established regime by an offender, authorized person the probation bureau shall draw up a report of administrative violation.
2. At the same time, a report of administrative violation is a fine receipt, form of which and drawing up procedure is defined by an order of the Minister of Corrections and Legal Assistance.
3. Report of administrative violation shall contain: date and place where it was written; position, first name and last name of the person who wrote it; data on the person who committed the administrative violation; time and place where the violation was committed and its substance; the respective article of this law which envisages responsibility for this administrative violation; explanation of the violator; procedure and deadline to appeal the report; other data necessary for taking a decision on this case.
4. Compulsory execution of fine payment is carried out after expiration of the period set for voluntary execution, about which the head of respective probation bureau issues a decision and initiates compulsory execution of fine payment.
5. Compulsory execution of fine payment is implemented by an executor on the basis of a decision of the head of probation bureau in accordance with the procedure established by the law of Georgia “On Executive Proceedings.
7. In a warning report indicated in paragraph 5 of article 12 of this law the following shall be indicated: the date and place of filling in; the name and position of the author; personal data of the offender; the place, time, content and range of the violation of the established regime; legal grounds of the warning indicating respective articles of this law; expected results; rules and time limit for appealing of the warning; other information related to the violation. The warning shall be approved by the seal and signature of the authorized probation office.

Law of Georgia #225 from July 15, 2008 – SSM I, #17, 28.07.2008, Art. 141

Law of Georgia #1933 from November 3, 2009 – SSM I, #35, 19.11.2009, Art.

238 Law of Georgia #6215 from May 15, 2012 – web-site, 29.05.2012

Law of Georgia #1781 from December 13, 2013 – web-site, 28.12.2013

Article 14. Procedure of Granting privileges for the Period of Departure of the Offender Abroad

1. An offenders application on his/her departure abroad shall be considered and a decision made by the head of the probation bureau by written agreement with the Head of the National Probation Agency.
2. Offender shall be advised of the decision of the head of probation bureau in writing no later than 10 working days from the moment of receiving the application by the head of probation bureau.
- 2<sup>1</sup>. The head of probation bureau considers the written application envisaged by Paragraph 1 of this Article through urgent procedure within the period of 2 working days, on the basis of transferring by an offender of the urgent procedure service fee – 200 GEL to the account of the National Probation Agency. In case of denial of departure abroad, the urgent procedure service fee is not returned.
3. In case of departure abroad, offender shall pay the following permit fees:
  - a) for the period up to one month – 600 GEL;
  - b) for the period from one to three months –1200 GEL;
  - c) for the period from three to six months – 2000 GEL;

- d) for the period from six to nine months – 2700 GEL;
  - e) for the period from nine to twelve months – 3400 GEL.
4. In the event that the application of an offender is upheld, after presentation of the documentation that confirms transferring the fee to the account of the National Probation Agency by him/her, the head of probation bureau shall issue permission for departing abroad;
  - 4<sup>1</sup>. During an offender's stay abroad in accordance with the procedure established by this Article, the period of permission for departing abroad can be extended if the document that confirms payment of the fee envisaged by Paragraph 3 of this Article, with indication of an offender's personal number and purpose, is submitted to the probation bureau.
  5. (withdrawn).
  6. Counting of the term of service provided by the National Probation Agency begins from the next working day after registration of the application and ends at the closing of last working day of the service term. If the last day of the service term coincides with a nonworking or rest day, the next first working day shall be considered as the service term end day. Law of Georgia #1933 from November 3, 2009 – SSM I, #35, 19.11.2009, Art. 238

Law of Georgia #2997 from April 27, 2010 – SSM I, #24, 10.05.2010, Art.  
 161 Law of Georgia #6215 from May 15, 2012 – web-site, 29.05.2012

Article 14<sup>1</sup>. Conditions for granting a remission for offender's appearance to the probation bureau

- a. (withdrawn – 15.05.2012, #6215)
- b. The head of probation bureau shall consider an application for granting a remission for an offender's appearance to the
  2. Probation bureau and make a decision on it by written agreement with the Head of the National Probation Agency.
  3. Offender shall be advised of the decision of the head of probation bureau in writing no later than 5 working days from the moment of receiving the application by the head of probation bureau.
  4. (withdrawn – 15.05.2012, #6215)
  5. In accordance with the procedure established by Paragraph 4 of Article 12 of this law, upon the application of an offender, the obligation of appearance to the probation bureau not more than once a month can be determined for him/her after payment of a one-time fee envisaged by Paragraph 7 of this Article.
  6. The period envisaged by Paragraph 3 of this Article spreads on consideration of an offender's application.
  7. The fee for establishing an offender's obligation to appear to the probation bureau not more than once a month makes up 400 GEL, which is transferred to the account of the National Probation Agency.
  8. If an offender temporarily changes his place of residence during the period of application of a regime for appearing to a probation bureau for not more than 3 months, he/she may appear and register in a probation bureau near to his/her new place of residence.
  9. In the case defined in paragraph 8 of this article the offender no later than a previous day to appearance day applies in written form to the respective probation bureau informing about the temporary change of his/her living place indicating the period.
  10. In the case defined in paragraph 8 of this article the respective probation bureau issues for the offender temporary registration permit which shall indicate the name and address of the probation bureau where the offender shall appear for supervision according to the defined schedule; the permit is approved by the signature and a seal of an authorized person. The form of a temporary registration permit is approved by the head of the National Probation Agency.

Law of Georgia #1933 from November 3, 2009 – SSM I, #35, 19.11.2009, Art. 238

Law of Georgia #6215 from May 15, 2012 – web-site, 29.05.2012.

Law of Georgia #1781 from December 13, 2013 – web-site, 28.12.2013.

Article 15. Procedure and conditions of payment of the permission fee for going abroad and the fine

1. Offender shall pay the permission fee for going abroad and the fine under the procedure and in cases stipulated by this law.
2. Those offenders who are registered in the common database of the socially vulnerable families and whose economical index is lower than rate defined by the Georgian government are free of obligation to pay fees defined in article 14 and paragraph 8 of article 14<sup>1</sup> of this law.
3. The permission fee for going abroad is transferred to the account of the National Probation Agency.
4. In case of crossing the State border of Georgia or attempting to cross it without permission for going abroad, an officer of the authorized body under the Ministry of Internal Affairs of Georgia entrusted with supervision over the State border regime at a border crossing point is obliged to detain an offender and immediately notify the National Probation Agency about it.
5. The National Probation Agency is obliged to immediately send an authorized officer of the nearest probation bureau to the respective border crossing point and provide him/her with adequate information. The probation bureau's authorized officer is obliged to immediately appear to the respective border crossing point, draw up and hand over to an offender a report of administrative violation, based on which the obligation to pay the fine determined by Paragraph 6 of this Article is imposed on an offender.
6. Crossing of the State border by an offender or his/her attempt to cross it without permission for going abroad entails fining of an offender in the amount from 500 to 1000 GEL and/or administrative arrest for the period of up to 15 days. The procedure of application of administrative arrest is defined by the Code of Administrative Violations of Georgia.

