

**LAW**  
**of the Republic of Tajikistan**  
**On adoption of the Criminal Executive Code**  
**of the Republic of Tajikistan**

Majlisi namoyandagon of the Majlisi Oli of the Republic of Tajikistan decrees:

1. To adopt the Criminal executive Code of the Republic of Tajikistan.
2. From the day of consummation of the Criminal executive Code of the Republic of Tajikistan to declare invalid the Criminal executive Code of the Tajik SSR, adopted by the law of Tajik SSR of 26 June 1970 'On adoption of the Criminal executive Code of the Tajik SSR', as well as all the laws amending and supplementing the Code during the period since 26 June 1970 to 28 June 2001.

President of the

Republic of Tajikistan E. Rakhmonov

Dushanbe

6 August 2001

№ 32

**GENERAL PART**

**Section I. Principal provisions of the criminal executive legislation of the Republic of Tajikistan**

**Chapter 1. General provisions**

**Article 1. Criminal executive legislation of the Republic of Tajikistan**

1. The criminal executive legislation of the Republic of Tajikistan is based on the Constitution of the Republic of Tajikistan and consists of the present Code and other laws.
2. The criminal executive legislation of the Republic of Tajikistan shall conform to international legal acts recognized by Tajikistan and provisions of the international treaties concluded by Tajikistan.

## **Article 2. Normative legal acts on punishment execution**

Criminal executive bodies of executive power shall be entitled to adopt legal normative acts on punishment execution.

## **Article 3. Goals and objectives of the Criminal executive code**

1. The goals of the criminal executive legislation of the Republic of Tajikistan shall be correction of convicted persons and preventing commission of new crimes both by a convicted person and other persons.

2. The objectives of the criminal executive legislation shall be as follows: regulating the order and conditions of execution and serving of a punishment; identifying means for correction of convicted persons; protection of rights, freedoms and legal interests of convicted persons; rendering assistance to convicted persons in social adaptation.

3. In order to implement these goals and objectives, the present Code shall specify general provisions and principles of execution of sentences and other penal measures provided by the Criminal code; the order and conditions of execution and serving of a punishment and application of the means for correction of convicted persons; legal status of convicted persons and guarantees of their rights, freedoms and legal interests; order of activities of criminal executive institutions and bodies as well as participation of state government bodies, local government bodies, other organizations, public associations and citizens in correction of convicted persons; order of release from punishment and rendering assistance to persons subject to release.

## **Article 4. Grounds for execution of sentence and application of other penal measures**

A sentence or altering it decision and order of the court, which entered legal force, as well as act of amnesty and grant of pardon shall be considered as the grounds for execution of sentence and application of other penal measures.

## **Article 5. Territorial application of the criminal executive legislation and its effect in time**

1. Execution of a sentence as well as application of other penal measures and assistance to the persons subject to release shall be fulfilled in accordance with the legislation valid at the time of their execution.

2. The criminal executive legislation of the Republic of Tajikistan shall be applied throughout the whole territory of the Republic of Tajikistan.

## **Article 6. Application of the Criminal executive code of the Republic of Tajikistan in regard to persons sentenced by courts of a foreign state**

Citizens of the Republic of Tajikistan as well as stateless permanent residents of the Republic of Tajikistan sentenced by courts of a foreign state may be extradited to the Republic of Tajikistan

for execution and further serving of a sentence in accordance with the international legal acts recognized by the Republic of Tajikistan.

#### **Article 7. Extradition of persons sentenced by courts of the Republic of Tajikistan**

1. Citizens of the Republic of Tajikistan sentenced by courts of the Republic of Tajikistan shall not be subject to extradition under any conditions.
2. Foreign citizens and stateless persons sentenced by courts of the Republic of Tajikistan may be extradited to a foreign state for execution and further serving of a sentence in accordance with international treaty of the Republic of Tajikistan.

#### **Article 8. Principle of legality**

1. Activities of institutions, bodies and officials in charge of execution of a sentence shall be based on obligatory observance of laws. Officials of these institutions and bodies shall be responsible for ensuring legality in their activities according to established order.
2. Convicted persons shall keep requirements of the laws specifying order and conditions of execution and serving of a sentence.
3. Convicted persons shall be explained in a full extent of their rights and responsibilities provided by law, and they shall have access to normative legal acts regulating execution of a sentence.

#### **Article 9. Principle of equality before law**

The order and conditions of execution of a sentence shall be determined irrespective of social, official and property status, political convictions, type and character of convicted person's occupation before committing a crime, race, nationality, citizenship, education, language, religious affiliation and other circumstances.

#### **Article 10. Principle of humanity**

1. While execution of a sentence the minimum of rights limitations, which are necessary and sufficient for achieving the goals of sentence shall be applied to a convicted person.
2. It shall be strictly prohibited to subject convicted persons to tortures or cruel, inhumane and degrading his dignity treatment, medical or any other scientific experiments, regardless of his consent, which may endanger his life and health.

#### **Article 11. Principle of democracy**

1. Application of correctional measures to convicted persons shall be implemented by developing their useful initiative, self-government in collaboration with amateur organizations, close relatives and other persons, who can positively influence them.

2. The public may participate in correcting convicted persons, rendering assistance to released persons in arrangement of employment and living conditions, as well as in activities of the criminal executive institutions and bodies.

3. Activities of the criminal executive institutions and bodies shall be implemented on the basis of publicity and coordination with public organizations and mass media.

#### **Article 12. Principle of justice and stimulation of law-abiding conduct**

1. Conduct of convicted persons while serving their sentence, observance of the established rules, attitude to labor and study shall be taken into account while changing conditions of detention, extending or reducing limitations of rights within the limits specified by law.

2. While making decisions on application of stimulation and punishment measures on convicted persons, officials shall be impartial and governed only by the law.

#### **Article 13. Principle of differentiation and individualization of execution of a sentence**

Criminal punishments shall be executed in accordance with the requirements of its differentiation and individualization, and the character and degree of public danger of the crime committed, personality of a convicted person, his conduct during serving a sentence, attitude of a convicted person to labor and other circumstances shall be taken into consideration.

#### **Article 14. Correction of convicted persons and its main means**

1. Correction of a convicted person refers to forming his respectful attitude to a man, society, labor, norms, rules and traditions of the community, and stimulating his law-abiding conduct.

2. The main means of correction include the established order of execution and serving of a sentence (regime), educational activities, labor, general education, professional training and public influence.

3. The means of correction shall be used by taking into account type of punishment, character and degree of public danger of the crime committed, personality of a convicted person and his conduct.

### **Chapter 2. Legal status of convicted persons**

#### **Article 15. Foundations of the legal status of convicted persons**

1. The Republic of Tajikistan respects and protects rights, freedoms and legal interests of convicted persons, provides for conditions of serving of a sentence established by law, guarantees of social justice, legal protection, as well as personal security while execution of a sentence.

2. While executing a sentence convicted persons are guaranteed rights and freedoms of citizens with exceptions and restrictions established by the criminal executive, criminal and other legislation. Convicted persons shall not be discharged from their civil responsibilities, except for cases provided by law.

3. The rights and responsibilities of convicted persons shall be defined by present Code taking to account the order and conditions of execution of a particular type of punishment.

#### **Article 16. Basic rights of convicted persons**

1. Convicted persons have the right to receive written information about their rights and responsibilities, the order and conditions of serving of a sentence imposed by court. Criminal executive institution or body shall provide convicted persons with the mentioned information and acquaint them with changes made to the order and conditions of serving of a sentence.

2. Convicted persons have the right to polite treatment by staff of the criminal executive institution or body. They shall not be subject to cruel or dignity degrading treatment. The application of coercive measures shall be based only on law.

3. Convicted persons have the right to apply with proposals, applications and complaints to the administration of the criminal executive institution or body, higher bodies, courts, offices of public prosecutor, other bodies of state government and local government, public associations, as well as to interstate bodies and international organizations for protection of human rights and freedoms.

4. Convicted persons have the right to give explanations and be in correspondence, make proposals, applications and complaints mentioned in part three of the present article in their native language or any other language they know, and in necessary cases they may use translation service. Convicted persons should receive a reply in the language of application, and if it is not possible to reply in the language of application, it shall be given in the state language of the Republic of Tajikistan. Translation of the reply into state language shall be provided by the institution or body in charge of execution of a sentence.

5. Convicted persons have the right to health protection including first medical-sanitary and specialized medical aid in out-patient and in-patient facilities depending on medical prescription as well as the right to material and social provision.

6. Convicted persons have the right to social maintenance, including pensions and social allowances, on general grounds in accordance with legislation of the Republic of Tajikistan.

7. In order to receive qualified legal aid, convicted persons may use services of attorneys and other persons having right to render such services.

8. Convicted persons have the right to have meetings with family members, relatives and receive food and other articles of prime necessity.

9. Convicted persons have the right to compensation of the damage caused to him while execution of a sentence according to order established by law.

10. The order of realization of convicted persons' rights is determined by the present Code and other normative legal acts.

11. The realization of convicted persons' rights shall not violate the internal regulations, as well as infringe upon other persons' rights and legal interests.

### **Article 17. Primary responsibilities of convicted persons**

1. Convicted persons should fulfill the duties of citizens prescribed by legislation of the Republic of Tajikistan, observe socially accepted moral norms of conduct, sanitary and hygienic rules.

2. Convicted persons shall have responsibilities arising from the type of punishment imposed by court.

3. Convicted persons should observe requirements of the law specifying the order and conditions of serving a sentence, normative legal acts adopted in accordance with it.

4. Convicted persons should fulfill lawful requirements of administration of the criminal executive institutions and bodies.

5. Convicted persons shall treat the staff, other persons visiting criminal executive institutions and other convicted persons with respect.

6. Convicted persons should appear upon request of administration of the criminal executive institutions and bodies, provide explanations on issues regarding performance of the requirements of a sentence. In case of non-appearance convicted persons may be subject to compulsory bringing.

7. Non-fulfillment of the responsibilities imposed on convicted persons and lawful requirements of administration of the criminal executive institutions and bodies entails liability established by law.

### **Article 18. Legal status of convicted foreign citizens and stateless persons**

1. Convicted foreign citizens and stateless persons shall have the rights and responsibilities provided by the present Code, as well as by the international legal documents recognized by Tajikistan, legislation on legal status of foreign citizens with exceptions and restrictions specified by the criminal executive, criminal and other legislation.

2. Foreign citizens sentenced to liberty restraint, confinement and deprivation of liberty shall also have the right to communicate with diplomatic representatives and consular offices of their state, but citizens of those states, which do not have diplomatic and consular offices in the Republic of

Tajikistan, may communicate with diplomatic representatives of a state, which undertook to protect their interests, or international bodies responsible for their protection.

### **Article 19. Appeals of convicted persons and order of their consideration**

1. Convicted persons may submit proposals, applications and complaints, including on issues of violation of their rights and legal interests.
2. Proposals, applications and complaints of convicted persons may be made in oral and written form. They shall be considered by administration of the criminal executive institutions or bodies.
3. Proposals, applications and complaints of the persons sentenced to confinement, detention in a disciplinary military unit, deprivation of liberty, death penalty, addressed to the bodies mentioned in part 3 of the article 16 of the present Code shall be forwarded through the administration of the criminal executive institutions and bodies. Persons sentenced to other kinds of punishment shall send their proposals, applications and complaints on their own.
4. Proposals, applications and complaints of the persons sentenced to confinement, detention in a disciplinary military unit, deprivation of liberty, death penalty, addressed to the bodies authorized to supervise activities of criminal executive institutions and bodies, shall not be subject to censorship, and they shall be forwarded to the proper place within 24 hours, except for weekends and holidays.
5. Proposals, applications and complaints of convicted persons regarding decisions and actions made by administration of the criminal executive institutions and bodies shall not suspend these decisions and actions.
6. After receiving proposals, applications and complaints of convicted persons, bodies and officials shall consider them within a period specified by legislation of the Republic of Tajikistan and inform convicted persons about made decisions.

### **Article 20. Right of convicted persons to personal security**

1. Convicted persons have the right to personal security.
2. If there is a danger to life, health or a danger of committing any other personal crime against a convicted person by other persons, he is entitled to apply to any official of the institution in charge of execution of the penalties of liberty restraint, confinement, deprivation of liberty and detention in a disciplinary military unit with the request to provide security or transfer him to a safe place. In this case the official shall take immediate measures to provide personal security for the convicted person.
3. The chief of the institution upon application of the convicted person or on his own initiative shall make a decision to transfer the convicted person to a safe place or take other measures for prevention of a crime against convicted person, or he shall make a decision about a place of further punishment serving in accordance with order established by law.

4. Officials who did not take necessary measures for providing security of convicted persons shall be liable according to legislation of the Republic of Tajikistan.

### **Article 21. Ensuring freedom of conscience and religion of convicted persons**

1. Convicted persons shall be guaranteed freedom of conscience and religion. Each convicted person has a right to determine independently his attitude to religion, practice any religion separately or jointly with other people or practice no religion, participate in performing religious cults, rituals and ceremonies, freely choose and have religious or atheistic convictions and act according to them.

2. If requested, persons serving their penalty of limitation of liberty may be permitted to visit institutions of religion within the administrative territory where a correctional center is situated.

3. If requested, ministers of the religious institutions registered in established order may be invited for persons who serve their penalties of confinement or deprivation of liberty (except for convicted persons, who are kept in isolation wards, punitive and disciplinary isolators, cell-types room and solitary confinement cells). Convicted persons are allowed to perform religious ceremonies and use cult objects and religious literature in the institutions in charge of execution of a sentence according to order established by legislation of the Republic of Tajikistan. Administration shall provide appropriate place for those purposes.

4. If requested, before execution of a sentence seriously sick convicted persons and persons sentenced to death penalty shall be given a chance to perform necessary religious ceremonies with invitation of ministers of religion.

5. Performance of any religious ceremonies shall not violate the internal regulations and infringe rights of other convicted persons serving their punishment.

### **Article 22. Notification on a place of serving of a sentence**

When convicted persons arrive to the sentence service place or when they are transferred to another place the administration of an institution or body in charge of execution of sentence shall notify close relatives of convicted persons' choice of the place of their detention within 10 days from the day of their arrival or transfer.

## **Chapter 3. Institutions and bodies in charge of execution of a sentence and control over their activities**

### **Article 23. Institutions and bodies in charge of execution of a sentence**

1. Penalties of fine and confiscation of property shall be executed by the court, which passed the sentence, as well as by a court at the location place of property, employment and residence places of the convicted person.



2. Penalty of revocation of the right to hold a post or be engaged in specific activities shall be executed by the inspection on correctional affairs at the place of residence of the convicted person, correctional institutions or disciplinary military unit. The requirements of the sentence of revocation of the right to hold a post or be engaged in specific activities shall be executed by the administration of the organization at the employment place of the convicted person, as well as by bodies, which are authorized by law to annul a license for doing respective activities.

3. Penalty of deprivation of military, diplomatic, other special ranks and state awards shall be executed by the court, which passed the sentence. The requirements of the sentence to deprive military, diplomatic, other special ranks and state awards shall be executed by the official or body that conferred military, diplomatic, other special ranks and state awards.

4. Penalty of correctional labor shall be executed by inspection on correctional affairs.

5. Penalties of liberty restraint, confinement, deprivation of liberty and death penalty shall be executed by institutions of criminal executive system.

6. Penalties of military service restrictions, confinement and detention in a disciplinary military unit in regard to servicemen shall be executed by the Ministry of Defense of the Republic of Tajikistan. The requirements of sentence in the form of military service restrictions shall be executed by a command of military units, institutions, bodies and military formations where the convicted servicemen serve; the requirements of sentence in the form of confinement shall be executed by the garrison command of military detention for convicted servicemen; the requirements of sentence in the form of detention in a disciplinary military unit shall be executed by special military units of the Ministry of Defense of the Republic of Tajikistan.

7. Convicted persons on probation shall be supervised by inspection on correctional affairs. Convicted servicemen on probation shall be supervised by command of military units.

#### **Article 24. Application of medical compulsory measures**

1. The bodies and institutions responsible for execution of penalties of liberty restraint, confinement or deprivation of liberty shall also execute a court judgment on compulsory treatment of persons suffering alcoholism, drug addiction or substance intoxicating, as well as suffering mental disorders not excluding sanity.

2. If at the time of serving the penalties specified in part one of the present article it will be discovered that a convicted person suffers alcoholism, drug addiction or substance intoxicating, a body or institution in charge of execution of a sentence shall submit to court a recommendation on application of compulsory medical measures to the convicted person.

3. The grounds and procedure for application, execution and cancellation of compulsory measures of a medical nature in relation to the persons mentioned in part one of the present article, as well as to the persons sentenced to other types of punishment shall be determined by articles 96-103 of the Criminal Code of the Republic of Tajikistan.

4. Upon decision of a medical commission a body or institution in charge of execution of sentence shall impose compulsory treatment on the persons sentenced to the types of punishment specified in part one of the present article, who are HIV infected, suffering tuberculosis and who have not completed venereal disease treatment course.

5. In case if a treatment of a convicted person is not completed by the time of his release, upon medical conclusion the administration of the correctional institution shall submit a recommendation to extend compulsory treatment of the person in a medical institution with special medical regime.

#### **Article 25. Court supervision**

1. The institutions and bodies in charge of execution of a sentence shall notify the court, which passed the sentence, about the beginning of the period of serving the punishment and place of serving the punishment of liberty restraint, confinement, detention in a disciplinary military unit, deprivation of liberty, as well as about serving the punishments of fine, revocation of the right to hold a post or be engaged in specific activities, deprivation of a military, diplomatic, other special ranks and state awards, correctional labor, military service restrictions, confiscation of property and death penalty.

2. The court shall control the execution of a sentence when solving issues on grant of parole, mitigating the unserved part of a sentence, discharge from punishment due to illness, discharge from punishment due to emergency circumstances, release of pregnant women and women having children younger than three years old from the punishment serving and changing type of correctional institution.

3. The court shall consider complaints of convicted persons and other persons against the administration of criminal executive institutions and bodies in cases and order established by legislation of the Republic of Tajikistan.

#### **Article 26. Public prosecutor's supervision over execution of a sentence**

Supervision over exact observance and uniform implementation of laws while executing and serving a punishment, shall be implemented by the Prosecutor General of the Republic of Tajikistan and his subordinate public prosecutors in accordance with the Law "On public prosecution bodies of the Republic of Tajikistan".

#### **Article 27. Departmental supervision**

Direct supervision over activities of criminal executive institutions and bodies shall be implemented by higher government bodies and their officials. The order for implementing departmental supervision shall be determined by normative legal acts.

#### **Article 28. Assistance and participation of public associations in activities of criminal executive institutions and bodies**

Public associations may render practical assistance in activities of criminal executive institutions on the grounds and in the order established by the legislation of the Republic of Tajikistan.

### **Article 29. Visiting of the criminal executive institutions**

1. The following persons shall have the right to visit criminal executive institutions without having a special permission in course of duty:

a) President of the Republic of Tajikistan, Prime Minister of the Republic of Tajikistan, members of Majlisi milli, deputies of Majlisi namoyandagon of the Majlisi Oli of the Republic of Tajikistan and judges.

b) Prosecutor General, as well as public prosecutors authorized by him and public prosecutors who directly implement supervision over execution of punishment on the given territory;

c) chiefs of the higher authorities supervising criminal executive institutions and bodies.

d) deputies and members of the commissions implementing control over activities of criminal executive institutions and bodies within the limits of respective territories.