Law of Georgia #1933 from November 3, 2009 – SSM I, #35, 19.11.2009, Art.

238 Law of Georgia #6215 from May 15, 2012 – web-site, 29.05.2012

Law of Georgia #2650 from August 1, 2014 – web-site, 18.08.2014

## CHAPTER V

### Procedure of Execution of Statutory Act

Article 16. Registration of the Executable Statutory Act, Assigning and Monitoring over its Execution

1. The legal act shall be submitted to the probation bureau for execution and within three working days a duly authorized person shall register it in a special electronic database of offenders.
2. The special electronic database of offenders shall contain:
  - a. registration number of the statutory act;
  - b. date of entry of the legal act into the probation bureau (date of its admission into execution proceedings);
  - c. type of the legal act, name of its issuing agency, date of its entry into force;
  - d. short summary of the operative part of the act;
  - e. information about the offender (first name, last name, date and place of birth, registered place of residence as well as factual place of residence, marital status, place of employment or study, in case of a legal entity – name and legal address of the legal entity);
  - f. Relevant article of the Criminal Code of Georgia, under which the legal act in question has been issued;
  - g. The name of probation officer who has been assigned the legal act for execution.
  - h. information regarding recommendations;
  - i. date of termination of execution proceedings.
3. The head of probation bureau shall assign the executable statutory act to the probation officer according to the place of residence (legal address) of the offender and jurisdiction of probation bureau.
4. (Withdrawn).

5. The head of probation bureau shall monitor execution of the statutory acts and discharge of professional duties by the staff of the probation bureau.
6. Procedure of familiarization with  
Law of Georgia #1933 from November 3, 2009 – SSM I, #35, 19.11.2009, Art. 238  
Law of Georgia #2997 from April 27, 2010 – SSM I, #24, 10.05.2010, Art. 161.  
Law of Georgia #6215 from May 15, 2012 – web-site, 29.05.2012  
Law of Georgia #2324 from April 15, 2014 – web-site, 13.05.2014

#### **Article 16<sup>1</sup>. Self-challenge and challenge of probation officer/liberty restriction officer**

1. Probation officer/liberty restriction officer may not proceed case against the offender, if he/she:
  - a) was participating in the criminal case against the offender with status of victim;
  - b) was participating in the criminal case review as a judge, prosecutor, investigator, witness, expert, interpreter, legal representative or court session secretary;
  - c) is a legal representative or relative of offender or his/her legal representative;
  - d) is directly or indirectly interested in the outcomes of enforcement case or/and there exist any other circumstances, which makes impartiality a subject of suspect.
2. Relatives stated in the sub-paragraph “c” of first paragraph of this Article are:
  - a) spouse;
  - b) child;
  - c) sister, brother;
  - d) niece, nephew
  - e) parent, sister and brother of parent.
3. Upon the base under the first paragraph of this Article is revealed, probation officer/liberty restriction officer is obliged to apply the head of probation bureau/head of establishment immediately with the request of self-challenge/ The head of the bureau/establishment reviews such application within the term of 5 working days and makes decision to make arrangement for the challenge request or reject it.
4. In the process of enforcement case, the offender or his/her legal representative is entitled, if there exist the basis defined in the paragraph first of this Article, submit the request of challenge by the officer to the Head of Probation Bureau/Head of Establishment, who reviews such request in line with the rule defined in the paragraph 3.
5. The decision made by the Head of Probation Bureau/Head of Establishment to make arrangement for the request is not a subject of appeal.
6. Decision about rejection of request for challenge, issued by Head of Probation Bureau/Head of Establishment is a subject of appeal according to the location in regional (city) court, within 5 days after announcement to the person entitled to appeal.

#### **Article 17. Commencement of Execution and an Execution Case**

1. Upon receipt of each case for the execution, an execution case file shall be opened, which shall get a unique number.
2. The following data shall be entered in the execution case:
  - a. the executable statutory ac;
  - b. data regarding the offender which is entered into registration log and his/her photo;
  - c. records of measures carried out by the probation officer;
  - d. (withdrawn);
  - e. a memorandum to the head of probation bureau, regarding necessity of approaching the court with a recommendation;
  - f. copy of the recommendation of the head of probation bureau addressed to the court;
  - g. duties imposed on the offender by the statutory act and the requirements set down by the probation officer, in accordance with Georgian legislation, for the purpose of monitoring the compliance with the former;

h. other documents developed in the process of the execution proceedings.

Law of Georgia #1933 from November 3, 2009 – SSM I, #35, 19.11.2009, Art. 238.

Law of Georgia #6215 from May 15, 2012 – web-site, 29.05.2012

Law of Georgia #2324 from April 30, 2012 – web-site, 13.05.2014.

#### Article 18. Explanation of the executable statutory act and appearance of the offender

1. The executable statutory act shall be sent to the National Probation Agency immediately upon the entry of the act into force.
2. If the executable statutory act is unclear or contains some discrepancies, the head of probation bureau shall apply to the issuing agency for clarification of the unclear or incorrect part of the statutory act.
3. The head of probation bureau shall, within the period of 5 working days, in writing notify the court about commencement and termination of execution of the statutory act issued by the court.
4. If an offender does not live at the address indicated in the statutory act issued by the court, or lives at this address but evades appearing to the probation bureau, the head of probation bureau shall return the statutory act to the court together with a document confirming the above fact for starting the fugitive retrieval process.
5. The probation time shall be suspended for the period the offender is declared wanted.
6. No later than within 15 days from the entry into force of the executable statutory act, the offender is obliged to appear to the probation bureau according to his/her place of residence, in order to be informed about the commencement of execution of the statutory act, his/her rights and obligations with respect to the executable statutory act and for the adequate supervision over the offender to be exercised by the probation bureau. A probation officer shall advise the offender who appeared to the probation bureau on his/her rights and obligations as well as possible consequences of failure to comply. A record shall be made thereof.
7. If the offender fails to appear within the time limit stipulated in paragraph 6 of this article, he/she shall be warned by the probation bureau. No later than one week from the warning, he/she is obliged to appear in probation bureau. Non appearance constitutes a basis for the head of probation bureau to apply to the court by a recommendation envisaged in the Art. 21 (a), (b), (f), (g) (h) of this law.
8. Obligation of notification the offender by the Probation Bureau, as prescribed by the paragraph 7 of this Article, not applies to the offenders, who have no residential place on the territory of Georgia (actual or legal address). Statutory act by the issuing authority notifies such offender in advance about application of measures prescribed by the law for not appearance of offender in probation bureau. Order of the Minister of Corrections and Legal Assistance defines the form and rule of notification of offenders being in

imprisonment establishment (as well in establishment of liberty restriction). In such case head of the probation bureau submits this act to the act issuing court in order to include offender on the wanted list.

Law of Georgia #1933 from November 3, 2009 – SSM I, #35, 19.11.2009, Art.

238. Law of Georgia #2324 from April 30, 2014 – web-site, 13.05.2014.

#### Article 19. Report

1. In the process of performing execution measures, the probation officer shall draw up a report, which shall contain:
  - a. Place and date of drawing up of the report;
  - b. Name of the statutory act, for the execution of which the report is made;
  - c. The first name and last name of the probation officer who draws up the report;
  - d. Data regarding the persons attending the process of drawing up of the report;
  - e. The nature of the executable action.

2. The correctness of the report shall be confirmed by signatures of the probation officer, offender, and persons attending as well as the stamp of the probation officer. The refusal of a person to sign shall also be marked in the report.

#### Article 20. A Memorandum of the Probation Officer Requesting a Recommendation

Whenever a probation officer considers that there is a ground as provided for in the law for starting a recommendation at the court he/she shall write a memorandum to the head of probation bureau that shall contain the following information:

- a. Reference number of the case under execution;
- b. Executable statutory act;
- c. Brief information on execution steps;
- d. Information (if any) on non-compliance of an offender (legal entity) with duties imposed on him/her;
- e. The personal opinion of the probation officer regarding appropriateness of the recommendation;
- f. Signature and the stamp of the probation officer, and the date of submission of a memorandum.

Law of Georgia #1933 from November 3, 2009 – SSM I, #35, 19.11.2009, Art. 238.

Law of Georgia #2324 from April 30, 2014 – web-site, 13.05.2014.

#### Article 21. Types of Recommendations Filed by the Head of Probation Bureau

1. In case of existence of appropriate grounds, the head of probation bureau shall file with the court one of the following recommendations:
  - a. On replacement of community service imposed on the offender with another type of punishment;
  - a<sup>1</sup>. On early release from community service imposed on the offender;
  - b. On replacement of correctional work imposed on offender with another type of punishment;
  - c. On partial or complete revocation of duties imposed on a probationer or imposition of other duties by the court. d. (Withdrawn – 11.11.2011, #5266);
  - e. On extension of probation time imposed upon the probationer up to no more than one year due to non-compliance with the duties or imposition of administrative fee;
  - f. On the revocation of a conditional sentence and execution of the penalty imposed by the sentence;
  - g. Canceling the pre-term release and serving the remaining part of the sentence;
  - h. Revocation of suspension of execution of the sentence and sending the offender to the place designated by the sentence for serving the sentence;
  - i. With regard to a legal entity: the replacement of a ban on practicing a particular occupation with another type of punishment.
2. The recommendation shall be filed at the court in accordance with the place of residence (legal address) of the offender, and in case of missing – according to the location of probation bureau.
3. The court shall pass a decision on either upholding the recommendation or its rejection not later than 10 days from its filing in the court.
4. On the basis of offender's application and in the case of existence of appropriate grounds (including certificate of narcological examination for offenders sentenced under the Articles 260 and 273 of Criminal Code of Georgia) the head of probation bureau appeals Standing Committee on revocation of conditional sentence of the National probation Agency with solicitation on revocation of conditional sentence and expunging previous convictions.
5. The head of the establishment based on the respective grounds apply to the court with one of the following recommendations:
  - a) Change of sanction of restriction of liberty to custodial sentence;
  - b) In case of change of remaining term of custodial sentence to the restriction of liberty – change back remaining term of restriction of liberty with the custodial term.
  - c) About earlier release of offender from designated/modified liberty restriction.

5<sup>1</sup>. The submission under this paragraph 5 of this Article, is reviewed by the court according to the location of the establishment.

6. In cases envisaged by paragraph 1 and 5 of this article the head of the establishment based on the written agreement with the head of the National Probation Agency applies to the court with a recommendation.

Law of Georgia #895 from December 26, 2008 – SSM I, #41, 30.12.2008, Art. 319

Law of Georgia #1933 from November 3, 2009 – SSM I, #35, 19.11.2009, Art. 238

Law of Georgia #5266, from November 11, 2011 – website, 24.11.2011.

Law of Georgia #5626 from December 27, 2011 – web-site, 12.01.2012.

Law of Georgia #6215 from May 15, 2012 – web-site, 29.05.2012

Law of Georgia #2324 from April 30, 2014 – web-site, 13.05.2014

Article 21<sup>1</sup>. Revocation of conditional sentence and expunging of previous convictions to the offender

1. Based on the legal act envisaged by subparagraph A of paragraph 2 of the Article 2 of this law, decision on revocation of conditional sentence and expunging previous convictions to conditionally sentenced offender (including conditionally sentenced military servant, whose behavior is controlled under the regulations set forth in the part 2 of the Article 66 of the Criminal Code of Georgia) after passage of no less than half of the probation period or even prior to passage of the half of the probation period in case of deterioration of health status, also according to conditions of the civil agreement set forth in article 67<sup>1</sup> of the Criminal Code of Georgia, is made by the Standing Committee on the basis of solicitation of the body, providing control and assistance to the offender.

1<sup>1</sup>. Other than issues defined in paragraph 1 of this article the Standing Committee considers revocation of rights before due time or reduction of timing of limitation of the rights which was defined based on the Law on Fight against Narcotic Crimes, on the basis of respective application and drug-test results.