2. Mass media representatives and other persons shall have the right to visit criminal executive institutions and bodies upon special permission given by the administration of these institutions and bodies or higher authorities supervising criminal executive institutions and bodies

3. Cine filming, photographing, video filming and interviewing of convicted persons, including by means of sound and video equipment shall be permitted upon written permission of the convicted persons.

4. Cine filming, photographing, video filming of the objects providing security and guarding of the convicted persons shall be permitted upon written permission of the administration of criminal executive institution.

## **SPECIAL PART**

### **Section II. Execution of the punishments not connected with isolation of convicted persons from society**

#### **Chapter 4. Execution of the penalty of fine**

### **Article 30. Order of execution of the penalty of fine**

1. Penalty of fine shall be executed by the marshals of the court from district and city courts at the place of residence or employment of convicted persons or at the place of serving of a principal punishment.

2. A convicted person shall pay fine within thirty days after his sentence comes into legal force.
3. Upon application of the convicted person and conclusion of the marshal, the court may defer or permit payment of fine by installments for a period of up to six months if the convicted person cannot do it in a single payment.
4. If a convicted person fails to pay the fine within fixed period, punishment shall be executed in coercive way including the way of recovery from the property of convicted person mentioned in the first part of the article 199 of present Code in the order established by the civil procedure legislation of the Republic of Tajikistan .
5. Fine may not be recovered from the property mentioned in the list of the property that is not subject to confiscation according to the court sentence.

### **Article 31. Malignant evasion of fine payment**

1. Evasion of fine payment shall be considered as malignant, if a convicted person has not paid the fine within the time specified by part two of the article 30 of the present Code or concealed his income and property from coercive recovery.
2. In case of the malignant evasion of fine payment or impossibility of its payment by convicted person, the marshal of the court shall submit proposal on substitution of fine by another type of punishment in the order determined by part five of the article 49 of the Criminal Code of the Republic of Tajikistan.

### **Article 32. Termination of executive actions**

A receiving order with the entry about execution of the sentence of fine recovery shall be returned to the court that passed the sentence.

## **Chapter 5. Execution of the penalty of deprivation of the right to hold a post or be engaged in specific activities**

### **Article 33. Order of execution of the penalty of deprivation of the right to hold a post or be engaged in specific activities**

1. The penalty of deprivation of the right to hold a post or be engaged in specific activities when imposed as a principal punishment or supplementary punishment in addition to fine or correctional labor as well as in case of probation shall be executed by the inspection on correctional affairs at the place of residence of convicted person, as well as by the administration at the place of employment or body which gave a license for doing specific activities.
2. This penalty imposed as a supplement to principal penalties of liberty restraint, detention in a disciplinary military unit or deprivation of liberty shall be executed by an institution or body in charge of execution of the principal penalty. After a convicted person served his principal penalty or in case of release from penalty and mitigating of the unserved part of punishment, the

administration of these institutions shall send a copy of the sentence for further execution to the inspection on correctional affairs at the place of residence of the convicted person.

3. In case of the military draft of convicted persons or enrolment to alternative service the inspection on correctional affairs shall send a copy of the sentence for execution of given punishment during military service to the military registration and enlistment office or to the place of service.

#### **Article 34. Calculation of the term of the penalty of deprivation of the right to hold a post or be engaged in specific activities**

1. The term of penalty of deprivation of the right to hold a post or be engaged in specific activities when imposed as a principal punishment or supplementary punishment in addition to fine or correctional labor as well as in case of probation if execution of supplementary punishment was not deferred shall be calculated from the moment when sentence comes into legal force. The period of time during which a convicted person held prohibited posts or was engaged in prohibited activities shall not be included to the term of the mentioned penalty.

2. While imposing this penalty as a supplementary punishment in addition to liberty restraint, confinement, detention in a disciplinary military unit and deprivation of liberty it shall be applied for the entire term of serving of a principal penalty, and plus, for the term prescribed by sentence and shall be calculated respectively from the day of release from correctional center, detention home, disciplinary military unit or correctional institution.

3. In case of release of such convicted persons from further serving of sentence the term of the supplementary punishment shall be calculated from the moment of their release.

#### **Article 35. Responsibilities of the inspection on correctional affairs for execution of the penalty of deprivation of the right to hold a post or be engaged in specific activities**

The inspection on correctional affairs at the place of residence of convicted persons shall register convicted persons; control observance of the prescribed by court sentence prohibition to hold a post or be engaged in specific activities by convicted persons; control the execution of the prescribed requirements of the court sentence of deprivation of the right to hold a post or be engaged in specific activities by the administration of enterprises, institutions, organizations or bodies which gave a license for doing specific activities; organize educational activities.

#### **Article 36. Responsibilities of the administration of organizations where a convicted person works**

1. The requirements of sentence in the form of deprivation of the right to hold a post and be engaged in specific activities shall be obligatory for the administration of organizations where a convicted person works.

2. The administration of an organization where a convicted person works is obliged to:

a) relieve the convicted person of his post, which he was deprived of the right to hold or prohibit to be engaged in specific activities, which he was deprived of the right to be engaged, and send a notification about execution of the requirements of the sentence to the inspection on correctional affairs not later than within ten-day period;

b) present documents related to execution of sentence when requested by the inspection on correctional affairs;

c) inform inspection on correctional affairs within three-day period in cases of change or termination of the labor contract with a convicted person;

d) in case of dismissal from organization of the convicted person who has not completed his punishment, make a note in the work-book to indicate on what grounds, for what period, what post a convicted person was deprived of the right to hold and what kind of activities he was deprived of the right to be engaged;

### **Article 37. Responsibilities of a person sentenced to the penalty of deprivation of the right to hold a post or be engaged in specific activities**

Persons sentenced to the penalty of deprivation of the right to hold a post or be engaged in specific activities shall fulfill all orders of the sentence, present documents related to serving of the prescribed punishment at the request of the inspection on correctional affairs, inform the inspection of the place of employment, its change and dismissal.

### **Article 38. Responsibility for non-execution of the sentence of deprivation of the right to hold a post or be engaged in specific activities**

Any official, guilty of non-execution of the court sentence of deprivation of the right to hold specific positions or be engaged in specific activities shall bear responsibility in accordance with the legislation of the Republic of Tajikistan.

## **Chapter 6. Execution of the penalty of correctional labor**

### **Article 39. Order of execution of the penalty of correctional labor**

1. Penalty of correctional labor shall be served according to the court sentence at the place of employment of a convicted person or other places specified by the inspection on correctional affairs but within the inhabited territory where the convicted person lives and taking into account his ability to work and if possible specialization. Moreover, in regard to minor, the necessity to provide appropriate supervision over his conduct and a qualification skill shall be taken into account.

2. Sentence in the form of correctional labor shall be executed not later than within ten-day period from the day the inspection on correctional affairs received respective court order with a copy of the court sentence (decision, ruling).

3. Persons sentenced to correctional labor at the place of employment shall remain in the same enterprise, institution or organization they worked before their conviction and in the same position or work, except for cases provided by legislation of the Republic of Tajikistan. Transfer of the persons sentenced to correctional labor at the employment place to another position or work shall be done on the general grounds provided by the labor legislation.

4. Persons sentenced to correctional labor at other places may be sent to an employment agency and shall be placed by it to a work in priority order. Person sentenced to correctional labor at other places may not reject offered work regardless whether this work conforms to his specialization.

#### **Article 40. Conditions of serving the penalty of correctional labor**

1. Persons sentenced to correctional labor shall keep the prescribed order and conditions of serving of the punishment, have conscientious attitude to labor, fulfill obligations and follow all prohibitions established for them by the inspection on correctional affairs and appear in the inspection upon its request.

2. Deductions in the amount prescribed by the court sentence shall be withheld in favor of state income from the salary of the persons sentenced to correctional labor.

3. During the term of serving correctional labor, convicted persons are prohibited to ask for dismissal from work without written permission of the inspection on correctional affairs. The permission may be given if the application of a convicted person is recognized as well grounded. Any refusal to give permission for dismissal shall be motivated. A decision on refusal may be appealed according to the order established by law.

4. The period of serving correctional labor shall be included to the general length of service. The period of serving of this sentence shall not be included to the length of service that gives a right to benefits and rises in wages.

5. A convicted person shall inform the inspection on correctional affairs about changing the place of employment or residence within ten days.

6. During the term of serving correctional labor, convicted persons upon agreement with inspection on correctional affairs shall be granted by the administration of an enterprise where the convicted person works, annual paid leave for the period of eighteen working days. Other types of leaves provided by labor legislation shall be granted to convicted persons on general grounds.

7. Temporary disablement, maternity allowances for persons serving correctional labor shall be calculated from wages less deductions imposed by court.

#### **Article 41. Responsibilities of the body in charge of execution of sentence in the form of correctional labor**

The inspection on correctional affairs shall register convicted persons; explain the order and conditions of punishment serving; control observance of the conditions of punishment serving by convicted persons and execution of the requirements of the sentence by the administration at the employment place of convicted persons; control convicted persons' conduct; direct them to employment agencies if necessary; make a decision on bringing of those convicted persons who did not appear upon request or register without valid reasons;; undertake initial measures on search of convicted persons, prepare and submit to respective agency materials about convicted person whose location is unknown; apply stimulation and punishment measures, as well as establish responsibilities and prohibitions provided by article 42 of the present Code; give permission for dismissal from work of convicted person upon his request during serving his punishment; organize educational activities for convicted persons.

#### **Article 42. Responsibilities and prohibitions prescribed for persons sentenced to correctional labor**

1. Taking into account the character and degree of public danger of the crime committed, personality of the convict, his conduct during serving of the punishment and in order to prevent new crimes, the inspection on correctional affairs have the right to establish the following responsibilities and prohibitions for convicted persons:

- a) to prohibit to leave home during certain time of a day;
- b) to prohibit to leave the place of residence during weekends and holidays;
- c) to prohibit to be present at certain places of the district (town);
- d) to bind them to appear in the inspection on correctional affairs for registration up to two times in a month.

2. The responsibilities and prohibitions set forth in the present article, part 1 shall be established for the period of up to six months. In necessary cases this period may be prolonged every time for another six months within the term of punishment serving.

3. The established responsibilities and prohibitions shall be applied to a convicted person even in case he does not have a work.

#### **Article 43. Calculation of the term of the penalty of correctional labor**

1. The term of serving correctional labor is calculated by years, months and days during which convicted person worked and his salary was deducted. The number of days worked by convicted persons shall not be less the number of working days per each month of the punishment term prescribed by court. If a convicted person did not work the prescribed number of days without the grounds specified by the present Code for including unworked days to the term of punishment, the convicted person shall continue serving correctional labor until he works the required number of working days.



2. A day when the administration of the organization where the convicted person works, receives a copy of the court sentence (decision, ruling) and other documents from the inspection on correctional affairs shall be considered the beginning of the term of serving the punishment.
3. Time during which a convicted person did not work due to valid reasons shall be included to the term of punishment serving. Time during which a convicted person was recognized unemployed shall be included to this term as well.
4. If the period during which the convicted is sick exceeds four consecutive months and it prevents further punishment serving, the inspection on correctional affairs shall submit to court a recommendation for release from punishment serving.
5. If a convicted woman is found pregnant during punishment serving, the inspection on correctional affairs shall submit a recommendation for deferral of the punishment serving beginning from the day of granting maternity leave.
6. The term of punishment serving for convicted persons working in organizations where summarized account of the working time is used, shall be calculated taking into account length of working time during the period not exceeding the prescribed number of working days.
7. The term of punishment serving shall not include :time during which a convicted person did not work, except for the cases specified in the present article, part three; time during which a convicted person was sick due to alcoholic, narcotic or substance intoxication, or related actions; time during which a convicted person served administrative punishment measure of confinement or correctional labor, as well as the time during which a convicted person was kept in custody as preventative measure related to another case, while serving a punishment.

#### **Article 44. Responsibilities of the administration of organizations at the place of serving correctional labor by convicted persons**

The administration of organizations at the place of serving correctional labor by convicted persons shall have the following responsibilities: timely informing members of labor collective about the court sentence; making accurate and timely deductions from salaries of convicted persons and transferring deducted money according to established order; implementing control over conduct of convicted persons at work and assisting the inspection on correctional affairs in conducting educational activities for them; observing conditions of serving of the sentence provided by the present Code; notifying the inspection on correctional affairs of applying stimulation and punishment measures to convicted persons, of his evasion from serving the punishment as well as making an advance notification on transferring convicted persons to another position, their dismissal and granting leaves to them.

#### **Article 45. Order of making deductions from the salary of persons sentenced to correctional labor**

1. The inspection on correctional affairs shall implement control over timely and accurate deducting of salary of convicted persons and transferring deducted money to state revenue. The inspection may involve financial and tax bodies for implementing such control.
2. Deductions shall be made from the salary earned at the principal place of employment of a convicted person for each worked month while paying the salary, regardless of existence of other claims to convicted person on the ground of execution acts.
3. While making deductions from salary of convicted persons both monetary incomes and incomes in kind shall be taken into account. The incomes in kind deducted from convicted persons shall remain at the disposal of the organization and its purchase price shall be transferred to the state revenue. Deducted monetary incomes shall be transferred to the state revenue on monthly basis.
4. Deductions shall not be made from pensions, allowances of social security and social provision as well as lump-sum payments except for unemployment benefit, as well as money reimbursed for expenses related to business trips and other compensation payments.
5. Temporary disablement allowances for convicted persons shall be calculated from their salary less deductions in the amount prescribed by the court sentence.
6. In case of repeal or change of a court sentence due to dismissal of the case excessively deducted money from salary of convicted persons shall be paid back.

**Article 46. Stimulation measures applied to persons sentenced to penalty of correctional labor**

1. Inspection on correctional affairs may reduce or repeal the terms and scope of the responsibilities and prohibitions established on the ground of article 42 of the present Code if persons sentenced to penalty of correctional labor show good conduct and honest attitude to labor.
2. Those convicted persons, who proved their correction may be recommended by the inspection on correctional affairs to court for grant of parole according to the order established by law.

**Article 47. Responsibility for violating order and conditions of serving the penalty of correctional labor and evasion from serving of the penalty**

1. Violations of the order and conditions of serving the penalty of correctional labor include:
  - a) not starting the work without valid reasons within ten days from the day of registration in the inspection on correctional affairs or evasion from registration in the employment agency for the same period of time;
  - b) non-appearance in the inspection on correctional affairs without valid reasons;

c) violation of the responsibilities and prohibitions established by the present Code;

d) absence from work or appearance at work in a state of intoxication or in state of alcoholic or substance intoxication.

2. For violating the order and conditions of serving the penalty of correctional labor the inspection on correctional affairs may warn in writing about substitution of correctional labor by other type of punishment.

3. Evasion of serving the penalty of correctional labor shall be considered malignant if a convicted person committed repeated violation of the order and conditions of serving of the sentence after he was made a written warning for any violation mentioned in the present article, part 1 as well as when convicted person escaped from the place of residence and his location is unknown.

4. Convicted person who escaped from the place of residence and his location is unknown shall be circulated and may be detained upon sanction of public prosecutor for the period up to thirty days.

5. For malignant evasion of serving the penalty of correctional labor, inspection on correctional affairs shall recommend to court to substitute correctional labor by other type of penalty in the order determined by part three of the article 52 of the Criminal Code of the Republic of Tajikistan.

### **Section III. Execution of the penalty of liberty restraint**

#### **Chapter 7. Order and conditions of execution of the penalty of liberty restraint**

##### **Article 48. Service places of the penalty of liberty restraint**

1. Persons sentenced to liberty restraint serve their sentence in special institutions - correctional centers.

2. Persons on whom liberty restraint was imposed as a substitution for another type of punishment may be sent to correctional center.

3. Local government bodies shall assist bodies executing the penalty of liberty restraint in arrangement of employment and living conditions of persons sent to sentence serving.

##### **Article 49. Sending persons sentenced to penalty of liberty restraint to the sentence service place.**

1. Persons sentenced to liberty restraint or persons on whom liberty restraint was imposed as a substitution for another type of punishment go to the sentence service place on their own at the state expense. The court, which passed the sentence (decision), shall direct an order on execution of the valid sentence (decision) to a body of internal affairs at the convict's abiding place (in case

if the latter does not exist at the conviction place) within 3 days. The body of internal affairs shall hand a direction on departure to the sentence service place to the convict not later than the next day after order receiving. The convict must go to the sentence service place within 3 days from the day of direction receiving and arrive there within the required for trip time which is specified in the direction on departure.

2. If a convict evades to receive a direction on departure to the sentence service place, or fails to depart by a specified date or does not arrive to the sentence service place, the convict shall be taken in custody by the body of internal affairs for up to fifteen days upon sanction of the public prosecutor with the aim of establishing the reasons of violating the order of going to the sentence service place. If there are no valid reasons, the body of internal affairs shall send the convict to the sentence service place according to the order established for persons sentenced to deprivation of liberty or submit to court materials about imposition of deprivation of liberty in lieu of liberty restraint.

3. Convicts whose unserved portion of deprivation of liberty was substituted by liberty restraint shall be released from custody, and they go to the correctional center at their own at the state expense. In this case the administration of the correctional institution hands a direction on departure to the sentence service place with indication of the route and time of arrival. The administration may permit short-term leave for up to five days not including the time during which a convict was on the way to the correctional center.

4. Taking into account personality of a convict, location of the correctional institution and correctional center the convict may be transferred to the correctional center under convoy upon court's decision.

5. The correctional center administration shall immediately inform the court which passed a sentence (decision) about its enforcement.

#### **Article 50. Internal regulations in correctional centers**

1. There shall be established internal regulations in correctional centers, which specify the following: order of receiving the convicts, rules of conduct of convicts during working hours and rest, list of works and positions where convicts' labor is prohibited, seizure procedure of objects prohibited for use, check-up administration rules.

2. The internal regulations shall be announced to all convicts.

#### **Article 51. Calculation of the term of penalty of liberty restraint**

1. The term of the penalty of liberty restraint shall be calculated from the day of registering convicts in the correctional center.

2. The period of time during which a convict was kept in custody as a result of preventative punishment imposition, time during which a convict under convoy was on the way to the correctional center from the correctional institution when his unserved portion of deprivation of

liberty term was substituted by liberty restraint provided that one day of custody should be equal to two days of liberty restraint as well as time during which a convict was on short-term leave after his release from the correctional institution and before his arrival to the correctional center shall be included into the term of punishment.

3. Period of time exceeding one day, during which a convict was absent at work or at the place of residence without any permission shall not be included into the term of punishment.

### **Article 52. Order of serving of the penalty of liberty restraint**

1. The boundaries of the correctional center territory and conduct rules of the population residing in that territory shall be determined by the local government body at the suggestion of internal affairs bodies.

2. The internal regulations of correctional centers adopted by the Ministry of internal affairs of the Republic of Tajikistan in agreement with the General public prosecution office of the Republic of Tajikistan shall be applied to convicts in the correctional centers.

3. Persons serving the penalty of liberty restraint are kept without guard but under supervision, and they should:

a) strictly follow the requirements of the Internal regulations of correctional center ;

b) work at the place where they were sent by the correctional center administration;

c) constantly stay within the territory of the correctional center and not leave its territory without permission of the administration. In necessary cases the correctional center administration may allow the persons on whom liberty restraint was imposed as a result of punishment mitigation to leave correctional center for up to five days after the registration of the convicts if they were not granted such leave by administration of the correctional institution after release;

d) live, as a rule, in specially designated for convicts hostels and not leave them at night-time without permission of the administration of correctional center ;

e) participate in unpaid works on improving buildings and territory of the correctional center in turn, as a rule during free time and not more than two hours a week;

f) have established identity cards.