2. While making a decision Standing Committee takes into consideration offender's behavior during probation period, previously committed crimes, offender's personality, family status, nature of committed crime, meeting conditions of the civil agreement set forth in article 67<sup>1</sup> of the Criminal Code of Georgia, whether the goals set forth in the paragraph 1 of the Article 7 of this law are achieved and other circumstances, that might affect decision of the Standing Committee.

3. Standing Committee consists of 5 members, particularly:

a. 1 officer of the central office of the Ministry of Corrections and Legal Assistance;

b. 2 officers of the National Probation Agency;

c. by rotation principle - 1 representative of the High Commission of Justice of Georgia and 1 representative of non- governmental organizations.

4. Candidature of 1 representative of non-governmental organizations in the Standing Committee is submitted by the Coordination Council of the Ministry of Corrections and Legal Assistance for approval by the Minister of Corrections and Legal Assistance.

5. 1 representative of non-governmental organizations, 1 officer of the central office of the Ministry of Corrections and Legal Assistance and 2 officers of the National Probation Agency in the Standing Committee are approved by the Minister of Corrections and Legal Assistance and 1 representative of the High Commission of Justice of Georgia is appointed by the Secretary of the High Commission of Justice of Georgia.

6. Representatives of non-governmental organizations and High Commission of Justice of Georgia are subject to rotation after per 1 year.

7. Chairperson of the Standing Committee is elected by the Standing Committee among its members through voting by show of hands, by majority of votes of attending members.

8. Powers and procedures of activities of the Standing Committee are determined by the statute of the Standing Committee that is approved by the Minister of Corrections and Legal Assistance.

9. Criteria of assessment of conditionally sentenced offender's health status are determined by the joint order of the Minister of Corrections and Legal Assistance and the Minister of Labor, Health and Social Affairs.
10. Standing Committee reviews the case in the form of oral hearing and/or without oral hearing, following the administrative proceedings. Decision on rejection of application on revocation of conditional sentence and expunging previous convictions or on revocation of rights before due time or reduction of timing of limitation of the rights which was defined based on the Law on Fight against Narcotic Crimes, is made by the Standing Committee without oral hearing.
11. Shall the Standing Committee make a decision about rejection of application on revocation of conditional sentence and expunging previous convictions, also on revocation of rights before due time or reduction of timing of limitation of the rights which was defined based on the Law on Fight against Narcotic Crimes, repeated review of the solicitation on the same issue is allowed only after passage of 1 year after making the decision.
12. Decision of the Standing Committee can be appealed according to administrative regulations on a one-time basis.

Law of Georgia #5266, from November 11, 2011 – website, 24.11.2011.

Law of Georgia #6011 from April 10, 2012 – web-site, 20.04.2012

Law of Georgia #6215 from May 15, 2012 – web-site, 29.05.2012

Law of Georgia #1470 from October 4, 2013 – web-site, 16.10.2013

Law of Georgia #1781 from December 13, 2013 – web-site, 28.12.2013.

#### Article 22. Recommendation

1. The recommendation of the head of the probation bureau filed in court shall contain:
  - a. The title of the statutory act, in the course of execution of which there emerged a necessity to apply to the court with a recommendation;
  - b. Data regarding the offender and duties imposed upon him/her by the court;
  - c. Data regarding the offender's conduct and the grounds for filing a recommendation in the court;
  - d. Data regarding the occupation of the legal entity and the grounds for filing a recommendation in the court;
  - e. Substance of the recommendation.
2. Recommendation shall be signed and stamped by the head of the probation bureau/head of the establishment.
3. Evidence proving the facts formulated in the recommendation shall be attached to the recommendation.
4. Recommendation shall be accompanied by a copy of personal case file of the offender (legal entity) approved by the head of the bureau/establishment.

Law of Georgia #6215 from May 15, 2012 – web-site, 29.05.2012

Law of Georgia #2324 from April 30, 2014 – web-site, 13.05.2014

#### Article 23. Termination of execution proceedings

1. In case of ban from holding a particular position or pursuing any particular occupation, the execution proceedings with regard to the executable statutory act shall be terminated upon the expiration of the time, for which the person has been banned from holding a particular position or pursuing a particular occupation, likewise upon his exemption from serving this punishment.
2. In case where the person is sentenced to community service, the execution proceedings of the executable statutory act shall be terminated:
  - a. upon serving out the whole term of punishment;
  - b. upon replacement of community service with another punishment or exemption from serving that punishment.



3. In case where the person is sentenced to correctional work, the execution proceedings of the executable statutory act shall be terminated:
  - a. upon serving out the whole term of punishment;
  - b. upon replacement of correctional work with another punishment, also upon exemption from serving that punishment.
4. In case when offender is under conditional sentence, the execution proceedings with regard to the executable statutory act shall be terminated:
  - a. upon expiration of probation period as defined by the court;
  - b. upon revocation of the conditional sentence and expunging the offender's previous convictions;
  - c. upon adoption of a statutory act revoking the conditional sentence and ordering the execution of the punishment imposed by the sentence.
5. In case of conditional early release of the offender, the execution proceedings with regard to the executable statutory act shall be terminated:
  - a. upon the expiration of the time of the unserved term of punishment;
  - b. upon the adoption of a statutory act revoking the conditional sentence and ordering the execution of the unserved part of the sentence.
6. Upon suspension of the execution of punishment, the execution proceedings with regard to the executable statutory act shall be terminated:
  - a. upon expiration of the time, for which the court suspended the execution of the punishment;
  - b. upon adoption of a statutory act revoking suspension of the execution of the punishment and assigning the offender to the place designated for serving the punishment by the sentence;
  - c. Upon adoption of a statutory act revoking suspension of the execution of the punishment and exempting the offender from serving the remaining punishment.
7. In case a legal entity is banned from carrying out a particular occupation, the execution proceedings with regard to an executable statutory act shall be terminated:
  - a. In case of liquidation of the legal entity, sentenced by the court to be banned from pursuing a particular occupation;
  - b. Upon expiration of the term of punishment imposed by the court;
  - c. In case the court upon a recommendation by the head of probation bureau orders replacement of banning from practicing a particular occupation with another punishment.
- 7<sup>1</sup>. In case of execution of punishment designated/changed in the form of liberty restriction, the execution proceedings with regard to an executable statutory act shall be terminated:
  - a) Upon expiration of the term of punishment;
  - b) Upon change of liberty restriction by another punishment, as well upon earlier release of offender from punishment in the form of probation punishment;
  - c) Upon release of offender from punishment.
8. In case stipulated in par. 6 "a" of this article, a probation officer shall notify the court about the expiration of the time for which the execution of the punishment has been suspended.
- 8<sup>1</sup>. If offender, against whom non-custodial punishment is designated, or probationer offender or offender against whom imprisonment is designated during probation period, head of probation agency terminates execution proceeding by the order of head of territorial body.
- 8<sup>2</sup>. Court is obliged to notify immediately the territorial body of the probation agency about designation of imprisonment as a measure of liberty limitation, or its change or cancel. In case of change of imprisonment with another punishment or its cancel, execution proceeding is continued.
9. In cases, when the executable statutory act has been revoked or the death of the offender, or expulsion of offender from Georgia based on the law of Georgia "Foreigners and aliens legal status", in case of entering into force of the court decision, execution proceedings shall be terminated. [to be applied to the legal relations before entering this law in force].

10. Upon termination of the execution proceedings, the execution case file shall be kept in accordance with Georgian legislation.

Law of Georgia #5626 from December 27, 2011 – web-site, 12.01.2012.

Law of Georgia #1470 from October 4, 2013 – web-site, 16.10.2013.

Law of Georgia #2324 from April 30, 2014 – web-site, 13.05.2014.

Article 24. Official supervision on the execution of statutory acts and information regarding the status of execution of statutory acts

1. The National Probation Agency shall exercise supervision over execution of statutory acts defined by this law.
2. The head of probation bureau shall periodically or upon request present to the National Probation Agency statistical information, report or other necessary documents regarding the status of execution of the statutory acts defined by this law.

Law of Georgia #1933 from November 3, 2009 – SSM I, #35, 19.11.2009. Art. 238

## CHAPTER VI

### Execution of a ban to hold a particular position or pursue a particular occupation

Article 25. Procedure of execution of a ban to hold a particular position or pursue a particular occupation

1. A copy of the court judgment on the ban to hold a particular position or pursue a particular occupation shall be dispatched to the probation bureau according to the place of residence or work of the offender.
2. Probation officer shall register the offender, explain to him/her the terms and rules of serving the punishment, and periodically monitor the compliance with the obligations imposed on the offender.
3. If the probation officer finds out that the offender holds a position or is pursuing an occupation, which is banned to him/her by the judgment, he/she shall send a request to the employer's executive officer to dismiss the offender from the position or bar him/her from the occupation indicated in the judgment.
4. Request of the probation officer directed to the employer should contain a warning concerning the possible criminal liability for interference with execution of the judgment or its non-fulfillment.
5. If the employer does not dismiss the offender from the occupied position or change his field of occupation within five days from the receipt of the probation officer's request, the relevant materials shall be sent to the prosecutor's office.

Article 26. The obligations of administration of the employer where the offender is working

1. Execution of the court judgment banning to hold a particular position or pursue a particular occupation are binding for the administration of the employer where the offender is working;
2. Administration of the employer where the offender is working is under duty:
  - a. to notify the probation bureau of the implemented measures not later than 7 days from the receipt of a copy of the judgment and notification from the probation bureau regarding removal of the offender from a certain position or banning him/her from pursuing a particular occupation;
  - b. upon request of the probation bureau, present without delay any documents, related to the execution of punishment.
  - c. notify within five days the probation bureau about the modification or termination of the labor contract with the offender.

Article 27. The responsibility of those authorities who are entitled to revoke permission for practicing a particular occupation

1. Requirements of the court judgment banning to practice a particular occupation are binding for execution by the authority, which is entitled to revoke permission for practicing a particular occupation.
2. The agency mentioned in the paragraph 1 of this article is obliged to revoke a decision granting the offender permission to practice a particular occupation, within five days from the receipt of a copy of the judgment and the request from the probation bureau, withdraw from him/her relevant documents and notify the probation bureau thereof.

## CHAPTER VII

### Procedure of execution of a statutory act regarding withdrawal of license of a legal entity to pursue a particular occupation

#### Article 28. Execution of a statutory act regarding withdrawal of license to pursue a particular occupation

1. When executing a statutory act regarding the withdrawal of license of a legal entity to pursue a particular occupation a probation officer shall take measures in order to ensure entering changes in the registration files of the legal entity regarding the ban of a particular occupation and the term of the ban.
2. If a statutory act is banning the occupation granted by license/permit, then the probation officer shall notify about the occupational ban the relevant agency issuing the license/permit within 3 days from the receipt of the statutory act for execution.
3. Probation officer shall periodically monitor due compliance by a legal entity with the statutory act regarding withdrawal of license to pursue a particular occupation.
4. If the legal entity fails to comply with the statutory act and continues the banned occupation, the head of probation bureau shall, under the procedure established by this law, file a recommendation to the court and ask for the replacement of the punishment banning the legal entity from pursuing a certain occupation with another type of punishment.
5. Relevant provisions of execution of punishment shall be also applicable with regard to the legal entity, except for the cases when they are inapplicable due to the contents of the norm.

## CHAPTER VIII

### Execution of community service imposed as punishment

#### Article 29. Procedure of execution of community service imposed as punishment

1. Upon receipt of a copy of the court sentence imposing community service for execution (including the case, when plea bargaining agreement is drawn up in accordance to the rules set by the Criminal Code of Georgia) or a copy of the decision of a local council of the Ministry of Corrections and Legal Assistance of Georgia, the probation bureau defines type and daily duration of community service.
2. The contract between the probation bureau and employer is concluded, which defines the type, total term and daily duration of community service, name and address of the employer, as well as other circumstances important for solution of the matter. Copy of the contract is handed to the offender.
3. In order to ensure proper execution and due control, including electronic monitoring of community service, the National Probation Agency is authorized to conclude/draw up a contract/agreement with the body of local self-governance or other employer, that might envisage obligation of the employer to pay fee for the service. Fee for service received in accordance to this paragraph will be spent for accomplishment of

above and other goals of the National Probation Agency.

4. Taking into consideration offender's social status and working conditions, he/she will be provided with food, or the National Probation Agency will cover his/her food expenses. Conditions and order of its payment is set by the normative act of the Minister of Corrections and Legal Assistance.
5. During community service, taking into consideration executable work, in accordance to the conditions and order set by the Minister of Corrections and Legal Assistance, National Probation Agency provides the offender with appropriate insurance.