4. As a rule, persons on whom liberty restraint was imposed as a result of punishment mitigation and persons on whom it was imposed by the court sentence shall not be kept in the same correctional center.

5. Persons who served the penalty of deprivation of liberty before and have previous conviction are kept separately from other convicts. Persons who committed crimes in complicity shall serve their penalty separately.
6. Convicts and their rooms can be searched, and their belongings can be examined.
7. Convicts are prohibited to acquire, keep and use objects, manufactures and substances listed in the Internal regulations. In case such articles, manufactures or substances are discovered at convicts, these objects and substances upon decision of the chief of the correctional center shall be taken and stored or destroyed or appropriated by state.
8. Upon decision of the chief of the correctional center the convicts not violating internal order rules and having a family may be allowed to live with their family in the rented or in their own housing. These persons shall appear in the correctional center from two to six times in a month for registration. The periodicity of registration shall be determined by decision of the chief of the correctional center.
9. Convicts serving the penalty of liberty restraint are permitted to study by correspondence in higher and secondary educational institutions located within the administrative and territorial unit of the sentence service place.

#### **Article 53. Work conditions of persons serving the penalty of liberty restraint**

1. Convicts shall be employed by organizations of different patterns of ownership.
2. Labor of persons sentenced to liberty restraint is regulated by labor legislation of the Republic of Tajikistan , except for the rules of admittance to work, dismissal and transfer to another job.
3. Convicts may be transferred to another job including transfer to another locality by the administration of the employing organization in agreement with the correctional center administration, and if possible, taking into account convict's opinion and medical findings.
4. Primary professional education or professional training shall be organized for convicts who do not have necessary specialization.

#### **Article 54. Responsibilities of the correctional center administration**

1. The correctional center administration shall register convicts, explain the order and conditions of punishment serving; arrange employment, housing and living conditions for convicts; ensure observance of the order and conditions of punishment serving; supervise and take measures on prevention of violations of the prescribed order of penalty serving; conduct educational activities for convicts; enforce established by law stimulation and punishment measures; prepare convicts for release.
2. The order of execution of the mentioned responsibilities is specified by the present Code and other normative legal acts.

**Article 55. Responsibilities of the administration of organizations employing the convicts serving the penalty of liberty restraint**

1. The administration of organizations employing persons serving the penalty of liberty restraint shall involve convicts in work taking into account their health and, if possible, their specialization, organize primary professional education or professional training, participate in providing housing and living conditions.
2. The administration of organizations shall immediately inform the colony-settlement administration about absence of convict at the working place and imposition of disciplinary penalty on him.
3. The administration of organization is prohibited to dismiss persons serving the penalty of liberty restraint without permission of the correctional center administration.

**Article 56. Educational activities for the persons serving the penalty of liberty restraint**

1. Correctional center administration as well as administration of the organization employing convicts and, public associations shall organize educational activities for persons serving the penalty of liberty restraint.
2. The main types of educational activities shall be as follows:
  - a) individual work based on examination of each convict's personality and taking into account the crime committed, age of the convict, his education, occupation and other peculiarities;
  - b) explanation of the legislation of the Republic of Tajikistan;
  - c) cultural and sports events.
3. The active participation of convicts in educational activities shall be stimulated and taken into consideration when determining degree of correction.

**Article 57. Stimulation measures applied to persons serving the penalty of liberty restraint**

1. For good conduct and conscientious attitude to labor the correctional center administration may apply stimulation measures to convicts, which are as follows:
  - a) announcement of gratitude;
  - b) permission to leave correctional center for holidays celebration and weekends;
  - c) permission to have leave outside of correctional center;
  - d) pre-term removal of the imposed punishment measure;

e) premium.

2. Convicts may be granted parole or their unserved portion of the punishment may be mitigated according to the procedure established by law.

**Article 58. Punishment for violating the order and conditions of serving the penalty of liberty restraint and malignant evasion from the penalty serving**

1. Violation the order and conditions of serving the penalty of liberty restraint is considered to be the following: violation of labor discipline, social order and established for convicts residing rules, after prior imposition of punishment measures in the written form.

2. For violations of the prescribed order and conditions of serving the penalty of liberty restraint mentioned in the first part of the present article , the correctional center administration may impose on convicts the following punishment measures:

a) reprimand;

b) placing in a disciplinary confinement solitary cell for up to three days in accordance with the Internal regulations of the correctional center;

c) prohibition to leave a hostel at a certain time for a period of one month;

d) warning about substitution of deprivation of liberty for liberty restraint

3. As malignant evasion from serving the penalty of liberty restraint shall be considered the following unauthorized actions committed without valid reasons:

a) leaving the territory of correctional center by the convict;

b) failure to return or failure to return to the sentence service place at the proper time;

c) leaving the place of work or place of residence.

4. If the convict who left the territory of correctional center cannot be found within ten days period he is subject to retrieval announcement and detention.

5. Upon detention of the convict who left the territory of the correctional center without permission and valid reasons, internal affairs body should send him to the penalty service place in the order established for the persons sentenced to deprivation of liberty. Submission about substitution of deprivation of liberty for unserved portion of liberty restraint to the court at the locality of the detention is made if there is information about malignant evasion by the convict from penalty serving.

6. In cases prescribed by the third part of the present article the convict is detained by the internal affairs bodies and correctional center administration upon sanction of the public prosecutor for



the period not more than thirty days. Expenses made for retrieval and detention of convicts are recovered by court from convicts.

**Article 59. Order of application of stimulation and punishment measures upon persons serving the penalty of liberty restraint**

1. Stimulation and punishment measures shall be imposed in writing.
2. While imposing punishment measures the circumstances of law violation, a convict's personality and conduct before violation committing shall be taken into account. The imposed punishment shall be proportionate to the character and gravity of the committed violation. The punishment measure shall be imposed not later than within ten days from the day of the violation disclosure, but if the violation was subject to examination it shall be imposed within ten days from the day of its end but not later than one month from the day it was violation commission. As a rule, a punishment measure shall be executed immediately, but in exceptional cases it shall be executed not later than within one month after its imposition.
3. The chief of the correctional center or a person who substitutes him shall be fully entitled to impose stimulation and punishment measures provided for by the present Code. The chief of detachment may announce gratitude to the convict.

**Article 60. Supervision over the persons sentenced to liberty restraint and preventative measures against violation of the established order of penalty serving**

1. Supervision over the persons sentenced to liberty restraint is implemented by the correctional center administration and comprises supervision and control of convicts at the working and abiding places, and during time off. The order of supervision implementing is determined by normative legal acts.
2. In case a convict violates public order he may be placed in a disciplinary solitary confinement cell and kept there until the question on imposition of punishment measure is decided but not more than within 24 hours in order to draw up a report, provide proper and timely consideration of materials, sober the convict or direct him to the medical institution.

**Article 61. Material and social, medical and sanitary maintenance of the persons sentenced to liberty restraint**

1. Persons sentenced to liberty restraint in correctional centers shall be provided with necessary housing and living conditions. They are accommodated in hostels of correctional centers where they are provided with individual berths and bedding. The standard of living space shall not be less than four square meters per each convict.
2. Convicts themselves shall buy clothes, underwear and shoes at their own expense. The administration of correctional centers provides food and convicts pay for it. If convicts do not have their own financial means owing to circumstances beyond their control, they shall be individually provided by the state.

3. Disease-preventative and sanitary aid shall be provided for persons sentenced to liberty restraint in accordance with the legislation on population health protection of the Republic of Tajikistan and order of penalty serving prescribed by the present Code.

4. Upon decision of the Internal Affairs Ministry of the Republic of Tajikistan and Health care Ministry of the Republic of Tajikistan medical institutions may be established for providing out-patient medical services.

5. In-patient medical services shall be provided by health care institutions located at the correctional centers in order established by the normative legal acts of Health care Ministry of the Republic of Tajikistan in agreement with the Ministry of internal affairs of the Republic of Tajikistan.

6. The administration of correctional centers shall be responsible for implementation of the prescribed hygienic and anti-epidemic requirements.

#### **Section IV. Execution of the penalty of confinement**

##### **Chapter 11. Order and conditions of execution of the penalty of confinement**

###### **Article 62. Service places for the penalty of confinement**

1. Persons sentenced to confinement shall serve their punishment in detention homes at the place of their conviction.
2. As a rule, a convicted person serves the whole term of punishment in one detention home.
3. A convicted person may be transferred from one detention home to another due to his disease or security reasons, as well as other exceptional circumstances preventing his stay in this detention home.

###### **Article 63. Order and conditions of execution of the penalty of confinement**

1. Persons sentenced to confinement in the detention home shall be kept in solitary confinement cells. Men, women, minors, as well as the persons who have served the punishment in correctional institutions before and have criminal record shall be kept separately from each other in detention homes.
2. Confinement conditions established by the present Code for the persons serving deprivation of liberty in prisons of general regime shall be applied to persons sentenced to confinement. Persons sentenced to confinement are not allowed to have meetings, except meetings with advocates and other persons who have a right to give legal advice; they are not permitted to receive parcels, packages, postal packets except for those that contain essential articles and season clothes. General education and professional training is not provided for persons sentenced to confinement. They may not move without convoy. Persons sentenced to confinement have the right to acquire food and other essential things without limitations.

3. Minors sentenced to confinement may have short-term meetings with their parents or persons who substitute them once a month during three hours.
4. Every day convicted persons have one-hour walk, and minors have one hour and a half walk.
5. In exceptional personal circumstances the chief of the detention home may permit persons sentenced to confinement to talk with close relatives over the telephone.

#### **Article 64. Internal regulations for persons sentenced to confinement**

1. There shall be established strict internal regulations in detention homes for persons serving the penalty of confinement, which specify the following: order of receiving convicted persons, rules of conduct of convicted persons, list and quantity of objects and things they may have, order of taking the objects prohibited for use by convicted persons, check-up rules and rules of examination, receiving and handing in of parcels, packages, postal packets.
2. The internal regulations shall be announced to all convicted persons.

#### **Article 65. Involving persons serving the penalty of confinement in work**

Administration of the confinement executing institution is entitled to involve convicted persons in household activities without payment in residential buildings for convicted persons serving this punishment, but not more than four hours a week.

#### **Article 66. Educational activities for persons serving the penalty of confinement**

Penalty executing body in cooperation with public associations shall conduct educational activities for persons serving the penalty of confinement.

#### **Article 67. Stimulation and punishment measures applied to persons sentenced to confinement**

1. If persons sentenced to confinement show good conduct, the following stimulation measures may be applied:
  - a) gratitude;
  - b) pre-term removal of the punishment measure imposed before;
  - c) permission to make a telephone call.
2. If convicted persons violate prescribed order of punishment serving, the following punishment measures may be imposed:
  - a) reprimand;

b) placement in the isolation ward for up to ten days.

3. The order of the stimulation and punishment measures imposition upon persons sentenced to confinement shall be regulated by Articles 141 and 143 of the present Code.

### **Article 68. Providing material and social support and medical services for persons sentenced to confinement**

1. Material and social support and medical services shall be provided for persons sentenced to confinement in accordance with the norms established for persons serving the punishment in prisons of general regime, and for convicted minors in accordance with the norms established for minors serving the penalty in educational colony respectively.

2. Persons serving the penalty of confinement shall be provided with housing and living conditions according to rules of sanitary and hygiene. They shall be provided with individual berths and during sleeping time period with the bedding.

### **Article 69. Security measures and grounds for using weapons**

Security measures and weapons shall be used in regard to persons serving the penalty of confinement on the same grounds as to the persons sentenced to deprivation of liberty.

## **Section V. Execution of the penalty of deprivation of liberty**

### **Chapter 9. General provisions on execution of the penalty of deprivation of liberty**

#### **Article 70. Places of executing the penalty of deprivation of liberty**

Persons sentenced to deprivation of liberty serve their punishment in correctional institutions.

#### **Article 71. Types of correctional institutions**

1. Correctional institutions include correctional colonies, educational colonies, prisons, and medical correctional institutions. Remand prisons function as correctional institutions in regard to convicts left to do household activities

2. Adults sentenced to deprivation of liberty serve their punishment in correctional colonies and prisons. Correctional colonies are divided into colonies-settlements, colonies of general regime, intensive regime, strict regime and colonies of special regime.

3. Convicted persons mentioned in the first and fourth parts of Article 24 of the present Code shall serve their punishment in the medical correctional institutions.

4. Minors sentenced to deprivation of liberty, as well as the convicts left in educational colony until they reach the age of 20, shall serve their punishment in the educational colony.

## **Article 72. Determination of the correctional institution type for persons sentenced to deprivation of liberty**

In accordance with the Article 58 of the Criminal Code of the Republic Tajikistan a court defines the type of correctional institution with appropriate regime, where a person sentenced to deprivation of liberty shall serve his punishment.

## **Article 73. Sending a person sentenced to deprivation of liberty to punishment serving**

1. Persons sentenced to deprivation of liberty shall be sent to serve their punishment not later than within ten days since the administration of the remand prison received a notification that the punishment entered into its legal force. During this period a convicted person has a right to have a short-term meeting with close relatives or other persons.
2. The Ministry of Internal Affairs of the Republic of Tajikistan in accordance with the present Code defines the order of sending convicts to correctional institutions.
3. A personal file shall be created on every person sentenced to deprivation of liberty.

## **Article 74. Transfer of the persons sentenced to deprivation of liberty**

1. Convicts shall be sent to the penalty service place and transferred from one penalty service place to another under convoy.
2. Transfer of convicts under convoy shall be administered observing the rules of separate keeping: men shall be separated from women; minors – from adults; persons sentenced to death penalty - from other categories of convicts; persons convicted for committing crime in complicity shall be transferred separately from each other.
3. Persons suffering tuberculosis, or person who have not completed venereal disease treatment course, HIV infected persons, persons with mental diseases not excluding sanity shall be transferred in isolation and separately from healthy convicts and if a doctor finds it necessary they shall be accompanied by medical staff.
4. While transferring, convicted persons shall be provided with necessary material and living conditions, as well as sanitary-hygienic conditions.
5. While transferring, convicted persons shall be provided with seasonable clothes and shoes, as well as with food in accordance with the norms established for the convicted persons during the period of transfer.
6. Order of the convicts' transfer is determined by the Ministry of Internal Affairs of the Republic of Tajikistan according to the present Code.

## **Article 75. Temporary detention of convicts in the remand prison or a prison**

1. If there is a necessity to conduct investigative actions on a crime committed by another person, then the person sentenced to deprivation of liberty with penalty serving in the correctional or educational colony may be kept in the remand a prison for a period of up to four months upon sanction of the public prosecutor of the Gorno-Badakhshan Autonomous Region, regional public prosecutors, Dushanbe city public prosecutor, Chief Military public Prosecutor and for a period of up to six months upon sanction of the General public Prosecutor of the Republic of Tajikistan.
2. If criminal proceedings on a different crime are instituted against convict and if the preventative measure in the form of detention is imposed, then the term of detention in the remand prison is determined in accordance with the legislation of the Republic of Tajikistan.

**Article 76. Leaving persons sentenced to deprivation of liberty to do household activities in the remand prison or a prison**

1. Persons sentenced to deprivation of liberty and imposed upon to penalty serving in the correctional colony of general regime, and in exceptional cases persons convicted to deprivation of liberty for the first time and for the term not exceeding seven years and imposed upon to penalty serving in correctional colony of intensive regime are allowed with their consent to stay in the prison or in the remand prison for doing household activities
2. Convicted persons may be left to do this kind of work on the ground of the order issued by the chief of the remand prison or a prison on the basis of the written consent of the convict.
3. Convicted persons, left in the remand prison or a prison to do household activities shall be kept in the ordinary room separately from other persons and under conditions specified in the present Code for correctional colonies of general regime.

**Article 77. Admittance of the convicts to correctional institutions**

1. Admittance of persons sentenced to deprivation of liberty shall be administered by the administration in the order specified by the internal regulations of correctional institution.
2. The newly arrived at correctional institution convicted persons shall be brought to the quarantine department for the period up to fifteen days. While staying in the quarantine department convicted persons shall be kept in the ordinary conditions of punishment serving.
3. The administration of correctional institution shall immediately notify the court that passed sentence, one family member or another relative at the convict's choice about penalty service place.

**Article 78. Separate keeping of convicts in correctional institutions**

1. There shall be separate keeping in correctional institutions of men from women and minors from adults.

2. Persons sentenced to deprivation of liberty for the first time shall be kept separately from those who have served deprivation of liberty before. Special dangerous recidivists, persons convicted for committing specially grievous crimes, convicts whose death penalty has been changed to deprivation of liberty by pardon shall be kept separately and isolated from other convicts.
3. There are certain correctional institutions for the convicted former judges and employees of law enforcement bodies. Other convicted persons may also be kept in these correctional institutions.
4. Minors sentenced to deprivation of liberty for deliberate crimes committed while penalty serving, as well as those who systematically and malignantly violate regime of serving a punishment shall be kept separately from other convicts serving the punishment in educational colonies of intensive regime.
5. The requirements of separate keeping of convicted persons specified in this article do not apply to medical correctional institutions and correctional colonies with a child house attached. Persons sent to the above-mentioned institutions shall be kept in conditions established by law for the colony specified by court. The Ministry of Internal Affairs of the Republic of Tajikistan in agreement with the Ministry of Health Care of the Republic of Tajikistan shall define the order of keeping convicted persons in these institutions and medical institutions as well.
6. Convicted persons suffering from infectious diseases shall be kept separately from each other and from healthy convicts.
7. HIV-infected convicted persons shall be kept separately from other convicts and from convicted persons suffering from other infectious diseases.
8. Convicted foreign citizens and stateless persons shall be kept under general conditions.

#### **Article 79. Serving by convicts of the entire punishment term in one correctional institution**

1. As a rule, person sentenced to deprivation of liberty shall serve his entire term of punishment in one correctional colony, prison or educational colony.
2. Transfer of the convict from one colony to another colony of the same regime or from one prison to another for further punishment serving is allowed in the following cases: if he is sick or due to security reasons; if correctional institution is established or liquidated; in other exceptional cases preventing convict's further stay in the institution. The Ministry of Internal Affairs of the Republic of Tajikistan shall define the order of transfer of the convicts.

#### **Article 80. Change of the correctional institution type**

1. Depending on conduct and attitude to labor, convicts may be transferred from one type of correctional institution to another one.

2. Convicted persons with positive characteristics may be transferred for further punishment serving:

- a) from prison to correctional colony, when convicted person has already served in prison not less than a half of the punishment imposed by the court sentence;
- b) from correctional colony of general, intensive and strict regimes to correctional colony-settlement when convicted person has already served not less than one third of the imposed punishment term; persons convicted for committing specially grievous crimes or those convicted persons who were granted parole before and committed new crimes during the unserved period of the punishment term– after serving not less than two thirds of the punishment term.

3. The following persons may not be transferred to correctional colony-settlement:

- a) persons convicted for special dangerous recidivism;
- b) convicted persons in regard to whom death penalty has been changed to deprivation of liberty by pardon;
- c) convicted persons who did not take compulsory medical treatment course, as well as those convicted who need special medical treatment in closed medical institutions;
- d) convicted persons who did not give written permission for transfer to colony-settlement.