Law of Georgia #4430, from March 11, 2011 – website, 22.03.2011

Law of Georgia #5266, from November 11, 2011 – website, 24.11.2011

Law of Georgia #6504, from June 19, 2012 – website, 02.07.2012

Law of Georgia #1781, from December 13, 2013 – website, 28.12.2013.

Article 30. Terms of serving community service as the punishment

1. Community service may be performed in any part of the day.
2. The offender has the right, at his/her own discretion and provided there are adequate conditions, to work on holidays.

Law of Georgia #4430, from March 11, 2011 – website, 22.03.2011.

Article 31 Calculation of the time of community service

1. The time of community service shall be calculated in hours, during which the offender is engaged in the mandatory work, except the cases when a plea bargaining agreement is concluded.
2. If the duration of work offered by the probation bureau to the offender is less than that defined by the court or by a local council of the Ministry of Corrections and Legal Assistance of Georgia, the probation bureau shall, before expiration of the term of the offered work designate a new place of employment. Law of Georgia #4430, from March 11, 2011 – website, 22.03.2011.

Law of Georgia #6504, from June 19, 2012 – website, 02.07.2012

Law of Georgia #1781, from December 13, 2013 – website, 28.12.2013.

Article 32. Duties of the administration of the employer, where the offender performs community service as his/her punishment

1. The employer shall monitor the duration and the workload of the community service performed by the offender and keep relevant records. The probation officer shall periodically check correctness of the records of the employer, the work completed by the offender and shall record the data regarding the completion of the work in the report.
2. The liability arising from the damage caused in the process of performance of community service and its indemnity are defined by Georgian legislation.

Article 33. Responsibility of a person sentenced to community service as a punishment

1. The probation officer shall warn the offender about the liability established by the Georgian legislation for violation of rules and conditions of community service.
2. If the offender refuses to perform community service or persistently escapes from it, head of the probation bureau, under the procedure established by this law shall apply to the court with a recommendation for the replacement of the community service with another type of punishment.
3. In case of non-appearance at work by an offender sentenced to the community service a conditions for

excuse set in paragraph 1 of article 12<sup>1</sup> shall apply.

4. In case of good reason for excuse an employer with the agreement with the probation officer is authorized to let the offender not to appear at work on a specific day. In this case the offender shall complete the work on the other day.

Law of Georgia #6215 from May 15, 2012 – web-site, 29.05.2012

Article 33<sup>1</sup>. (withdrawn)

Law of Georgia #895 from December 26, 2008 – SSM I, #41, 30.12.2008, Art. 319

Law of Georgia #2698 from March 9, 2010 – SSM I, #12, 24.03.2010, Art. 69

Law of Georgia #4430, from March 11, 2011 – website, 22.03.2011.

Law of Georgia #6504, from June 19, 2012 – website, 02.07.2012.

## Chapter VIII<sup>1</sup>

### Enforcement of Free Community Service undertaken by a diverted person

Law of Georgia #6215 from May 15, 2012 – web-site, 29.05.2012

Article 33<sup>2</sup>. The rules of enforcement of free community service

1. If a diverted person undertakes obligation of free community service as a condition for diversion, the prosecutor send the probation bureau information about diversion condition; afterwards the probation bureau defines type of work and daily time limit.
2. The respective rules of this law apply to fulfilment of free community service by a diverted person.

Law of Georgia #6215, from May 15, 2012 – website, 29.05.2012.

Article 33<sup>2</sup>. Supervision of enforcement of free community service

1. The respective Probation Bureau supervises full enforcement of free community service by a diverted person.
2. The probation bureau periodically informs the prosecutor about fulfilment of free community service by a diverted person.

Law of Georgia #6215, from May 15, 2012 – website, 29.05.2012.

## CHAPTER IX

### Execution of correctional work imposed as punishment

Article 34. Procedure of execution of correctional work imposed as punishment

1. Execution of correctional sentence shall take place at the principal employment place of the offender.
2. Upon receipt of the court judgment imposing correctional work or providing the offender moved to another job, the probation bureau shall send to the employer a request to withhold an amount corresponding to the percent rate established by the court from the offender's salary to be transferred to the state budget.
3. The request sent to the employer shall indicate possible criminal liability for non-compliance with the judgment or interference with its execution.

Article 35. Conditions of serving correctional work

1. In the process of serving correctional work, the offender is prohibited to voluntarily vacate his/her job without written consent of the probation bureau. The consent may be given only when there is a proper justification of the reason to vacate the position by the offender. The refusal to consent shall be motivated. That refusal may be appealed in court under procedure established by the law.

2. In case correctional work cannot be enforced due to unemployment or other excuse the National Probation Agency is authorized to enforce this sentence via a non-profit/profit oriented legal entity of the Agency.  
Law of Georgia #6215 from May 15, 2012 – web-site, 29.05.2012

#### Article 36 Calculation of the time of serving correctional work

The time of serving correctional work shall be deemed as the time during which the offender was working and his salary was deducted in favor of the budget.

The correctional work shall start from the day when the administration of the place of employment of the offender receives a copy of the judgment and other relevant documents from the probation bureau.

#### Article 37. The duties of administration of the place of employment of the offender

1. Administration of the company where the offender is serving his/her correctional work is under duty to deduct from the salary of the offender in timely and accurate manner and transfer the deducted amount under the appropriate procedure; monitor the behavior of the offender; notify the probation bureau of the incentives or sanctions applied against the offender; as well as his transfer to other job or his dismissal.
2. If in the course of serving the punishment, the offender is dismissed from the job on the initiative of the employer, the administration is obliged to notify immediately the probation bureau thereof.
3. The probation bureau shall apply to the relevant employment service with the request to provide the offender with job.
4. The employment service is under duty to notify probation bureau about providing employment for the offender.
5. The offender shall be immediately notified about job proposal.

#### Article 38. Procedure of deducting from the salary of the offender serving correctional work

1. The probation officer shall check the accuracy of deductions from the salary of the offender, performed by employer. In case of existence of relevant grounds, the probation officer has the right to seek engagement of the relevant bodies for the purpose of control.

In case the financial position of the offender deteriorates, the probation bureau, the offender, the administration of the place of employment have the right to apply to the court with a motion of reduction of the sum deductible from the offender's salary.

#### Article 39. Responsibility of the offender sentenced to correctional work

If the offender persistently fails to abide by correctional work or violates conditions and rules of serving of the sentence, head of the probation bureau shall apply to the court with recommendation to replace correctional work with another type of punishment.