4. Convicted persons who are malignant violators of the established order of punishment serving may be transferred:

- a) from correctional colony-settlement to correctional colony of the regime defined by court;
- b) from correctional colony-settlement where they were directed by court sentence to correctional colony of general regime;
- c) from correctional colonies of the general, intensive, strict and special regimes to prison for a term not exceeding three years with further serving of the unserved punishment term in the correctional colony of the regime from where they were sent to prison. Exception is made for women.

5. A decision on change of the correctional institution type shall be made by court upon convict's petition or submission of the chief of institution.

**Article 81. Transfer of the convict from correctional institution to remand prison or prison**



Transfer of the convict from correctional institution to remand prison or prison is allowed in the following cases:

- a) upon court order while case is tried in court for the period of trial;
- b) due to investigative actions administration on crime committed by another person in agreement with the public prosecutor of Gorno-Badakhshan Autonomous Region, the regional public prosecutors, public prosecutor of Dushanbe city and Chief Military prosecutor for the period up to four months, and upon sanction of the Public Prosecutor General for the period up to six months.

## **Chapter 10. Regime in correctional institutions and its maintenance**

### **Article 82. Regime in correctional institutions and its basic requirements**

1. Regime in correctional institutions is the order of deprivation of liberty execution and serving, ensuring guarding and isolation of the convicts and established by law and lawful normative acts; constant supervision over them; fulfillment of the responsibilities imposed on them; realization of their rights and legal interests, security of the convicts and staff; separate keeping of different categories of convicts; different conditions of confinement depending on the type of correctional institution defined by court; change of the penalty serving condition.
2. Regime in correctional institutions shall create conditions for use of other correctional measures in regard to convicts.
3. Internal regulations rules of correctional institutions adopted by the Ministry of Internal Affairs of the Republic of Tajikistan in agreement with the General Public Prosecution Office shall be effective in correctional institutions.
4. Convicted persons shall wear standard uniform in the correctional institutions. The uniform shall be defined by the Internal Affairs Ministry of the Republic of Tajikistan.
5. Convicted persons, their belongings and clothes, as well as their housing may be searched and examined. Personal search of the convict shall be made by a person of the same sex. In case if the convict is in the housing, it can be searched in exigent cases.
6. With the aim to provide proper order of punishment execution and serving, convicted persons are prohibited to keep and use money, securities and valuable things, as well as other objects that are specified in the Internal Regulations Rules of correctional institution.
7. Discovered at convict money, securities and other valuable things shall be seized and stored by the correctional institution administration until convict's release without right to use or dispose of them during penalty serving period according to the Rules of Internal Regulations in correctional institution. Prohibited objects and substances seized from the convicted person are sent to be stored or destroyed upon decision of the correctional institution chief and appropriate statement shall be drawn up.

8. A convicted person is allowed to conclude insurance agreements with insurance companies and transfer funds from his personal account in the correctional institution to his personal account in the local banks.

9. Money, securities and valuable things that were acquired by the convicted person in the prescribed order shall be kept by the correctional institution administration and shall be returned to him while release from the deprivation of liberty service place.

10. In case of necessity the correctional institution administration has the right to examine persons, their belongings and means of transport, which are located within the territory of a correctional institution and adjacent territories with the regime restrictions, as well as to seize things prohibited according to the list specified by legislation of the Republic of Tajikistan and the Internal Regulations Rules of correctional institution.

11. The Ministry of Internal Affairs of the Republic of Tajikistan in agreement with the General Public Prosecution Office shall define order of making searches and examinations.

### **Article 83. Internal regulations of correctional institutions**

1. There shall be established strictly defined internal regulations in correctional institutions, which provide for the following: the order of admittance of convicted person to correctional institution; rules of conduct while work, rest, study; list of educational events, as well as the list of the works and positions prohibited for convicts; list and number of items and things that are allowed to be carried with convicts; the order of seizure of the prohibited for use objects; the order of conducting check-ups, meetings, accepting and delivering of parcels, packages, postal packets and correspondence; the list of foodstuff and essentials allowed for sale to convicted persons.

2. The internal regulations shall be announced to all convicted persons by the decree of the correctional institution chief.

### **Article 84. Technical means of supervision**

1. The correctional institution administration is allowed to use audio-visual, electronic and other technical means of supervision to prevent escapes and other crimes, violation of the established order of punishment serving, to receive necessary information about conduct of convicted persons.

2. The correctional institution administration is obliged to notify all convicted persons against receipt about usage of technical means of supervision, which at the same time fulfill functions of protection, and about danger to the convicts' life and health in case of its damage.

3. The legislation of the Republic of Tajikistan shall define the list of technical means of supervision and order of their usage.

### **Article 85. Operational-searching activities in correctional institutions**

1. In accordance with legislation of the Republic of Tajikistan correctional institutions carry out operational-searching activities with the following objectives: providing security of the convicted persons, personnel of correctional institutions and other persons; detection, prevention and exposure of imminent and committed crimes in the correctional institutions and violations of the punishment serving order; retrieval of the convicted persons who escaped from correctional institutions, as well as the convicted persons, evading from deprivation of liberty penalty serving; rendering assistance in detection and exposure of the crimes committed before arrival to correctional institutions.
2. Operational-searching activities shall be carried out by the operative apparatus of correctional institutions, as well as by other bodies within their competence.

### **Article 86. Regime of special conditions in correctional institutions**

1. Regime of special conditions may be introduced in cases of natural disaster, declaring the state of emergency, special state or state of martial law within the territory of the correctional institutions location, in cases of mass riots, group insubordination of the convicted persons, as well as in case of real threat of military attack from the outside of correctional institutions.
2. During the period of regime of special conditions in correctional institutions the rights of convicted persons specified in Articles 89-99 of the present Code may be suspended, the security system and supervision shall be strengthened, there shall be a special order of admittance to units, the daily routine shall be changed, activities of the production, public utilities, cultural, educational, medical-sanitary and other services shall be limited or stopped.
3. Regime of special conditions shall be introduced for the period up to thirty days by decision of the Minister of Internal Affairs of the Republic of Tajikistan in agreement with the General Public Prosecutor of the Republic of Tajikistan. In exceptional cases the period of regime of special conditions may be prolonged by the mentioned officials for another thirty days on the grounds specified in part one of the present article.
4. In cases of immediate danger to life and health of the convicted persons, staff or other persons in correctional institutions, the correctional institution chief is allowed to take measures specified in the part two of the present article independently with the immediate notification of the official authorized to take such measures.

### **Article 87. Security measures and grounds for their application**

1. Use of force, application of special means and weapons is allowed in regard to persons sentenced to deprivation of liberty in case they show resistance to the personnel of correctional institutions, maliciously disobey their lawful requests, behave themselves violently, participate in mass riots, in capture of hostages, attack citizens or commit other dangerous actions as well as the cases of convict's escape or catch of the escaped from the correctional institution convict with the purpose to prevent mentioned illegal actions and damage to people and to convicts themselves.

2. Legislation of the Republic of Tajikistan shall define order of using force, special means and weapons.

## **Chapter 11. Conditions of the punishment serving in correctional institutions**

### **Article 88. Conditions of punishment serving by persons sentenced to deprivation of liberty**

1. In one correctional institution convicted persons may have different conditions of punishment serving depending on their conduct and attitude to labor. Convicted persons may serve the punishment in ordinary or privileged conditions that are specified according to the type of a correctional institution.

2. Change of the punishment serving conditions simultaneously provides for privileged conditions of detention that are specified in the articles 128, 130, 132, 134, 140, and 141 of the present Code, as well as revocation of all privileged conditions of detention in cases specified in the article 120 of the present Code.

3. Commission of the correctional institution shall decide if a convicted person shall be transferred from one kind of conditions to another. Commission of the correctional institution shall also decide if a convicted person shall be transferred from a prison with general regime to prison with strict regime and from strict regime to general.

4. In case if convicted person is not agree with the revocation of the privileged conditions of detention or with transfer to prison with strict regime he is allowed to appeal commission's decision on transfer in the order specified by law.

### **Article 89. Buying foodstuff and essentials by persons sentenced to deprivation of liberty**

1. Convicted persons are allowed to buy foodstuff and essentials without limitation with funds from personal account by cashless settlement as well as with funds from earned pensions and social allowances.

2. The Internal Regulations Rules of correctional institution shall define the list and amount of food and essentials that are prohibited for sale to convicted persons.

### **Article 90. Acquisition of literature and writing materials by persons sentenced to deprivation of liberty**

1. Convicted persons are permitted to receive in parcels, packages and posted packets, as well as to buy with their own funds without limitations literature, writing materials and subscribe for newspapers and magazines.

2. Convicted persons are prohibited to receive, acquire, keep and spread publications advocating war, inciting national and religious hatred, worshiping violence and cruelty, obscene materials as well as to subscribe to them.

## **Article 91. Meetings provided for persons sentenced to deprivation of liberty**

1. Convicted persons shall be granted following kinds of meetings: short-term meetings that last four hours and long-term meetings that last three days both within and outside of the territory of correctional institution
2. Short-term meetings are granted for meeting relatives or other persons and are held in presence of a representative of the correctional institution administration. Long-term meetings are granted with the right of cohabitation only with close relatives, and in exceptional cases with the permission of the correctional institution chief with other persons.
3. In case of convicted person's serious illness threatening his life, the chief of correctional institution shall inform close relatives about it and grant them a meeting with the convict.
4. Based on the wish of convicted persons it is permitted to change long-term meetings to short-term meetings. Order and place of meetings, as well as change of one kind of meeting to another is defined by Internal regulations rules of correctional institutions.
5. Convicted persons in order to receive legal aid upon their request are granted meetings with the attorneys and other persons having right to render legal aid

## **Article 92. Telephone conversations of persons sentenced to deprivation of liberty**

1. Convicted persons have a right to have telephone conversations. Telephone conversations shall be paid from personal funds of convicted persons or their close relatives.
2. Convicted persons serving the punishment measure in punitive isolators, in disciplinary isolators, cell-type rooms and solitary cells may be allowed telephone conversation only under exceptional personal circumstances.
3. Convicted persons serving their sentences in correctional institutions are not allowed to have telephone conversations with each other.
4. The personnel of the correctional institution shall control telephone conversations of convicted persons.

## **Article 93. Receiving of parcels, packages and posted packets by convicted persons**

1. The number of parcels, packages and postal packets received by convicted is not limited.
2. Medicines and items of medical prescription shall be send to the medical department of the correctional institution for treatment of convicted persons.
3. Parcels, packages and postal packets are subjects to examination.

4. The order of acceptance and delivery of parcels, packages and postal packets, as well as the list of objects prohibited for convicted persons are defined by the internal regulations rules of correctional institution.

5. Convicted persons are permitted to send parcels and postal packets with the permission of the correctional institution administration.

#### **Article 94. Receiving and sending money orders by convicted persons**

1. Persons sentenced to deprivation of liberty are allowed to receive and send money orders to/from their close relatives and with the permission of the correctional institution administration – to other people.

2. The money received shall be transferred to personal account of the convicted person.

#### **Article 95. Correspondence of the persons sentenced to deprivation of liberty**

1. Convicted persons are allowed to send and receive at their own expense unlimited number of letters and telegrams.

2. The correspondence sent and received by convicts shall be subject to censorship.

3. Correspondence between convicts confined in deprivation of liberty places, who are not relatives is allowed with the permission of the correctional institution administration.

4. Delivery of letters addressed to the convicted person as well as their sending shall be done by the correctional institution administration not later than within three days after the letters were brought to a correctional institution or were delivered by a convicted person. Delivery of telegrams shall be done by the correctional institution administration immediately.

#### **Article 96. Viewing of movies, TV programs and listening of radio programs by persons sentenced to deprivation of liberty**

1. Movies shall be shown to persons sentenced to deprivation of liberty not less than once a week. Convicts serving their punishment in prisons, convicts transferred to punitive isolators, cell-type rooms, general cells and solitary cells are prohibited to watch movies.

2. Convicted persons, except the ones transferred to punitive isolators, cell-type rooms and solitary cells, are permitted to watch TV programs during work-free time, except for the time designated by regulations for night sleep.

3. Convicted persons or group of convicted persons may buy TV sets and radios with their own funds from trading net or to obtain them from their relatives or other persons. Convicted persons are permitted to listen to radio programs during work-free hours but except for the time designated by the regulations for night sleep. Residential buildings, rooms for educational

activities, leisure rooms, work buildings, punitive isolators, cell-type rooms and solitary cells shall be equipped with radio transmitting sockets at the expense of the correctional institution.

### **Article 97. Walk of the persons sentenced to deprivation of liberty**

1. Convicted persons serving their sentence in the locked premises, punitive isolators, disciplinary isolators, cell-type rooms, general and solitary cells, if they do not work outdoors have a right to have walk of the duration specified in the articles 123, 134,136 of the present Code.

2. Walk of the convicted persons shall be organized on a cell basis during daytime on the specially equipped territory of the correctional institution. The walk may be stopped earlier in case if a convicted person violates established rules.

### **Article 98. Leave of deprivation of liberty places by the convicts**

1. Convicts confined in correctional or educational colonies, as well as those who were left to do household activities in remand prisons and a prison, excluding the convicts mentioned in the article 100 of the present Code, may be granted the following types of leaves outside of deprivation of liberty place:

a) short-term leave for the period not exceeding seven days excluding the time for the roundtrip (not more than three days), in exceptional personal cases of: death or the serious life endangering illness of a close relative, natural disasters that caused substantial material damage to the convicted person or his family, as well as preliminary arrangements of employment and living conditions after release;

b) long-term leaves in case of the paid leave, as for the convicts listed in the second part of Article 107 of the present Code or convicts unemployed due to valid reason - for the period equal to the term of annual paid leave.

2. Convicted women, who have children in the child house attached to correctional institution may be granted a short-term leave outside the places of deprivation of liberty for the period not exceeding seven days not including travel time to place the child with relatives, guardians or in a children's home, and women, who have minor children-invalids outside of correctional institution – one short-term leave per year to meet with them for the same period of time.

3. Minor convicts are granted a leave if they are accompanied with a relative or other accompanying person.

4. Application of the convicted person to leave promptly correctional institution due to exceptional personal circumstances shall be considered in one-day period.

5. The correctional institution chief shall decide if a convicted person may be granted a permission for a short-term leave taking into account character and gravity of the crime

committed, the term served, personality and conduct of convicted person. Denial of the permission for a short-term leave shall be motivated.

6. The time spent outside of correctional institution shall be included to the term of punishment.

7. Travel expenses connected to leave shall be paid either by convicted person or his relatives. While convicted person is outside the correctional institution the salary to him shall not be paid.

8. The order of granting short-term leaves outside the correctional institution is specified in the Internal regulations rules of correctional institutions.

9. In case of occurrence of unexpected causes that impede return of the convicted person in established time, on the ground of motivated resolution of the head of the department of internal affairs at the location of the convict, the period for return to correctional institution may be prolonged until five days with prompt notification of the colony about resolution.

10. If a convicted person evades return to correctional institution in established time, he should be detained for the term not exceeding thirty days by local body of internal affairs upon sanction of the public prosecutor with the aim to resolve an issue of his delivery to deprivation of liberty place under convoy or to institute criminal proceedings against him.

11. Leave for another state's territory may be permitted in the order and cases established by agreements of respective states.

#### **Article 99. Conditions and order of movements of the persons sentenced to deprivation of liberty without convoy or accompanying persons**

1. In correctional institutions convicted persons who have shown commitment to correction, as well as those convicted persons who were left in remand prisons or a prison to do household activities after serving at least one third of the punishment term may be granted the permission to move without convoy or accompanying persons outside of correctional institution if needed due to the character of a job a convicted person is responsible for.

2. Convicted persons detained in educational colony, who have shown commitment to correction and served not less than six months of deprivation of liberty may be granted the permission to move without convoy or accompanying persons outside of colony if needed due to the character of a job a convicted person is responsible for.

3. According to motivated resolution of the correctional institution chief a convicted person may be granted the right to move without convoy or accompanying persons outside of correctional institution.

4. Convicted persons, who enjoy the right to move without convoy or accompanying persons shall live in separate residential room. These convicted persons may be permitted to live in the hostel outside of correctional institution but within the territory specified by the correctional institution administration in agreement with the body of local government.



5. Conduct rules for the convicts authorized to move without convoy and accompanying persons outside of correctional institution are established by the Internal regulations rules of correctional institutions.

6. The correctional institution chief may revoke the right of convicted person to move without convoy or accompanying persons in case of violation of the regime, rules of conduct or if the type of the job the convict is responsible for has been changed.

#### **Article 100. Prohibition to move without convoy or accompanying persons to certain categories of convicted persons**

1. It is prohibited to move without convoy or accompanying persons outside of correctional institution to:

- a) persons convicted for special dangerous recidivism;
- b) convicted persons in regard to whom death penalty has been changed to deprivation of liberty by pardon;
- c) persons convicted for deliberate crimes committed while serving the penalty of deprivation of liberty or after completion of serving the penalty of deprivation of liberty for deliberate crimes;
- d) convicted persons who enjoyed the right to move without convoy or accompanying persons but were deprived of this right due to committed violations;
- e) persons convicted for specially grievous crimes;
- f) convicted persons with imposed punishment measures, which have not been quashed or cancelled;
- g) convicted persons who did not take the full treatment course treatment for alcoholism, drug abuse, substance intoxicating, tuberculosis or venereal disease;
- h) the HIV- infected;
- i) persons found to be partially sane.

2. Movements without convoy or accompanying persons shall not be allowed within Dushanbe city, resorts and boundary zones, as well as within the built-up areas defined by the Ministry of Internal Affairs of the Republic of Tajikistan.

#### **Article 101. Peculiarities of serving the punishment of deprivation of liberty by pregnant women and women with children**

1. If there is a necessity a child house shall be organized in correctional colonies. A child house shall provide all conditions for normal life and development of children. Convicted women have a right to place in the child house her children under three years old and visit them at work-free time without limitations. Convicted women may be permitted to live with their children.
2. Children of convicted women with their mother's consent may be given to her relatives, or with the mother's consent and decision of the bodies of guardianship and trusteeship – to other people, or when a child reaches an age of three years, or the child on reaching the age of three years may be sent to appropriate children institutions.
3. If the unserved punishment term of mother of the child, who has reached an age of three years, does not exceed one year and she is committed to the mother's responsibilities, then the child's stay in the child house may be prolonged by the correctional institution administration till mother's release. In case if the mother violates rules of conduct the permission to stay in the child house may be annulled.
4. Pregnant women during pre-natal period, while child delivery and during post-natal period are entitled to specialized aid.

#### **Article 102. Living of the convicted women outside of colony**

1. Convicted women who have shown conscientious attitude to labor and observe regime rules, may be permitted to live outside of correctional institution during work-free time while pregnancy and childbirth and until a child reaches three years old age, on the ground of motivated decision of the correctional institution chief.
2. Convicted women who are permitted to live outside of correctional institution:
  - a) shall live close to the colony territory and shall be constantly supervised by the correctional institution administration;
  - b) may have money and valuable things and use the money with no limitations;
  - c) may send without limitations letters, receive money orders, have meetings, receive parcels, packages and postal packets;
  - d) enjoy the right to move freely within the boundaries of the territory specified by the correctional institution chief during the time period from wake-up to off signal.
3. In case of systematic or malignant violation of the regime or rules of conduct, on the ground of motivated decision of the correctional institution chief, the right to live outside of correctional institution shall be revoked and the convicted person shall be sent to correctional institution for further punishment serving.

#### **Article 103. Compulsory state social insurance and provision of pensions for persons sentenced to deprivation of liberty**

1. Compulsory state insurance is due for employed persons sentenced to deprivation of liberty, and convicted women shall also be provided with maternity allowances on general grounds.
2. Persons sentenced to deprivation of liberty are entitled on general grounds to provision of pensions in their old age, in cases of disablement, loss of a bread-winner and other cases specified by legislation of the Republic of Tajikistan including cases when they lost their ability to work while serving their punishment.
3. Payment of pensions to convicted persons shall be carried out by the social security bodies at the correctional institution location by means of transfer of pensions to the personal bank accounts of convicts.
4. Pensions of the convicted persons may be deducted. Grounds, types and order of deductions from are specified in the article 111 of the present Code.

#### **Article 104. Material and social maintenance of the persons sentenced to deprivation of liberty**

1. Convicted persons, who serve their punishment in the deprivation of liberty places, shall be provided with necessary living conditions that satisfy sanitary and hygienic requirements. Standard of living space for one person sentenced to deprivation of liberty shall not be less than two square meters in the correctional colony, two meters and a half in the prison, three square meter in the women colonies, three meters and a half in the educational colony, three square meters in the medical correctional institutions and five square meters in the medical-preventative institutions.
2. Convicted persons shall be provided with individual berth and bedding. They shall be provided with seasonable clothes, underwear and shoes taking into account sex, age and climate conditions.
3. Convicted persons shall receive nourishment that provides for normal vital activity. Food norms differentiate according to the health condition, age, climate conditions, location of the correctional institution, character and difficulty of the work done by convicted person. Convicted persons may be provided with additional food in addition to the established norm at the expenses of the enterprise using convicts' labor. Convicted persons, who due to the circumstances beyond their control do not get salaries or those ones who do not have funds on their personal accounts due to other reasons, shall be provided with food and essentials at the expense of the state budget.
4. Adult convicts able to work who receive salaries, and convicts who receive pensions shall reimburse expenses for food, clothing and public utilities, except expenses for uniform and special food. In case if convict avoids doing his work, the costs are withheld from funds on his personal account. Reimbursements of the food, clothing and public utilities expenses shall be made on monthly basis within the sum of actual expenses done in the month.

5. Convicted persons released from work due to a disease, pregnancy and breast-feeding women, shall not pay for their food during the period of release. Convicted minors, invalids of first and second group, unemployed men over 63 years old and women over 58 years old shall be provided with free food and clothing.

6. Pregnant and breast-feeding women, minors, sick persons and invalids of I and II groups shall be provided with privileged living conditions and increased food norms.

7. The Government of the Republic of Tajikistan shall define the norms of food and other material maintenance of convicted persons.

8. Convicted women, who have children in the child house attached to correctional institution are entitled to receive child care allowance in accordance with the legislation of the Republic of Tajikistan.

#### **Article 105. Medical-sanitary maintenance of the persons sentenced to deprivation of liberty**

1. Medical-preventative and sanitary aid to convicts in deprivation of liberty places shall be organized and provided in accordance with the Internal regulations rules of correctional institution and legislation of the Republic of Tajikistan.

2. Medical-preventive institutions (hospitals, special psychiatric and tubercular hospitals, medical units) are established for medical care of the convicts, and medical correctional institutions - for detention and out-patient treatment of the convicts suffering tuberculosis, chronic alcoholism and drug addiction, and HIV-infected convicts.

3. Convicted person has a right to turn for consultation and treatment to medical services that require payment. Payment for such services and purchase of the needed medicines shall be made by the convict or his relatives at their own expense. In these cases consultation and treatment shall be conducted at the medical-sanitary unit at the place of penalty serving under supervision of personnel of the medical-sanitary unit.

4. The administration of deprivation of liberty place shall meet necessary sanitary-hygienic and anti-epidemic requirements that provide protection of convicts' health. Persons sentenced to deprivation of liberty shall fulfill requirements of hygiene and sanitary.

5. In case if a convicted person refuses to eat and this leads to threat to his life compulsory feeding according to medical prescriptions is allowed.

6. The order of the medical aid provision, organization and conducting sanitary control, use of medical-preventive, sanitary-preventive institutions and medical personnel of health care bodies shall be defined by the Ministry of Internal Affairs of the Republic of Tajikistan and the Ministry of Health care of the Republic of Tajikistan.

#### **Article 106. Material liability of the persons sentenced to deprivation of liberty**

1. Persons sentenced to deprivation of liberty shall be materially liable for the material damage caused to state, or physical and juridical persons while punishment serving:

a) for the damage caused while fulfilling labor responsibilities - in the amount specified in labor legislation of the Republic of Tajikistan;

b) for the damage caused by other actions of the convict - in the amount specified in civil legislation of the Republic of Tajikistan.

2. Convicted persons shall reimburse the damage caused to correctional institution and additional expenses related to measures preventing his escape and his treatment in case if he intentionally caused damage to his health.

3. Recovery of the material damage caused by convicted persons punishment serving in the deprivation of liberty places shall be done on the ground of motivated decision of the correctional institution chief. Decision is announced to the convict against receipt.

4. The decision of the correctional institution chief may be appealed to a higher official or court.

5. The higher official can change amount of the sum for recovery or annul the decision on recovery of damage in view of the lack of convict's guilt.

6. Incorrectly withheld sums for the caused material damage have to be reimbursed and transferred to the personal account of the convict.

7. After release of convicted person the damage that has not been reimbursed by him while punishment serving is recovered by court decision in lawful order.

## **Chapter 12. Labor, professional education and professional training of the persons sentenced to deprivation of liberty**

### **Article 107. Recruiting person sentenced to deprivation of liberty for labor**

1. Every person sentenced to deprivation of liberty must work at the place and at the job specified by the correctional institution administration. The correctional institution administration recruits convicted persons to work at enterprises of correctional institutions, state enterprises or enterprises of other forms of ownership with condition to provide appropriate security and isolation of convicted persons taking into account their sex, age, ability to work, health and, if possible, profession. Convicted person may be permitted to do individual labor activities, if there are no other jobs.

2. Convicted men over 60 years old and women over 55 years old, invalids of I and II groups, the women having children in the child house attached to correctional institution are permitted to work if they wish so according to labor legislation of the Republic of Tajikistan and legislation of the Republic of Tajikistan on social security of disabled persons. Minors may be recruited in accordance with the labor legislation of the Republic of Tajikistan.

3. Labor of the convicts serving deprivation of liberty in prisons may be organized only within the prison territory.
4. The list of works and positions that prohibit recruitment of persons sentenced to deprivation of liberty is established by the Internal regulations rules of correctional institution.
5. Production and economic activities of correctional institution shall be subordinate to the main objective which is correction of the convicted persons.
6. Convicted persons cannot stop the work with the purpose to resolve labor or other conflicts. Stoppage of work is considered as a violation of the punishment serving regime and may entail responsibility under the present Code.

#### **Article 108. Working conditions of the persons sentenced to deprivation of liberty**

1. Length of the working time, labor protection rules, safety standards and rules of industrial sanitation applied to convicts shall be determined according to the labor legislation of the Republic of Tajikistan. A time to begin and finish a work (shift) is defined by schedule of shifts that is established by the correctional institution administration in agreement with the administration of the enterprise employing convicted persons. In the order specified by the labor legislation of the Republic of Tajikistan convicted persons shall be released from work during holidays.
2. Except for educational colony, according to labor legislation of the Republic of Tajikistan, summarized calculation of working time is allowed in certain types of works where according to industrial conditions neither daily nor weekly established length of working time can be observed. An average length of the working time for calculated period shall not exceed eight hours a day.
3. If there is a necessity to work during weekends or holidays, convicted persons shall be provided with days off during the month.
4. Working convicts are entitled to annual paid leave: convicts serving deprivation of liberty in educational colonies - for the period of 18 days; convicts serving deprivation of liberty in other correctional institutions - for the period of 12 days. The leave is granted with authorization to leave correctional institution boundaries or without it according to article 98 of the present Code. A period of time when convict was kept in the cell-type room and solitary cell shall not be included to the time of the annual paid leave.
5. Time during which convicted person had been recruited to work shall be included to his general labor length of service. The correctional institution administration is responsible for calculation of the worked out time, which shall be done according to results of the calendar year.
6. If convicted person systematically avoids fulfilling his work, this period of time may be excluded from his general length of service upon decision of the correctional institution

administration. Decision of the correctional institution administration can be appealed by convict in the court.

#### **Article 109. Remuneration of labor of the persons sentenced to deprivation of liberty**

1. Labor of convicts shall be paid in accordance with the labor legislation of the Republic of Tajikistan.

2. Monthly salary of the convicted persons cannot be less than the minimal monthly salary if he has worked out the working time norm estimated for this period and fulfilled established labor norm.

#### **Article 110. Recruiting persons sentenced to deprivation of liberty to unpaid works**

1. Convicted persons may be recruited to work for free only to works on improvement of deprivation of liberty places and adjacent territories, except for security installations; as well as to additional works on improving cultural and living conditions of the convicted persons and on providing correctional institutions with food. The above mentioned works are usually fulfilled by the convicts in turn, during work-free time and length of these works shall not exceed eight hours a month.

2. Convicted persons can be recruited for reconstruction of security installations only in case if they are destroyed as the result of natural disasters or other extraordinary circumstances.

#### **Article 111. Deductions from salaries and other incomes of the persons sentenced to deprivation of liberty**

1. According to the fourth part of article 104 of the present Code, salaries, pensions and other incomes of convicted persons shall be deducted to reimburse expenses related to their detention.

2. Convicted persons shall reimburse expenses related to their detention after deducting of alimony, income taxes, deductions to social fund and other compulsory deductions. Deductions based on the receiving order and other enforcement orders shall be done from the amount left in the order specified in the Civil procedure Code of the Republic of Tajikistan.

3. In correctional institution regardless of all made deductions not less than 25 per cent of the earned salary, pension and other incomes shall be transferred to the personal accounts of convicts, but to the personal account of the men over 63 years old, women over 58 years old, invalids of the I and II groups, minors, pregnant women and the women having child in the child house attached to correctional colony-not less than 50 per cent.

4. Convicted women, who were permitted to live outside of colony according to article 102 of the present Code, regardless of all the made deductions shall be paid not less than 50 per cent of the salary total amount

## **Article 112. Regime requirements in enterprises of correctional institutions and industrial units of other ministries and offices**

1. Enterprises of correctional institutions and industrial units of other ministries and offices may recruit civilian personnel to supervise work of the convicted persons, civilian professional workers may also be recruited, but they shall constitute no more than 15 percents of the total number of the convicted persons working there.

2. Persons working together with convicts shall observe the order of interrelations with them, established by the correctional institution administration. In case if the order has been violated, the correctional institution administration has a right to prohibit access of these persons to the industrial units where convicts work.

3. It is not allowed to give to convicts things, food, money and objects prohibited for use in correctional institutions. Persons who violated these rule shall bear responsibility in the order specified by law.

4. In necessary cases, administration has a right to search industrial units where convicts work, as well as things and clothes of the persons entering and leaving the industrial units where convicts work.

## **Article 113. Professional education and professional training of the persons sentenced to deprivation of liberty**

1. Correctional institution shall organize compulsory primary professional education or professional training of the convicts who do not have a profession (specialization) usable in the work of the convict in the correctional institution and after release

2. Invalids of the I and II groups, men over 63 and women over 58 ,if they wish so, may receive appropriate professional training.

3. Convict's attitude to receiving of primary professional education and professional training shall be taken into account while determining degree of his correction.

4. Professional primary education and professional training of the convicts are administered in the order established by the Internal Affairs Ministry of the Republic of Tajikistan in agreement with Ministry of Labor and Social security of the Republic of Tajikistan

## **Chapter 13. Educational influence on persons sentenced to deprivation of liberty**

### **Article 114. Educational activities with the persons sentenced to deprivation of liberty**

1. The correctional institution administration in cooperation with social, charitable and religious organizations conduct educational activities for the convicts with the aims to correct, develop and strengthen convicts' aspiration for socially useful work, respectful attitude to a human being,



society, labor, to observe laws and other socially accepted norms of conduct and traditions, to develop their education and culture.

2. Participation of the convicted persons in the educational events shall be encouraged and taken into consideration while determining degree of their correction, as well as while applying the stimulation and punishment measures.

3. The regulations of correctional institution may include the educational events that are obligatory for convicted persons.

4. Educational activities for convicted persons shall be conducted taking into account individual peculiarities of convict's personality, his character and circumstances of the crime committed.

### **Article 115. Organization, main forms and methods of educational activities for the persons sentenced to deprivation of liberty**

1. Moral, legal, labor, physical and other kinds of education contributing to achieving the goal of convicts' correction, shall be conducted in the correctional institutions.

2. Educational activities with convicted persons shall be carried out individually, in groups and mass forms on the basis of psychological-pedagogical methods and shall be differentiated taking into account the type of correctional institution, its regime, term of the punishment and conditions of detention.

3. Individual work shall be carried out on the ground of examination of personality of the convicted person, taking into account his committed crime, age, psychical condition, education, profession and other peculiarities of the convicted person.

4. Periodical press, radio, TV, movies shall be used while conducting educational activities for convicted persons. Library work shall be organized.

### **Article 116. Amateur organizations of the persons sentenced to deprivation of liberty**

1. Amateur organizations of convicts functioning under control of the correctional institution administration shall be established.

2. Participation of convicted persons in activities of amateur organizations shall be encouraged and taken into account while determining degree of their correction.

3. The main objectives of amateur organizations are: providing convicted persons with help in self-education, spiritual, professional and physical development; developing useful initiatives and making positive influence on correction of convicted persons; participating in solving issues related to arrangement of the labor, living conditions and leisure of convicted persons; assisting administration to maintain discipline and order and to form sound relationships between convicted persons; providing social aid to convicted persons and their relatives. Amateur

organizations may have other objectives not contradicting to the goals, order and conditions of punishment execution.

4. Members of the amateur organizations consisting of convicted persons do not enjoy additional privileges. Amateur organizations of convicted persons and their members do not have authorities of the correctional institution administration.

5. The order of establishment and functioning of the amateur organizations consisting of convicted persons shall be defined by the Ministry of Internal Affairs of the Republic of Tajikistan.

6. In correctional institutions the councils of collectives of correctional institutions and detachments shall be formed out of the number of convicted persons with good reputations. In correctional institutions other amateur organizations of convicts may be established if they have objectives specified in the part three of the present article.

7. Amateur organizations shall not be formed in the prisons and among the convicts detained in the cell-type rooms.

#### **Article 117. Providing general education for the persons sentenced to deprivation of liberty**

1. Compulsory general basic (9 years) education shall be organized in correctional institutions for the convicts under thirty years old. Those convicted persons, who wish to continue their education with the purpose to receive secondary (full) general education, shall be provided with necessary conditions by the correctional institution administration and respective bodies of local government.

2. Convicted persons over 30 years old and invalids of the I and II groups receive general basic (9 years) and secondary (full) education if they wish to do so.

3. In accordance with the labor legislation of the Republic of Tajikistan convicted persons who have to pass exams shall be released from work.

4. Strive of convicted persons to receive education shall be encouraged by the correctional institution administration and shall be taken into account while considering the issues of transfer to privileged conditions, mitigation of the unserved punishment term and granting of parole.

5. Educators from educational institutions assist to the correctional institution administration with conducting of educational activities for convicted persons.

6. Providing convicts with general basic (9 years) and secondary (full) education, establishment, reorganization and liquidation of educational institutions in correctional institutions (schools and educational-consultative centers) shall be carried out in the order specified by the Ministry of Internal Affairs of the Republic of Tajikistan in agreement with the Ministry of Education of the Republic of Tajikistan.

## **Article 118. Stimulation measures applied to the persons sentenced to deprivation of liberty**

1. The following stimulation measures may be applied to the convicts for good conduct, conscientious attitude to labor and education, active participation in amateur organizations and educational events:

- a) gratitude;
- b) awarding with a present;
- c) premium; granting conditions of detention prescribed by articles 178, 130, 134, 140 and 141 of the present Code;
- d) granting of additional short-term or long-term meeting;
- e) pre-term removal of the punishment measure imposed before;
- f) transfer in the correctional colony of special regime of the convicted person who has served not less than one third of punishment term from the cell-type room to ordinary inhabitable room within the colony;
- g) increase of walk time till two and a half hours a day for the period of one month to the persons confined in the colonies of special regime and prisons.

2. Stimulating measure in the form of permission to spend a weekend or a holiday outside of colony may be applied to convicted persons who serve their punishment in the correctional colony-settlement.

3. Measures specified by the second part of article 80 of the present Code may be applied to the convicted persons who have been positively characterized.

4. Convicted persons who have shown their commitment for correction may be recommended for parole or mitigation of the unserved punishment term.

5. Petition for pardon may be instituted in regard of the positively characterized convicted persons.

## **Article 119. Order of application of stimulation measures to convicts**

1. Stimulating measure in the form of gratitude may be expressed either in oral or written form, other stimulation measures shall be expressed only in written form.

2. Premium shall be transferred to the personal account of the convict.

3. Stimulating measure in the form of granting a meeting is not applied to the convicted persons detained in the prison with strict regime. A short-term meeting may be granted as stimulating measure to the convicted persons, who serve punishment in the prison with general regime.

4. Stimulating measure in the form of pre-term removal of the punishment measure imposed before may be applied not earlier than after six months of serving punishment measures, which are specified in the article 120 of the present Code. As stimulation, as a rule, one punishment measure imposed before may be removed earlier.

5. Transfer of the convicted persons serving their punishment in the correctional colony of special regime from cell-type room to ordinary inhabitable room of the same colony is done by resolution of the correctional colony chief upon decision of the correctional institution commission.

### **Article 120. Punishment measures applied to the persons sentenced to deprivation of liberty**

1. The following punishment measures may be imposed on convicted persons for violating of the established penalty serving regime:

a) reprimand;

b) repeal of the privileged conditions of detention, which are specified in the articles 128, 130, 132, 134, 140 and 141 of the present Code;

c) cancellation of the next short-term or long meeting or telephone conversation for the period up to one month;

d) placement of the convicted persons confined in correctional colony or prison in punitive isolator for the period up to fifteen days;

e) transfer of the convicted men qualified as malignant violators of the established penalty serving order and who are confined in the correctional colony of general, intensive and strict regime, to cell-type rooms for the period up to six months; and from correctional colony of special regime - to solitary confinement cells for the period up to six months;

f) transfer of the convicted women qualified as malignant violators of the established penalty serving order to cell-type rooms for the period up to three months.

2. Punishment measures specified in points "e" and "f" of the first part of the present article shall not be applied to the convicted persons who serve their punishment in the correctional colony-settlement and to the persons who have committed crimes due to negligence.

3. Convicted women who have breast-feeding children in the child house attached to correctional institution and convicted women, who are released from work due to pregnancy or child-birth, as

well as invalids of the I and II group shall not be placed in the punitive isolator, cell-type rooms and solitary cells.

4. Measures specified in the part four of article 80 of the present Code may be applied to convicted persons who maliciously violate the established penalty serving order.

5. Convicted persons shall not be subject to disciplinary responsibility for non-fulfillment of the output rate or shift task unless it was the result of refusal or evasion of work.

#### **Article 121. The order of imposition of punishment measures on convicts**

1. While imposing punishment measures on a convicted person, circumstances of the crime commission, personality and conduct of the convicted person before committing of an offense shall be taken into account. The imposed punishment measure shall be commensurate to gravity and character of the convict's offense.