### CHAPTER X

Procedure of execution of statutory acts regarding the application of probation measures to the offender (conditional sentence, early release from serving the sentence and suspension of execution of the sentence)

#### Article 40. Powers of the probation officer and social worker in the course of execution of probation related statutory acts

1. In the course of execution of statutory act envisaged by art. 2 (2) of this law, probation officer shall:
  - a. Monitor the fulfillment of the duties imposed by court upon offender;
  - b. Monitor the offender's conduct and provides him with assistance;
  - c. Carry out educational measures with regard to the offender;
  - d. To the best of his/her ability help the offender with employment;

- e. Implement other measures, which would contribute to the offender's re-socialization, for which, whenever necessary, establishes contacts with local self-governance bodies and other State or non-governmental agencies;
  - f. Execute appropriate legal act according the offender's risks assessment and individual sentence plan. Principles, rules and forms for development of individual sentence plan are determined by the Minister of Corrections and Legal Assistance. In the course of execution of this function probation officer actively cooperates with social worker;
  - g. Provide registration of execution by the offender requirements of legally established regime, or other information about him/her through a special software, which is conducted according to the regulations and forms determined in the "Instruction for non-custodial and probation acts about enforcement process" by the Minister of Corrections.
- 1<sup>1</sup>. The use and reveal of the information (except the cases prescribed by the Article 50 paragraph 3 of Criminal Administrative Code of Georgia) got while conducting professional activities at the National Probation Agency shall lead to the responsibility defined in the Georgian legislation.
  2. In the course of monitoring the conduct of the offender in fulfilling his obligations imposed by the court, the probation officer has the right:
    - a. To summon the offender for registration at the instances and intervals stipulated by this law;
    - b. Seek for the explanations from the offender;
    - c. Obtain information regarding the conduct of the offender from his relatives, acquaintances, place of employment and educational institution;
    - d. Request data regarding the offender from the State and relevant medical institutions;
  3. On the basis of the contract reached with the National Probation Agency and criteria set by the latter, the measures indicated in Subparagraphs "c" and "e" of Paragraph 1 of this Article may also be carried out by a social institution, social worker or an individual with relevant education.
  4. Social worker can be admitted to participate in the course of execution of contracts identified in the paragraph 5 of the article 105 of the Criminal Procedure Code of Georgia, on the basis of recommendation of the prosecutor and in the order established by Georgian legislation.
  5. A probation officer supervises fulfillment of obligations set in civil agreement defined in article 67<sup>1</sup> of the Criminal Code of Georgia. The probation bureau periodically provides respective prosecutor with the information about fulfillment of obligation set in the civil agreement.

Law of Georgia #4047 from December 15, 2008 – SSM I, #75, 27.12.2010, Art.

481. Law of Georgia #6215 from May 15, 2012 – web-site, 29.05.2012

Law of Georgia #1730 from December 11, 2013 – web-site, 25.12.2013

Law of Georgia #1781 from December 13, 2013 – web-site, 28.12.2013

#### Article 41. Change of place of residence by the offender

1. If the court, under its writ, imposes a liability on the offender not to change his/her place of residence without consent of the punishment execution body, the head of probation bureau shall consider and decide upon an application of the offender.
2. The permission of change of place of residence decided by the head of probation bureau shall be notified to the offender in writing no later than within two weeks from the receipt of the application.
3. If the court did not impose on the offender an obligation defined by par. 1 of this article, the offender shall notify the authority in charge of control about his/her change of residence two weeks in advance.
- 3<sup>1</sup>. An offender can be moved to the regime of appearance defined in paragraph 1<sup>3</sup> of the article 12 of this law in case of violation of requirements set in paragraphs 1 and 3 of this article.
4. In case of change of place of residence by the offender, the executable case file shall be sent to a probation bureau according to the new place of offender's residence.

Law of Georgia #6215 from May 15, 2012 – web-site, 29.05.2012

Article 42. Giving a warning to the offender whose punishment has been suspended

1. If the execution of the sentence is suspended under art. 2 (2) "c" of this law, and the offender is rejecting his/her child, or is reluctant to contribute to his/her upbringing, the probation officer shall notify the offender in writing that this action constitutes a ground for a recommendation formulated in the article 21 (1) (h) of this law. A report shall be made thereof.
2. If this situation has not been remedied within a week, head of the probation bureau shall apply to the court with a recommendation to revoke suspension of the sentence and have the offender sent to the place designated for serving his/her sentence.

Law of Georgia #5266, from November 11, 2011 – website, 24.11.2011.

Article 43. (Withdrawn).

Law of Georgia #1933 from November 3, 2009 – SSM I, #35, 19.11.2009, Art. 238

Article 44. Non-compliance with the obligation by the offender

1. The following shall be deemed as failure to comply with duties imposed on offender:
  - a. Non-conformity with a legitimate request of the probation officer;
  - b. Failure to comply with the court imposed duty or refusal to comply.
2. The following shall constitute a ground of applying to the court with a recommendation:
  - a. If the offender three times fails to appear to the place and at time determined by the probation officer;
  - b. Failure to comply with the court imposed duty or refusal to comply;
- b<sup>1</sup>. Commission of an action envisaged by Paragraph 6 of Article 15 of this law, if administrative arrest was applied to an offender;
- c. Other cases envisaged by the law.
3. (Withdrawn).

Law of Georgia #1933 from November 3, 2009 – SSM I, #35, 19.11.2009, Art. 238.

Chapter X<sup>1</sup>

Execution of sanction Restriction of Liberty

Law of Georgia #5626 from December 27, 2011 – web-page, 12.01.2012.

Article 44<sup>1</sup>. The rule of execution of a sanction Restriction of Liberty

1. Restriction of liberty is executed at the territory of the establishment based on the individual plan (progressive plan) the conditions of which shall be defined by the head of the establishment.
2. Upon receipt of a legal act on restriction of liberty as a sentence based on his/her needs an obligation of participating in rehabilitation programmes running at the establishment shall be defined for the convict; also with his/her consent and taking into consideration his/her physical and mental capacity after respective training the convict shall be assigned to a work at a non-profit or profit oriented legal entity of the National Probation Agency.
3. The work of a person restricted of liberty shall be remunerated.
4. The rule of executing the legal act on restriction of liberty as sanction is defined by chapter V of this law. Law of Georgia #5626 from December 27, 2011 – web-site, 12.01.2012.