2. Punishment measure shall be imposed within ten days after offense disclosure, in case if a check-up has been conducted in regard to this offense – then from the day of check-up completion but within three months after the day of offence commission. Punishment measure shall be executed immediately, but in exceptional cases- not later than in thirty days from the day of its imposition. It is prohibited to impose several punishment measures for one violation.

3. Punishment measure in the form of reprimand may be imposed either in oral or written form, other punishment measures shall be imposed only in the form of written motivated resolution of the correctional institution chief or a person, who replaces him, except for the point 'b' of part 1 of the article 120 of the present Code.

4. Transfer of convicted persons to cell-type rooms and solitary cells shall be done according to motivated resolution of the correctional institution chief with indication of term of detaining there, upon decision of the correctional institution commission.

5. Transfer of convicted persons to cell-type rooms, as well as to solitary cells shall be done if the other appropriate measures were not effective, and in cases of malignant violation of the established penalty serving order.

6. All punishment measures, except for transfer to cell-type rooms, may be imposed on the convicted persons transferred to cell-type rooms.

7. If during one year period from the day of completion of the disciplinary punishment serving, new punishment measure was not imposed on convict, he is considered as a person without imposed punishment measures.

#### **Article 122. Malignant violation of the established penalty serving order**

1. The following actions are considered to be malignant violations of the established penalty serving order: drug and alcohol abuse; petty hooliganism; threatening, disobedience to

representatives of the correctional institution administration or insulting them; insulting or threatening other representative of authorities in course of their duty; organization of strikes or other group unrests as well as participation in them; forming groups of convicted persons to commit violations mentioned in the present article or active participation there; pederasty, lesbianism and other sexual actions.

2. Repeated violation of the established penalty serving order during one year period may be considered malignant if the punishment measure in the form of placement in punitive isolator was imposed upon him for the both violations.

3. A convicted person who had committed violations specified in part one and part two of the present article is considered to be a malignant violator of the established punishment serving order if the punishment measures prescribed in points "d", "e", "f" of part one of the article 142 of the present Code were imposed upon him.

4. A convicted person is considered to be a malignant violator of the established penalty serving order by motivated resolution of the correctional institution chief along with imposition of a punishment measure.

#### **Article 123. Conditions of detention of convicts in punitive isolators, cell-type rooms and solitary cells**

1. Meetings, telephone conversations, buying of food, receiving of parcels, packages and postal packets shall be prohibited to the convicted persons placed in punitive isolator. They are entitled to the daily one-hour walk.

2. Convicted persons who have been transferred to cell-type rooms or solitary cells as a punishment measure have the right to:

a) spend the money earned in a correctional institution on food and essentials, in the amount equal to two minimal salaries prescribed by law;

b) receive one parcel or package, and one postal packet in the course of six months;

c) walk for one and a half hour every day;

d) have one short-term meeting in the course of six months with the permission of the correctional institution administration.

3. Convicted persons who were placed in punitive isolators, transferred to cell-type rooms or solitary cells shall work separately from other convicted persons.

4. The time spent in medical institutions is included to the punishment measure serving term, in the case if a convicted person is transferred from punitive isolator, cell-type room and solitary cell to medical institution due to the reasons not connected to self-maiming or illness simulation.

5. The total term of detention in the cell-type room or solitary cell may not exceed six months a year, and in punitive isolator – not more than for sixty days.

6. Material and social maintenance of convicted persons in punitive isolators, cell-type rooms and solitary cells shall be implemented according to the norms specified for the detention of convicted persons in prison of general regime.

**Article 124. Officials of correctional institutions who apply stimulation and punishment measures to the persons sentenced to deprivation of liberty**

1. The correctional institution chief or a person, who replaces him enjoy the right to apply in a full extent stimulation and punishment measures specified in the articles 118 and 120 of the present Code, except for the point "b" of part 1 of the article 120 of the present Code.

2. The chiefs of detachments have the right to apply the following stimulation measures:

a) gratitude;

b) pre-term removal of the punishment measure imposed before by the detachment chief.

3. Chiefs of the detachments have the right to impose reprimand orally.

**Chapter 14. Execution of the penalty of deprivation of liberty in correctional institutions of different types**

**Article 125. Correctional colonies-settlements**

1. The men sentenced to deprivation of liberty for the term not exceeding five years for the crimes committed due to negligence, as well as the women convicted for crimes of negligence serve their punishment in correctional colonies-settlements; the convicts transferred from the colonies of general, intensive, and strict regime in the order specified by article 80 of the present Code serve their punishment in the correctional colonies-settlements for the convicts with positive characteristics.

2. In both types of correctional colonies-settlements, convicts serve deprivation of liberty in the same conditions.

3. Both convicted men and convicted women may be detained in one correctional colony-settlement. Convicted persons, who committed a crime in complicity as a rule serve their punishment separately.

**Article 126. Conditions of serving an deprivation of liberty penalty in correctional colonies-settlements**

1. In correctional colonies-settlements, persons sentenced to deprivation of liberty:

a) are detained without guards, but under supervision of administration of the colony-settlement; have right to move freely within the limits of colony-settlement according to regulations; may move without supervision outside of limits of colony-settlement, but within the boundaries of the appropriately organized administrative territory upon permission of the colony-settlement administration and if it is necessary for the job fulfilled by convicts or their study; may have money and valuable things with them; use the money without limitations, receive parcels, packages and postal packets; may have unlimited number of meetings;

b) as a rule, live in the specially designated for them living quarters; in case of non-violation of the established penalty serving rules and being family men according to decision of the chief of colony-settlement may live together with their families in the rented or their own housing within the limits of colony-settlement or outside of it. These convicts must come to colony-settlement up to four times a month for registration. Periodicity of registration is determined by decision of the colony-settlement chief. Administrative personal of colony-settlement may visit living quarters of convicts any time;

c) have an identification document of the specified sample, which identifies their person. Passport and other personal documents shall be kept together with personal files.

2. Convicts are prohibited to bring to residential area, store and use the objects specified in the list established by the Internal regulations rule of correctional institution.

3. Labor of the convicts, except for the rules of admittance to work, dismissal from work and transfer to another work, is regulated by the labor legislation of the Republic of Tajikistan. Administration of the organization where convict works may transfer the convict to another work, including transfer to another place (locality) with permission of administration of the colony-settlement.

4. Convicts may study by correspondence in the secondary special and higher educational institutions, located within the limits of the administrative-territorial formation at the penalty serving place.

### **Article 127. Correctional colonies of general regime**

1. Men, who have been sentenced to deprivation of liberty for the first time for deliberate crimes of small and moderate gravity, as well as the men sentenced to deprivation of liberty for the crimes of negligence for the term exceeding five years and the women sentenced to deprivation of liberty, except for the women convicted for committing crimes under specially dangerous recidivism or crimes of negligence shall serve their punishment in the correctional colony of general regime.

2. In accordance with part seven of article 58 of the Criminal Code of the Republic of Tajikistan other persons sentenced to deprivation of liberty may be detained in a correctional colony of



general regime, except for the persons convicted for specially dangerous recidivism, as well as those convicted persons in regard to whom death penalty has been changed to deprivation of liberty by pardon.

3. In the colony of general regime, persons convicted for committing crimes of small and moderate gravity shall be detained separately from the persons convicted for committing grievous crimes.

### **Article 128. Conditions of serving an deprivation of liberty in correctional colonies of general regime**

1. In the correctional colony of general regime convicted persons:

- a) are detained in ordinary inhabitable rooms;
- b) may spend without limitations funds from the personal account to buy food and essentials for the money, which have been earned in a correctional institution;
- c) have the right to have eight short-term meetings and six long-term meetings a year;
- d) have the right to receive parcels, packages and postal packets without limitations.

2. Transfer to the privileged conditions of detention may be done after serving not less than six months of a punishment term in ordinary conditions if a convicted person has shown conscientious attitude to labor, and a punishment measure for violation of the punishment serving order was not imposed upon him. In this case convicted persons may:

- a) have meetings without limitations;
- b) leave places of deprivation of liberty for the period of annual leave upon decision of the administration of a correctional colony in accordance with the article 98 of the present Code.

### **Article 129. Correctional colonies of intensive regime**

1. Men who were sentenced to deprivation of liberty for the deliberate grievous crimes for the first time serve their punishment in the correctional colonies of intensive regime.

2. In accordance with part seven of the article 58 of the Criminal Code of the Republic of Tajikistan other persons sentenced to deprivation of liberty except for the persons convicted for specially dangerous recidivism, as well as those convicted persons in regard to whom death penalty has been changed to deprivation of liberty by pardon, may serve their punishment in the correctional colonies of intensive regime.

### **Article 130. Conditions for serving an deprivation of liberty in the correctional colonies of intensive regime**

1. In correctional colonies of intensive regime convicts are detained in ordinary rooms. They have the right:

- a) to spend without limitations funds from their personal accounts for food and essentials
- b) to have six short-term and four long-term meetings a year;
- c) to receive parcels, packages and postal packets without limitations

2. Transfer to the privileged conditions of detention may be done after serving not less than one year of a punishment term in ordinary conditions if a convicted person has shown conscientious attitude to labor, and a punishment measure for violation of the punishment serving order was not imposed upon him. In this case convicted persons may:

- a) have meetings without limitations;
- b) leave places of deprivation of liberty for the period of annual leave upon decision of the administration of a correctional colony in accordance with the article 98 of the present Code.

#### **Article 131. Correctional colony of strict regime**

1. Men, who have been sentenced to deprivation of liberty for the first time for committing specially grievous crimes, and for recidivism or those who have served punishment of deprivation of liberty before, as well as the women convicted for committing crimes under specially dangerous recidivism and women in regard to whom death penalty has been changed to deprivation of liberty by pardon shall serve their punishment in the correctional colony of strict regime.

2. In accordance with part seven of the article 58 of the Criminal Code of the Republic of Tajikistan other convicted persons sentenced to deprivation of liberty may serve their punishment in the correctional colony of strict regime. In the correctional colony of strict regime men convicted for specially dangerous recidivism, as well as those convicted men in regard to whom death penalty has been changed to deprivation of liberty by pardon shall not serve their punishment in the colonies of strict regime.

#### **Article 132. Conditions of serving an deprivation of liberty in the correctional colonies of strict regime**

1. In the colonies of strict regime convicted persons:

- a) are detained in ordinary inhabitable rooms;
- b) may spend without limitations funds from their personal accounts for food and essentials;

- c) have the right to have four short-term and three long-term meetings a year;
- d) have the right to receive parcels, packages and postal packets without limitations.

2. Transfer to the privileged conditions of detention may be done after serving at least one third of a punishment term in ordinary conditions if a convicted person has shown conscientious attitude to labor, and a punishment measure for violation of the punishment serving order was not imposed upon him. In this case convicted persons may have additional four short-term and four long-term meetings a year.

### **Article 133. Correctional colonies of special regime**

1. Men convicted for specially dangerous recidivism and those convicted persons in regard to whom death penalty has been changed to deprivation of liberty by pardon shall serve their punishment in the correctional colonies of special regime.
2. Men convicted for specially dangerous recidivism shall be detained separately from other convicts which are specified in part one of the present article.

### **Article 134. Conditions of serving an deprivation of liberty in the correctional colonies of special regime**

1. In the correctional colonies of special regime convicted persons:

- a) are detained in strict isolation in the cell-type rooms;
- b) may spend without limitations funds from their personal accounts for food and essentials
- c) have the right to have three short-term and two long-term meetings a year;
- d) to receive parcels, packages and postal packets without limitations;
- e) have the right to have daily walk for two hours.

2. Transfer to the privileged conditions of detention may be done after serving a half of the punishment term if a convicted person has shown conscientious attitude to labor, and a punishment measure for violation of the punishment serving order was not imposed upon him. In this case convicted persons:

- a) are detained in ordinary inhabitable rooms;
- b) have the right to receive additional three short-term and two long-term meetings a year.

### **Article 135. Prisons**

1. Men sentenced to deprivation of liberty for specially grievous crimes for the term exceeding ten years or specially dangerous recidivism with serving in the prison a part of the term but not more than five years out of it, as well as those convicted persons, who were transferred to prison for the term of up to three years due to violation of the established punishment serving order in the correctional colonies of general, intensive, strict and special regime, shall be detained in prisons. Convicted persons detained due to grounds specified in the articles 75, 76 and 81 of the present Code shall be detained in prisons.

2. General and strict regimes shall be established in prisons.

3. Convicted persons, received by the prison or those convicted persons who were transferred from general regime shall be detained under strict regime.

4. Convicted invalids of the I and II groups shall not be detained under strict regime.

5. After serving at least one year of the punishment term under strict regime a convicted person may be transferred to general regime.

6. Convicted persons serving their punishment under general regime, and who have been found to be malignant violators of the established penalty serving order shall be transferred to strict regime. Repeated transfer to general order may be done in the order prescribed by the fifth part of the present article.

#### **Article 136. Conditions of serving an deprivation of liberty in prison**

1. In prisons convicted persons shall be detained in locked mass cells. In case of necessity, based on motivated decision of the chief of a prison in agreement with public prosecutor convicted persons may be detained in solitary cells.

2. Placement of convicted persons in cells is done with observation of the requirements specified in the article 78 of the present Code. In isolation and separately from other convicted persons shall be kept: convicted persons, who have been transferred from correctional colonies; convicted persons, who were left in a prison to do household activities.

3. A walk of the convicts detained in prison shall be organized according to schedule on a cell basis during daytime outdoors on the specially equipped territory of prison. A walk may be ceased earlier in case if a convicted person violated the internal regulations rules.

4. Convicted persons who are detained in prison under general regime are allowed to:

a) to spend without limitations funds from their personal accounts for food and essentials

b) to have two short-term and two long-term meetings a year;

c) to receive parcels, packages and postal packets without limitations;

d) have daily walk for two hours.

6. Convicted persons who are detained in a prison under strict regime are allowed to:

a) to spend without limitations funds from their personal accounts for food and essentials;

b) to receive parcels, packages and postal packets without limitations

c) have two short-term meetings a year;

d) have daily walk for one hour.

### **Article 137. Conditions of detention of the convicted persons left in the reprimand prison or prison to do household activities**

Convicted persons who in accordance with the article 76 of the present Code have been left to do household activities in the reprimand prisons or prisons shall be kept in ordinary rooms separately from other persons in the conditions specified in the present Code for correctional colonies of general regime.

### **Article 138. Conditions of detention of the convicted persons who have been temporary left in the reprimand prison or prison or transferred there**

Convicted persons, who have been temporary left in the reprimand prison or prison or transferred there in accordance with the articles 75 and 81 of the present Code shall have duties, which are specified in the regulations on preliminary detention. They shall be provided free of charge with food according to the established norm, be granted short-term meetings, receive parcels, packages and postal packets, send letters and buy food and essentials by cashless settlement.

## **Chapter 15. Peculiarities of serving the punishment of deprivation of liberty in educational colonies**

### **Article 139. Types of educational colonies**

Educational colonies are divided into colonies of general regime and intensive regime.

### **Article 140. Educational colonies of general regime**

1. Male minors, who are sentenced to deprivation of liberty for the first time, as well as all convicted female minors serve their punishment in educational colonies of general regime. Persons convicted for crimes of small and moderate gravity are kept separately from the persons convicted for the grievous and specially grievous crimes.

2. In educational colonies of general regime convicted persons:

- a) are kept in ordinary inhabitable rooms;
- b) have the right to spend without limitations funds from their personal accounts for food and essentials;
- c) have the right to short meetings with no limitation and six long-term meetings in the course of one year;
- d) to receive parcels, packages and postal packets without limitations;

3. After having served not less than one fourth of the punishment term, provided good conduct and conscientious attitude towards labor and study, convicted persons can be eligible for improvement of conditions they are kept in. In this case, convicted people are allowed to:

- a) to have meetings outside of the limits of educational colony upon decision of the educational colony administration;
- b) leave places of deprivation of liberty for the period of annual leave upon decision of the administration of a educational colony in accordance with the article 98 of the present Code.

#### **Article 141. Educational colonies of intensive regime**

1. Male minors who have served the penalty of deprivation of liberty before shall serve their punishment in educational colonies of intensive regime.

2. In educational colonies of intensive regime convicted people:

- a) are kept in ordinary inhabitable rooms;
- b) have the right to spend without limitations funds from their personal accounts for food and essentials;
- c) have the right to short-term meetings without limitations and four long-term meetings in a year;
- d) have the right to receive parcels, packages and postal packets without limitations

3. After having served not less than one third of the punishment term, provided good conduct and conscientious attitude towards labor and study, convicted persons can be eligible for improvement of conditions they are kept in. In this case, convicted people are allowed to leave places of deprivation of liberty for the period of annual leave upon decision of the administration of a colony in accordance with the article 98 of the present Code.

#### **Article 142. Stimulation measures applied to the persons sentenced to deprivation of liberty in educational colonies**

Provided good conduct, conscientious attitude towards labor and study, active participation in amateur organizations' activities and in educational events, the following stimulation measures in addition to the ones specified in the points "a", "b", "c", "d" and "e" of article 118 of the present Code may be applied in regard to convicted minors:

- a) granting the right to visit cultural and sport events outside of educational colony accompanied by colony staff members;
- b) granting the right to go outside of educational colony accompanied by parents or by the person replacing them or by other close relatives;
- c) pre-term release from disciplinary isolator.

#### **Article 143. Order of application of stimulation measures**

1. Convicted persons, who with stimulation purposes, were granted the right to visit cultural and sport events outside of educational colony accompanied by colony staff members or the right to go outside of educational colony accompanied by parents or by persons replacing them or by other close relatives, shall be given the civil clothing that belongs to them.
2. Visiting of the cultural and sport events held during night-time is not allowed.
3. The length of stay outside of educational colony is determined by the chief of the colony but should not exceed eight hours.

#### **Article 144. Punishment measures imposed on the persons sentenced to deprivation of liberty in educational colonies**

For violation of the established order of punishment serving, the following punishment measures in addition to the ones specified in points "a", "b", and "c" of the first part of Article 120 of the present Code can be imposed on convicted persons:

- a) revocation of the right to watch movies for a period of one month;
- b) placement in disciplinary isolator for a period of up to seven days with release for period of study.

#### **Article 145. Order of imposition of punishment measures on the persons sentenced to deprivation of liberty in educational colonies**

1. Convicted persons placed in disciplinary isolator are prohibited to have long meetings, telephone calls, to purchase food and other essentials, to receive parcels, packages and postal packets, to watch movies and TV programs, to play table games. They have the right to have daily two-hour walk.

2. All punishment measures except for the placement in disciplinary isolator can be imposed on the convicted persons placed in disciplinary isolator.

3. Pre-term release of a convicted person from disciplinary isolator is applied as stimulation measure as well as on the ground of medical prescriptions by chief of the educational colony or by the person replacing him.

#### **Article 146. Officials of educational colony who apply stimulation and punishment measures on convicted persons**

1. The chiefs of educational colonies or the persons replacing them have the right to apply stimulation and punishment measures at full extent.

2. Chiefs of detachments have the right to apply the following stimulation measures:

a) gratitude;

b) pre-term removal of the punishment measure imposed by the detachment chief before.

3. Educators of departments have the right to apply the following stimulation measures:

a) gratitude;

b) pre-term removal of the punishment measure imposed by the educator of department before.

4. Chiefs of detachments have the right to impose the following punishment measures:

a) oral reprimand;

b) revocation of the right to watch movies for the period of one month.

5. Educators of departments have the right to reprimand orally.

#### **Article 147. Leaving convicts who attained their majority age in educational colonies**

1. As a rule, persons sentenced to deprivation of liberty who have attained the age of 18 shall remain in educational colony, but only until they attain the age of 20.

2. Penalty serving conditions, food norms, material and social maintenance determined for convicted minors shall be applied to convicted persons who have reached the age of 18 and are left in educational colony.

3. Convicted persons who have reached the age of 18 are left in an educational colony by the resolution of the educational colony chief sanctioned by public prosecutor.



### **Article 148. Transfer of convicted persons from educational colony to correctional colony**

1. Negatively characterized persons sentenced to deprivation of liberty who have reached the age of 18 shall be transferred from educational colony to correctional colony of general or intensive regime for further serving of the punishment.
2. The decision about transferring a convicted person who has reached the age of 18 to correctional colony shall be made by court in the order prescribed by legislation of the Republic of Tajikistan.
3. All the convicted persons who have reached the age of 21 shall be transferred for further serving of their punishment from educational colony to correctional colony of general or intensive regime by resolution of the educational colony chief.

### **Article 149. Organization of teaching and educational process**

- 1 With the purpose to correct persons sentenced to deprivation of liberty and to prepare them for independent life, universal teaching and educational process shall be organized aimed at forming law-abiding conduct, conscientious attitude towards labor and study, obtaining general basic (9 years) education, professional training and improving educational and cultural level of convicted persons.
- 2 Compulsory general basic (9 years) education, professional education and professional training of convicted persons shall be carried out on the basis of the evening universal educational school, vocational school and enterprises of the educational colony.

### **Article 150. Participation of public associations in activities of educational colonies**

1. The board of guardians consisting of representatives of the state enterprises, institutions, organizations, public associations and citizens is established at educational colony in order to assist the administration of educational colony with organizing teaching and educational process and strengthening material and technical basis, solving the issues related to social security of convicted persons, arranging of employment and living conditions of the persons subject to release. Organization and activities of the board of guardians are regulated by the sample regulations adopted by the Government of the Republic of Tajikistan.
2. With the purpose to increase effective educational impact on convicted persons and assist the educational colony administration, parents' committees consisting of parents, persons replacing them and other close relatives of convicted persons may be established at detachments of colonies. Activity of parents' committees is regulated by the regulations adopted by the chief of educational colony.
3. Other public associations may take part in activities of educational colonies as well.

### **Section VII. Execution of the penalties of military service restrictions, confinement and detention in the disciplinary military unit in regard to convicted servicemen**

## **Chapter 16. Execution of the penalty of military service restrictions**

### **Article 151. Place and order of execution of the penalty of military service restrictions**

1. The penalty of military service restrictions according to the court sentence shall be served at the place of service of a convicted serviceman.

2 In case of imposing the penalty of military service restrictions, a copy of the sentence that has entered into legal force and order on its execution shall be forwarded by the court within ten-day period to inspection of the Ministry of Defense of the Republic of Tajikistan and to command of the military unit at the place of service of the convicted serviceman.

3. In accordance with the court sentence, not later than within three days after receipt of a copy of the sentence and order on its execution, the commander of the military unit shall issue an order that specifies the basis and time period during which a convicted serviceman is not eligible for promotion and for conferment of military rank. This time period is not counted in the term of long service necessary for conferring the next military rank. In addition, according to the court sentence the amount of deductions withheld from financial maintenance of a convicted serviceman in favor of state income during the period of serving military service restrictions according to article 53 of the Criminal Code of the Republic of Tajikistan is specified. The order shall be announced in the military unit, a convicted serviceman shall be informed about it and then the order shall be subject to execution.

4 The commander of the military unit shall inform within three days period the court that has passed the sentence and inspection of the Ministry of Defense about receiving of sentence, issuing of respective order and its execution within 3 days. A copy of the order shall be forwarded to court.

### **Article 152. Organization of execution of the penalty of military service restrictions**

1. The inspection of the Ministry of Defense charged with execution of this kind of punishment shall keep personal records of all persons sentenced to military service restrictions; explain the order and conditions of serving the punishment; implement control over accuracy of deductions made from salary of convicted persons as well as supervise observance of the penalty serving conditions which are specified in criminal executive legislation of the Republic of Tajikistan by the command of military units; participate in conducting educational activities for convicted persons; apply stimulation and punishment measures to convicted persons; organize retrieval of the convicted persons whose location is unknown.

2. In cases of transfer to the reserve or discharge of a serviceman who is serving the penalty of military service restrictions, a court substitutes his unserved part of the punishment term with correctional labor. If a convicted person is recognized as disabled at the time of discharge from armed forces, a court shall indemnify him.

### **Article 153. Conditions of serving military service restrictions by convicted persons**

1. Persons sentenced to military service restrictions are obliged to observe the order and conditions of the punishment serving, have conscientious attitude to military service.
2. Deductions from monetary maintenance of the persons sentenced to military service restrictions are made in favor of state during the period of serving the punishment in the amount defined by the court sentence.
3. During the period of serving military service restrictions, it is prohibited to transfer convicted persons from the place of their service at their own request without permission of the inspection of the Ministry of Defense charged with execution of this sentence.
- 4 The period of serving the punishment shall not be included to the length of service that entitles to receive privileges and rated increase for monetary maintenance.
5. Persons sentenced to military service restrictions have the right to have paid leave for the period of twenty days.
6. Persons who serve this kind of punishment are paid allowance for temporary disability and maternity allowance from monetary maintenance less deductions imposed by the court.

#### **Article 154. Calculation of the term of military service restrictions**

1. The term of serving military service restrictions is calculated by months and days during which a convicted person was in service and deductions were made from his monetary maintenance. Time during which a convicted person was not in service due to valid reasons shall be included to this term.
2. If while serving military service restrictions a convicted person is subject to disciplinary punishment measure in the form of military detention or preventative measure in the form of custody, this period shall not be included into the term of serving military service restrictions.

#### **Article 155. Transfer in service of convicted servicemen**

If in view of the character of the crime committed and other circumstances, the convicted serviceman may not be left on the position related to supervision of the subordinate staff, then by decision of commander of the military unit and in agreement with the inspection of the Ministry of Defense of the Republic of Tajikistan he shall be transferred to another position either within the military unit or due to transfer to another military unit or location. The court that has passed the sentence shall be informed of this.

#### **Article 156. Order of making deductions from monetary maintenance of the persons sentenced to military service restrictions**

1. Amount of deductions from monetary maintenance of convicted servicemen which is prescribed by the court sentence is calculated from official salary, salary for military rank, monthly rises and other additional monetary payments as well as other additional monetary

payments without excluding different payments from these amounts and regardless of existence of the claims based on receiving orders against convicted person.

2. Deductions are not withheld from: allowances received for social maintenance and social insurance; lump sum payments; amounts paid as reimbursement for expenses related to business trips or any other compensations.

3. The deducted money is transferred to the state income on monthly basis at the day of payment of the guaranteed monetary maintenance.

#### **Article 157. Responsibilities of military units' commanders at the place of serving military service restrictions by convicted persons**

The command of military units at the place of serving military service restrictions by convicted servicemen shall be charged with:

- a) informing the military unit's personnel about the court sentence;
- b) supervision of the conduct of convicted persons both at work and in life, and participation in educational work with them;
- c) withholding timely and accurate deductions from monetary maintenance of convicted persons in favor of state income and timely transfer of the deductions in the established order;
- d) informing the inspection of the Ministry of Defense of the Republic of Tajikistan about application of stimulation and punishment measures to a convicted person, about model conduct and about his evasion from serving of the punishment;
- e) strict observance of the order and conditions of serving military restrictions specified in the present Code.

#### **Article 158. Stimulation and punishment measures applied to the persons serving military service restrictions**

1. In accordance with the Regulations on military service, the command of military units at the place of serving the punishment as well as the inspection of the Ministry of Defense of the Republic of Tajikistan charged with the punishment execution apply stimulation and punishment measures to persons who are serving the penalty of military service restrictions.

2. In cases of model conduct and conscientious attitude towards military service, convicted persons may be recommended for parole by the command of military units in agreement with the inspection of the Ministry of Defense of the Republic of Tajikistan charged with execution of the punishment.

#### **Article 159. Termination of execution of the penalty of military service restrictions**

Not later than three days prior to the expiry of the term of military service restrictions prescribed by the court sentence and announced in the military unit by order, the commander of the military unit issues an order about termination of execution of the penalty of military service restrictions with the indicated date of termination, with further notification of the inspection of the Ministry of Defense of the Republic of Tajikistan. A copy of the order shall be forwarded to the court that has passed the sentence.

## **CHAPTER 17. Execution of the penalty of confinement in regard to convicted servicemen**

### **Article 160. Places of serving confinement by convicted servicemen**

Servicemen who are sentenced to confinement serve their punishment in the military detention cells for convicted servicemen of garrison.

### **Article 161. Separate keeping of convicted servicemen**

1. Convicted servicemen shall be kept separately from the servicemen taken into custody due to other causes.
2. Convicted officers shall be kept separately from other categories of convicted servicemen.
3. Convicted warrant officers, sergeants and sergeant-majors shall be kept separately from the ranks.

### **Article 162. Order of sending convicted servicemen in the military detention cells**

Servicemen sentenced to confinement shall be sent by the military unit's commander within three-day period after receiving a court order on execution of the effective sentence, to the military detention cells under convoy for serving their punishment.

### **Article 163. Order and conditions of serving confinement by convicted servicemen**

The order and conditions of execution of the penalty of confinement specified in Article 63 of the present Code, military charters, normative legal acts of the Ministry of Defense of the Republic of Tajikistan and in the regulation on serving criminal sentences by convicted servicemen shall be applied to convicted servicemen who are kept in military detention cells.

### **Article 164. Stimulation and punishment measures applied to convicted servicemen**

1. The following stimulation measures may be applied to convicted servicemen for their good conduct and conscientious attitude to military service:
  - a) gratitude;
  - b) pre-term removal of the punishment measure imposed before.

2. The following punishment measures may be imposed on convicted servicemen for violating of the punishment serving order:

a) reprimand;

b) transfer to the solitary cell for the period of up to ten days.

3. The chief and military commandant of the garrison shall have the right to apply stimulation and punishment measures.

### **Article 165. Peculiarities of the legal status of convicted servicemen**

1. The period of serving the penalty of confinement is not included to the general length of military service and long service for receiving next military rank.

2. For the period of serving the penalty of confinement, a convicted serviceman shall not be recommended for the conferment of the next military rank, posted to a higher position, transferred to a new duty station or discharged from military service except for case when he is recognized unfit for military service due to his health.

3. For the period of serving punishment, the military servicemen sentenced to confinement receive monetary maintenance equal to salary for military rank.

## **Chapter 18. Execution of the penalty of detention in the disciplinary military unit**

### **Article 166. Places of serving detention in the disciplinary military unit**

1. Servicemen sentenced to detention in the disciplinary military unit serve their punishment in the separate disciplinary battalions or separate disciplinary companies. The Ministry of Defense of the Republic of Tajikistan shall determine organizational structure of the disciplinary military units and their number.

2. Persons serving the penalty of detention in the disciplinary military unit shall have responsibilities and enjoy the rights determined by laws and military charters for the servicemen of the service for a fixed period with limitations specified in the present Code and Regulation on a disciplinary military unit.

### **Article 167. Order of sending and receiving servicemen sentenced to detention in the disciplinary military unit**

1. The military unit's commander shall send servicemen sentenced to detention in the disciplinary military unit within three-day period after receiving a court order on execution of the effective sentence, under convoy for serving their punishment.

2. The order of sending and receiving convicted servicemen shall be defined by the Regulation on a disciplinary military unit.

3. Commander of the military unit is obliged to inform family of a convicted person, whose sentence has entered legal force, about his place of punishment serving.
4. Commander of the disciplinary military unit shall immediately inform the court that has passed sentence about its execution and about the place where a convicted person is serving his punishment.

#### **Article 168. Main means of correcting persons sentenced to detention in the disciplinary military unit**

1. The main means of correcting persons sentenced to detention in a disciplinary military unit are as follows: the prescribed order and regime of serving a punishment, educational work, military and humanitarian training, labor.
2. The means of correction shall be applied taking into account the character and degree of public danger of the crime committed and personality of a convicted person as well as his conduct and attitude towards military service and labor.

#### **Article 169. Regime in the disciplinary military unit**

1. The order of execution and serving of a punishment is established in a disciplinary military unit that provides correction of convicted servicemen, development of military discipline, conscientious attitude towards military service, fulfillment of their military responsibilities and requirements of military training, realization of their rights and legal interests, protection of convicted servicemen and supervision over them, personal security of convicted servicemen and personnel of the given military unit.
2. Regime in a disciplinary military unit is implemented in accordance with the requirements of Chapter 10 of the present Code and present article.
3. Convicted servicemen are obliged to follow the requirements of the regime established in the disciplinary military unit.
4. During the period of serving detention in a disciplinary military unit all convicted servicemen irrespective of their military ranks and earlier occupied position have soldier's status.
5. Convicted persons wear uniform with should-straps of private soldier. They are allowed to have only short haircut. In accordance with the Regulations on a disciplinary military unit, convicted persons may move within the unit and be searched. Correspondence of convicted persons is subject to censorship, and parcels, packages and postal packets are subject to examination.
6. The money, securities and other valuables discovered at convicted servicemen shall be seized and stored according to the Rules until completion of sentence. Prohibited objects and substances seized from the convicted servicemen are sent to be stored or destroyed upon decision of commander of the disciplinary military unit and appropriate statement shall be drawn up.

7. The list and quantity of objects and items that convicted persons can have are defined by the Regulations on a disciplinary military unit.

8. In accordance with the order established by the present Code as well as by the Regulations on a disciplinary military unit, convicted persons are allowed to purchase by cashless settlement food products, essentials and other industrial products that are not prohibited for use, pay for additional medical services, receive parcels, packages and postal packets, have meetings, be in correspondence, make telephone calls, receive and send money orders.

#### **Article 170. The daily routine in a disciplinary military unit**

1. In a disciplinary military unit, the daily routine shall be established by the commander of the unit in accordance with the Regulations on a disciplinary unit issued in accordance with the present Code.

2. The daily routine of convicted persons shall specify their strictly regulated conduct during a day as well as time for work, rest and conducting military and service training.

3. The daily routine shall be brought by order to all convicted persons' attention.

#### **Article 171. Regime of special conditions in a disciplinary military unit**

Limitation, suspension or change of the regime in a disciplinary military unit under emergency circumstances shall be determined by the Ministry of Defense of the Republic of Tajikistan in agreement with the Prosecutor General of the Republic of Tajikistan.

#### **Article 172. Meetings, telephone calls and receipt of parcels, packages and postal packets by convicted persons**

1. Convicted servicemen are granted the following meetings:

a) short-term meeting, lasting up to four hours not more than once a month;

b) long-term meeting, on the territory of a disciplinary military unit, lasting up to three days, granted not more than once in two months.

2. Short-term meetings are granted in the presence of a representative of the disciplinary military unit. Long-term meetings are granted with the right to joint living with close relatives, and in exceptional cases with other persons.

3. The commander of a disciplinary military unit shall provide close relatives of a convicted person with opportunity to visit him in case of his serious illness.

4. Convicted persons in order to receive legal aid upon their request are granted meetings with the attorneys and other persons having right to render legal aid. At the request of convicted persons or persons mentioned above, a private meeting may be provided.



5. Convicted persons are granted the right to have telephone calls provided technical opportunities. Telephone calls are paid from personal funds of convicted persons.
6. Long-term meetings may be substituted with short-term meetings upon request of convicted persons.
7. During the punishment-serving period a convicted person is allowed to receive parcels, packages and postal packets without limitations.
8. The order of granting meetings, telephone calls, receiving and delivering of parcels, packages and postal packets as well as the list of items prohibited to be received by convicted persons shall be determined by the Regulations on a disciplinary military unit.

#### **Article 173. Receiving and sending money orders by convicted persons**

1. Servicemen sentenced to detention in a disciplinary unit are allowed to receive and send money orders.
2. Money in hand for convicted persons shall be transferred to their personal accounts and convicted persons shall be informed about this. This money shall be given to convicted persons at the time of release.

#### **Article 174. Purchase of food products and essentials by convicted servicemen**

Convicted persons have the right to buy without limitations food and essentials with funds from their personal accounts.

#### **Article 175. Correspondence of the servicemen sentenced to detention in a disciplinary military unit**

1. Convicted persons are allowed to receive and send letters and telegrams without any limitations at their own expense.
2. Delivery of letters addressed to convicted persons as well as their sending shall be done by a sergeant-major of the company or by a deputy commander of the platoon not later than within three days from the day a letter was received by the unit or sent by a convicted person.

#### **Article 176. Short-term leave outside of disciplinary military unit**

1. Convicted servicemen kept in a disciplinary military unit may be permitted to have short-term leaves outside of the disciplinary military unit for a period equal to not more than seven days, excluding time necessary for a round trip (not more than five days) under exceptional private circumstances such as death or serious illness of a close relative that endangers life of the sick person; natural disasters that have caused significant material damage to a convicted person or his family.

2. A convicted person's request for urgent leave related to exceptional private circumstances shall be considered in one day. The commander of a disciplinary military unit or head of the staff in agreement with a judge advocate shall give permission for a short-term leave taking into account personality and conduct of a convicted person. Refusal to grant a short-term leave shall be motivated. The period of time spent by a convicted person outside of disciplinary military unit is included to the term of serving a sentence. Travel expenses of convicted persons are paid by himself or his relatives. Salary is not paid for the period of stay of convicted person outside of disciplinary military unit.

3. The order of granting short-term leaves outside of disciplinary military unit in connection with exceptional private circumstances is defined by the Ministry of Defense of the Republic of Tajikistan in agreement with the Chief judge advocate of the Republic of Tajikistan.

#### **Article 177. Movement without convoy of the persons detained in disciplinary military unit**

1. Those convicted persons who are considered as corrected, after having served not less than one third of their punishment term, may be allowed to move without convoy outside of disciplinary military unit if it is necessary due to the nature of the work performed by them. Permission for movement without convoy is processed by order of the commander of a disciplinary military unit.

2. Rules of conduct of the convicted persons who are allowed to move without convoy outside of disciplinary military unit are determined by the commander of the unit.

3. Movement without convoy shall be cancelled by order of the commander of the disciplinary military unit if a convicted person violates the regime, rules of conduct or the nature of work has changed.

#### **Article 178. Requirements of the regime at enterprises and industrial sites of the Ministry of Defense of the Republic of Tajikistan**

Civil persons may be recruited at enterprises, workshops of a disciplinary military unit and at industrial sites of the Ministry of Defense of the Republic of Tajikistan. The order of interrelations of the persons working together with convicts is specified in the Regulations on a disciplinary military unit.

#### **Article 179. Security measures and grounds for using weapons**

Security measures and grounds for using physical force, special means and weapons are regulated by article 87 of the present Code.

#### **Article 180. Proposals, applications and complaints of the convicted persons serving their punishment in a disciplinary military unit**

1. Proposals, applications and complaints of convicted persons addressed to a judge advocate, court and to the state bodies authorized with supervision over disciplinary military unit shall not be subject to examination and shall be passed on to the proper place within one day.

2. Convicted persons shall be informed about results of consideration of the proposals, applications and complaints against receipt.

### **Article 181. Educational work with the convicted persons detained in a disciplinary military unit**

1. The command of a disciplinary military unit in cooperation with public and charitable organizations shall conduct educational work with the persons serving their punishment in the unit mainly by means of persuasion and positive stimulation of convicted persons' conduct.