Article 44<sup>2</sup>. The conditions for serving sentence of restriction of liberty

1. The conditions for serving sentence of restriction of liberty means permanently being at the territory of the establishment by a convict during the whole term of sentence, other than non-working days and holidays defined by the Georgian legislation if the charter of the establishment does not defined otherwise.
2. A convict is prohibited to leave the territory of the establishment while serving restriction of liberty without written permission of the head of the establishment. The permission shall be issued only after giving reasons for leaving the territory.
3. A convict shall have access to internet, telephone and other means of communication, also right to the short-term visits at the establishment.
4. The right to short-term visit envisaged in paragraph 3 of this article shall be given to a convict to meet with his/her close relatives (child, spouse, parent with whom has a child, parent, adoptive parent, child, adopted child and his/her successor, grandchildren, sister, brother, niece, nephew and their children, grandmother, grandfather, mother of grandmother, father of grandfather, mother of grandfather, father of grandfather (from the side of mother or father), uncle (brother of mother or father), aunts, cousins, person, together with whom the offender used to lived and was providing common guardianship during last 1 year before coming to the establishment) and if approved by the head of the establishment, as well for to encourage, to meet with the persons not listed herewith. The approval or rejection by the head of the establishment, to meet with the persons not listed herewith, will be notified to the offender in written form.
5. Rules and conditions of implementation of the short-term visit envisaged in paragraph 3 of this article shall be defined by the model charter of the establishment.

Law of Georgia #5626 from December 27, 2011 – web-site, 12.01.2012.

Article 44<sup>3</sup>. Rehabilitation and educational programmes

1. Rehabilitative work shall be conducted with a convict at the establishment.
2. The establishment shall organise rehabilitation and educational programmes.
3. The National Probation Agency cooperated with state agencies and other organisations for the purpose of rehabilitation of convicts.
4. The rehabilitation work shall be conducted with a convict based on his/her personal characteristics and nature of the crime committed by him/her.

Law of Georgia #5626 from December 27, 2011 – web-site, 12.01.2012.

Article 44<sup>4</sup>. General principle of work activities of a convict

1. A convict's work shall be organised according to this code and the rules established by the Georgian labour legislation.
2. A convict is allowed to work at the territory of the establishment if the establishment has possibility to employ him/her.

Law of Georgia #5626 from December 27, 2011 – web-site, 12.01.2012.

Article 44<sup>5</sup>. Organiation of medical service at the establishment

The emergency medical aid spot shall be placed at the establishment.

Law of Georgia #5626 from December 27, 2011 – web-site, 12.01.2012.

Article 44<sup>6</sup>. Working conditions of a convict

The establishment and an employer are obliged to ensure secure working conditions for the life and health of a convict.

Law of Georgia #5626 from December 27, 2011 – web-site, 12.01.2012.

Article 44<sup>7</sup>. Counting of the term of restriction of liberty

Counting of the term of restriction of liberty starts from the moment when a convict is placed at the establishment.

Law of Georgia #5626 from December 27, 2011 – web-site, 12.01.2012.

## CHAPTER XI

### Transitional and conclusive provisions

#### Article 45. Transitional provisions

For the moment this law enters in force:

- a. conditionally sentenced or early released probationers shall have obligation to appear at time and place fixed by the probation officer once a year;
- b. juvenile offenders and early released juveniles shall have an obligation to appear at the fixed time and place no more than once a week as set by the probation officer;
- c. those conditionally sentenced or early released probationers whose sentence expires in less than one year are under the duty to have one appearance at time and place fixed by the probation officer during the whole remaining time of their punishment.

#### Article 45<sup>1</sup>. Regulations for calculating the number of violations of established regime by offender

Calculation of the number of violation of regime established by the article 12 of this law shall commence from January 1, 2010.

Law of Georgia #2997 from April 27, 2010 – SSM I, #24, 10.05.2010, Art. 161.

#### Article 45<sup>2</sup>. Term of repeated review of solicitation on revocation of conditional sentence by the Standing Committee

The term determined by the paragraph 11 of the article 21<sup>1</sup> of this law is valid till December 31, 2013, inclusive, and from January 1, 2014, this term shall be 6 months.

Law of Georgia #5266, from November 11, 2011 – website, 24.11.2011.

#### Article 45<sup>3</sup>. Effective term of execution of liberty prohibition designated as a punishment

Validity of sub-paragraph A of the paragraph 6 of the Article 7<sup>1</sup> of this law to be terminated before January 1, 2015.

Law of Georgia #1470, from October 4, 2013 – website, 16.10.2013.

Article 45<sup>4</sup>. Application of rules set forth in the paragraph 1 of the Article 5 and paragraph 8 of the Article 18 of this law against the offenders, whose residence place (actual or legal address) is located on the occupied territories as defined in the law of Georgia on “Occupied Territories”

1. Before full restoration of jurisdiction of Georgia on the occupied territories as defined by the law of Georgia on “Occupied territories”, in the cases set forth in the paragraph 1 of the Article 5 of this law, is offender’s residential place (actual or legal address) is located on the occupied territories as defined in the law of Georgia on “Occupied Territories”, statutory act issuing authority is obliged to state in the statutory act the probation bureau, where offender will appear.
2. Before full restoration of jurisdiction of Georgia on the occupied territories as defined by the law of Georgia on “Occupied territories”, the responsibility of notification of offender as set forth in the paragraph 8 of the Article 18 of this law, not applies to the offender, whose residential place is located on the occupied

territories as defined by the law of Georgia on “Occupied territories”.  
Law of Georgia #2324, from April 30, 2013 – website, 13.05.2014.

**Article 45<sup>6</sup>. Approval of “Instruction for enforcement proceedings of non-custodial punishments and probation acts”**

The Minister of Corrections will approve before July 1, 2016 “Instruction for non-custodial punishments and enforcement proceeding of probation acts.

Article 46. Normative act to made void

After entry into force of this law, the law of Georgia from June 19, 2001 "On Procedure of Execution of Non-custodial Sentences and Probation" shall be invalidated (Sakartvelos Sakanonmdeblo Matsne (E-Legislative Newsletter of Georgia) N21, 4.07.2001, article 76).

Article 47. Entry into force of this law

This law shall enter into the force on the 15<sup>th</sup> day upon its publication.  
President of Georgia Mikheil Saakashvili June 19, 2007  
#4956-IS