2. Educational work with convicted persons should be aimed at educating them in the spirit of honest fulfillment of their military duty, conscious discipline, strict observance of the Constitution of the Republic of Tajikistan and laws, requirements of the military oath and military charters.

3. Participation of convicted persons in educational events is encouraged and taken into account while determining a degree of their correction.

### **Article 182. Organization of educational work**

1. Educational work with the convicted persons detained in a disciplinary military unit is organized by the command of the unit.

2. Commanders of the military units, from which convicted servicemen have come, are obliged constantly to communicate with the commander of the disciplinary military unit, take interest in conduct of former subordinates and facilitate their correction.

3. Local government bodies and public associations assist command of the disciplinary military unit in conducting educational work with convicted servicemen.

### **Article 183. Amateur organizations in a disciplinary military unit**

1. Community councils shall be established from among the persons who have shown themselves by model conduct and conscientious attitude towards labor and military service, with the aim to assist commanders of disciplinary military units in their work on correction and education of convicted persons.

2. The order of organization and activity of the community councils is determined by the Regulations on a disciplinary military unit.

### **Article 184. Military and general humanitarian training of the convicted persons detained in a disciplinary military unit**

1. Military training of convicted persons is organized and conducted in accordance with a special program developed by the command of the disciplinary military unit according to the Regulations on a disciplinary military unit and Charter of Armed Forces of the Republic of Tajikistan.

2. General humanitarian training shall be conducted in a disciplinary military unit with the purpose to form respect towards common human values, law-abiding conduct, increase cultural and moral level, promote useful initiatives of convicted persons.

3. The general humanitarian training is realized in ideological, moral, legal, ecological and physical education and development of social activity. Participation in the events of general humanitarian training is stimulated and taken into account while determining a degree of convicted persons' correction.

#### **Article 185. Organization of labor of the convicted persons detained in a disciplinary military unit**

1. Labor organization shall be aimed at correction of convicted persons. Convicted persons shall be recruited at industrial enterprises, workshops of a disciplinary military unit and other sites specified by the Ministry of Defense of the Republic of Tajikistan.

2. Labor of the convicted persons recruited outside of a disciplinary military unit shall be organized in accordance with requirements of isolation and protection.

3. The list of the works where labor of convicted persons is prohibited shall be defined by the Regulations on a disciplinary military unit.

4. Labor of convicted persons shall be organized in accordance with the labor protection rules, safety standards and rules of industrial sanitation determined by labor legislation of the Republic of Tajikistan.

#### **Article 186. Working conditions of persons who are kept in a disciplinary military unit**

1. Length of the working time, a time to begin and finish a work (shift) for the persons serving their punishment in a disciplinary military unit is defined by the Regulations of a disciplinary military unit. In the order specified by the labor legislation convicted persons shall be released from work during holidays. If there is a necessity to work during weekends or holidays, convicted persons shall be provided with days off during the month.

2. Summarized calculation of working time is allowed in certain types of works where according to industrial conditions neither daily nor weekly established length of working time can be observed, provided that an average length of the working time for calculated period shall not exceed eight hours a day.

3. Convicted persons are not provided with annual paid leave.

### **Article 187. Payment for labor of the persons detained in a disciplinary military unit**

Labor of the persons detained in a disciplinary military unit is paid in accordance with the rates established in the organizations where convicted servicemen work.

### **Article 188. Deductions from salary of the persons detained in a disciplinary military unit**

Deductions from the salary earned by convicted servicemen shall be transferred to the disciplinary military unit's account to reimburse expenses related to maintenance of convicted persons and arrangement of their social needs. Remainder of salary of convicted servicemen shall be transferred to their personal account.

### **Article 189. Provision of pensions for the persons who have lost their ability to work while serving their punishment**

Persons, who have lost their ability to work while serving their punishment, shall have a right to pension and indemnity in the cases and order determined by legislation of the Republic of Tajikistan.

### **Article 190. Stimulation measures applied to the persons detained in a disciplinary military unit**

1. To convicted persons who have proved by their model conduct and honest attitude towards military service and labor, their commitment to correction and who actively participate in work of amateur organizations and in other educational, the following stimulation measures may be applied:

- a) announcement of gratitude;
- b) gift awarding;
- c) awarding a premium;
- d) granting an additional short-term or long-term meeting;
- e) pre-term removal of the punishment measure imposed before.

2. Convicted servicemen who for their correction do not need to serve the punishment imposed by court in full may be recommended for parole by commander of the disciplinary military unit.

### **Article 191. Punishment measures imposed on the persons detained in a disciplinary military unit**

1. The following punishment measures may be imposed on convicted persons for their violations of requirements of the punishment serving regime:

- a) reprimand;
- b) cancellation of a next meeting or telephone call for a period of one month;
- c) confinement in disciplinary order with detention in a military detention cell for up to ten days.

2. Convicted servicemen arrested in disciplinary order shall serve their punishment in a solitary cell in the military detention of a military disciplinary unit.

#### **Article 192. Order of application of stimulation and punishment measures**

The order of applying stimulation and punishment measures to convicted persons who serve their punishment in a disciplinary military unit, and a list of authorized officials as well as the scope of their authority shall be determined by the Regulations on a disciplinary military unit.

#### **Article 193. Regime of detention of convicted persons in a military detention cell**

Convicted persons arrested in disciplinary order shall serve their confinement in a military detention cell of the disciplinary military unit in accordance with the requirements of the Charter on garrison and guard service of the Armed Forces of the Republic of Tajikistan and the Regulations on a disciplinary military unit.

#### **Article 194. Material and social maintenance of the persons detained in a disciplinary military unit**

1. Persons who are detained in a disciplinary military unit shall be provided with necessary living and social conditions, which shall conform to the rules of sanitation and hygiene and to the requirements of military charters.

2. Convicted servicemen shall be provided with food and clothing according to the norms established for servicemen.

Monetary maintenance shall be transferred on monthly basis to the personal accounts of convicted servicemen at the rate of official salary or according to the first wage grade adjusted for conscripts of the first year of service.

List of the objects of material and social purpose that may be purchased by cashless settlement or received in parcels, packages and postal packets by convicted persons, shall be defined by the Regulations on a disciplinary military unit.

#### **Article 195. Providing medical and sanitary aid to the persons detained in a disciplinary military unit**

1. In a disciplinary military unit medical-preventative, sanitary and anti-epidemic work shall be organized and conducted according to the order established by legislation of the Republic of

Tajikistan. Command of a military disciplinary unit must satisfy necessary sanitary and hygienic requirements that ensure protection of the health of convicted persons. Convicted persons are obliged to follow sanitary and hygienic requirements addressed to them.

2. Necessary medical-preventive centers (units, institutions) shall be established in a disciplinary military unit. If necessary, sick convicted persons are sent for treatment to a hospital under convoy and kept there in specially equipped rooms. The guarding of convicted servicemen within the hospital is implemented by forces and facilities of the chief of the garrison where this hospital is located.

3. The order of providing medical aid to convicted persons, organizing and implementing sanitary control, using services of medical-preventive or sanitary institutions and involving their medical personnel with this purpose is defined by the Ministry of Defense.

#### **Article 196. Inclusion of the time spent by convicted servicemen in a disciplinary military unit to the general term of military service**

1. The period of time spent by a convicted serviceman in a disciplinary military unit is not included to the general term of military service.

2. The period of time spent in a disciplinary military unit may be included to the general term of military service for those convicted servicemen who have acquired military specialty, know and strictly observe requirements of military charters, serve irreproachably, and who are subject to release from the disciplinary military unit after the expiry of their conscription term.

3. The order of inclusion of the time spent by convicted servicemen in a disciplinary military unit to the general term of military service is determined by the Ministry of Defense of the Republic of Tajikistan.

### **Section VII. Execution of supplementary penalties**

#### **Chapter 19. Execution of the penalties of deprivation of military, diplomatic, other special ranks and state awards**

#### **Article 197. Execution of the penalty of deprivation of military, diplomatic, other special ranks and state awards**

1. The court that has passed the sentence on deprivation of military, diplomatic, other special ranks and state awards shall send a copy of the sentence to the body or official that conferred military, diplomatic, other special ranks and state awards on the convicted person, after the sentence enters legal force.

2. After receiving the copy of sentence the official makes an entry into respective documents about depriving a convicted person of a military, diplomatic, other special ranks and state awards as well as takes measures on revoking his rights and privileges provided for the persons who have respective ranks and awards.

3. The copy of the sentence in regard to serviceman in reserve shall be forwarded to the military registration and enlistment office at the place of his military registration.

4. An official informs the court that has passed the sentence about its execution within one month period from the day of receiving the copy of the sentence.

## **Chapter 20. Execution of the penalty of confiscation of property**

### **Article 198. Order of execution of the penalty of confiscation of property**

1. The court that passed the sentence imposing confiscation of property as a supplementary punishment, after coming of the sentence into legal force, shall send a receiving order, a copy of inventory and copy of the sentence to a marshal of the court and inform respective financial body about it. If the inventory of the convicted person's property is not included into the file, a note shall be sent that no inventory has been done.

2. Execution of the penalty of confiscation of property shall be administered by marshals of district and city courts at the place of property location.

### **Article 199. Property subject to confiscation**

1. Property of a convicted person, including his shares in common property, in chartered capital of commercial organizations, money, securities and other valuables, including those placed on accounts and in deposits or in safe-keeping of finance and credit institutions and banks as well as property made over by convicted person to asset management, is subject to confiscation. The order of confiscation of the convicted person's property invested in chartered capital of commercial organizations is defined by the Ministry of Finance of the Republic of Tajikistan in agreement with the Ministry of Economics and Trade of the Republic of Tajikistan and the Ministry of Justice of the Republic of Tajikistan.

2. Disputes on ownership of the property subject to confiscation by court sentence shall be settled in civil proceedings.

### **Article 200. Actions of a marshal of the court on execution of the sentence on confiscation of property**

1. After receipt of receiving order, copy of the inventory of property and copy of the sentence, a marshal of the court shall immediately check the availability of the property mentioned in the inventory, disclose other property subject to confiscation and include it into the inventory. If there is a note that an inventory has not been administered, the marshal of the court shall take measures to disclose the convicted person's property subject to confiscation and make its inventory.

2. The inventory shall include full and correct name of each item, its distinguishing features, including weight, size, color, metric area, degree of wear and individual characteristics. Attached items shall be sealed and passed for storage. Information about a convicted person's shares in



common property, in chartered capital of commercial organizations, money, securities and other valuables, including those placed on accounts and in deposits or in safe-keeping of finance and credit institutions and banks with attachment of certificates of the organizations and banks mentioned, shall be included to the inventory of property.

3. The inventory compiled by the marshal is to be approved by a judge.

4. The marshal of the court is obliged to undertake necessary measures on preserving the property subject to confiscation and that has been inventoried.

5. Share of a convicted person in common property is determined in civil proceedings by the district or city court, to which the marshal of the court is attached.

#### **Article 201. Responsibilities of the third persons in regard to property subject to confiscation**

1. Enterprises, institutions, organizations and citizens that have property subject to confiscation by sentence of the court, are obliged to inform the court or respective financial body about this.

2. Enterprises, institutions, organizations and citizens where mentioned property was made over in accordance with Article 200 of the present Code, are obliged to ensure its safety.

3. Persons who are guilty of concealment, anientisement, appropriation or embezzlement of the property mentioned shall be made answerable in accordance with law.

#### **Article 202. Transfer of confiscated property of a convicted person to financial bodies**

After satisfying all the advanced to convicted person demands according to legislation of the Republic of Tajikistan, the property confiscated shall be transferred to financial bodies in order defined by the Ministry of Finance of the Republic of Tajikistan and the Ministry of Justice of the Republic of Tajikistan. In regard to claims that should be satisfied at the expense of the convicted person's confiscated property, the state responds within the limits of assets.

#### **Article 203. Confiscation of the property disclosed after execution of sentence**

The issue of confiscation shall be decided by court upon proposal of the marshal of the court before expiry of serving conviction. The court that has passed the sentence or court at the place of execution of the sentence upon proposal of the marshal of court shall make an order on confiscation of the additionally disclosed and not confiscated property of a convicted person acquired by him before or after passing the sentence but with the funds not subject to confiscation.

#### **Article 204. Termination of executive actions**

1. After transfer of the confiscated property to financial bodies a receiving order with the entry about execution of the sentence on confiscation of property shall be returned to the court that has passed the sentence.

2. Financial bodies shall provide the court that has passed the sentence with information confirming execution of the sentence imposing confiscation of property.

**SECTION VIII. Release from serving a punishment. Assistance to convicted persons subject to release from serving a punishment and control over them**

**Chapter 21. Release from serving a punishment**

**Article 205. Grounds for release from serving a punishment**

Convicted persons shall be released from serving a punishment on the following grounds:

- a) completion of the term of punishment imposed by the court sentence;
- b) due to amnesty act or grant of pardon;
- c) quashing a sentence due to dismissal of criminal case;
- d) grant of parole;
- e) mitigating the unserved part of the punishment;
- f) due to serious disease or disablement;
- g) due to emergency circumstances;
- h) due to other grounds provided by law.

**Article 206. Termination of punishment serving and release order**

1. Serving of penalties in the form of deprivation of the right to hold a post or be engaged in certain activities, correctional labor, liberty restraint, confinement, deprivation of liberty, military service restrictions and detention in a disciplinary military unit shall terminate on the last day of the punishment term taking into consideration those changes that can be made to the term in accordance with law.

2. Convicted persons sentenced to restraint of liberty, confinement and deprivation of liberty shall be released in the first half of the last day of the punishment term. If the punishment term ends on weekends or during holidays, convicted persons shall be released from serving the punishment on the day prior to the weekends or holidays. When calculating the punishment term in months, it expires at a corresponding date of the last month, and if the given month does not have the corresponding date – on the last day of the month.

3. Pre-term release from serving a punishment shall be done on the day when corresponding documentation is received and if documents on release are received after the end of a working day, it shall be done in the morning of the following day.
4. When releasing a convicted person he shall be given things and valuables that belong to him, money from his personal account, personal papers and securities as well as documents proving his release and documents about his labor activities. At the convicted person's request, he shall be given a letter of reference.
5. The passport of a person subject to release from liberty restraint, confinement and deprivation of liberty, his work-book and pension certificate, which were kept in his personal file shall be handed to him on release. If such documents are not available, the administration of an organization or body in charge of execution of sentence shall in advance take measures to obtain them.
6. On the day of termination of the term of correctional labor, and in case of release from the punishment due to other grounds - not later than the following working day after receiving corresponding documents, the inspection on correctional affairs shall recommend the administration of an organization where a convicted person served his punishment to stop deductions from his salary. A convicted person shall be given a certificate that he has completed his punishment or has been released from it.
7. The chief of an organization or body in charge of execution of sentence shall explain to a convicted person released from punishment serving due to quashing a sentence as a result of dismissal of a criminal case his right to restoration of his property, labor, housing and other forfeited rights. The document on release shall contain official apologies expressed on behalf of the government to the convicted person.

#### **Article 207. Release of convicted servicemen from serving their punishment**

1. Servicemen serving their penalties of military service restrictions, confinement or detention in a disciplinary military unit shall be released from further punishment in case of disease that makes them incapable for military service. The unserved part of the punishment may be mitigated.
2. Convicted servicemen serving their punishment during their military service in case of other grounds specified by legislation of the Republic of Tajikistan for their discharge from military service may be early released by the court with mitigation of the unserved period of the punishment or without it according to established order.

#### **Article 208. Order of granting pre-term release from serving a punishment**

1. In regard to a convicted person who can be granted parole or whose unserved part of the punishment may be mitigated, an organization or body in charge of execution of sentence shall submit a recommendation on grant of parole or mitigation of the unserved part of the punishment

to the court at the place of serving the punishment according to the order established by the present Code and the criminal procedure legislation of the Republic of Tajikistan.

2. After completing the part of term determined by law, an organization or body in charge of execution of sentence shall consider within one month period the issue and pass a decision about recommendation or declining recommendation for grant of parole of a convicted person or mitigation of the unserved part of the punishment.

3. In regard to the convicted person recommended for grant of pardon, an administration of an organization or body in charge of execution of sentence shall submit respective application in the order prescribed by legislation of the Republic of Tajikistan.

4. The recommendation for grant of parole, mitigation of the unserved term of sentence and grant of pardon should contain information that characterizes a convicted person's personality, as well as his conduct, attitude towards study and labor during the period of serving his punishment, attitude towards the act committed by him.

5. In case the court refused to grant parole or mitigate the unserved term of punishment, repeated submission of recommendations on these issues can take place not earlier than after three months from the day the decision on refusal was made.

6. The order of granting amnesty is determined by the body that has issued an act of amnesty.

7. The recommendation on release from serving a punishment due to disease shall be submitted to court by the chief of an organization or body in charge of execution of sentence on the basis of the medical commission's conclusion. Personal file of a convicted person shall be submitted to court simultaneously with the recommendation.

8. In case of disagreement of the chief of an organization or body in charge of execution of sentence with the conclusions of the medical commission that can serve as a ground for release from punishment due to disease, he shall submit to court respective materials along with his motivated objections.

9. In case a person sentenced to correctional labor or limitation of liberty is recognized to be an invalid of the I or II group, an organization or body in charge of execution of sentence shall submit a recommendation on his pre-term release from further serving of a punishment.

10. In case a woman sentenced to correctional labor or limitation of liberty becomes pregnant, the chief of an organization or body in charge of execution of sentence shall submit to court a recommendation to postpone her serving of the punishment beginning from the day of maternity leave.

11. A person convicted for the crime of small gravity can be released from punishment due to emergency circumstances specified in Article 80 of the Criminal Code of the Republic of Tajikistan. The recommendations for release from punishment due to emergency circumstances shall be submitted to court by the chief of an organization or body in charge of execution of

sentence. Act of the local bodies at the residence place of a convicted person about casualties or certificate of the respective body about serious illness or death of the sole and able to work family member and personal file of a convicted person shall be sent to court along with the recommendation.

**Article 209. Release of the pregnant convicted women and women having children younger than three years old from serving a punishment**

1. The court in the order established by article 78 of the Criminal Code of the Republic of Tajikistan may release pregnant convicted women and women having children younger than three years old who serve their punishment in a correctional colony from further punishment serving.
2. A reference letter for a convicted woman, statement about her relatives' consent to accept her and her child, provide them accommodation and create necessary living conditions, or certificate confirming that she has her own housing and necessary conditions for living with a child, medical conclusion about pregnancy or certificate confirming that she has a child as well as the personal file of convicted woman shall be attached to recommendation submitted to court by the administration of a correctional institution.
3. Having received a court decision about release from serving a punishment in regard to the convicted woman, the administration of a correctional institution shall release her. The convicted woman shall make a signed statement to appear in correctional inspection of the bodies of internal affairs at the place of her residence within three-day period after her arrival.
4. The convicted woman goes to her place of residence on her own at the expense of the state.
5. A copy of the court decision about release from serving a punishment with indicated date of release shall be sent to correctional inspection of the bodies of internal affairs at the place of residence of the convicted woman on the day of her release.
6. The correctional inspection shall register the convicted woman and in future implement supervision over her conduct.
7. After appearance of convicted woman, inspection on correctional affairs shall send confirmation to the correctional institution at the place of convicted woman's release within three days.
8. In case of non-appearance of a convicted woman within two weeks after her release, correctional inspection shall take initial searching measures, and if no results were achieved, it shall announce retrieval of the convicted woman.
9. Correctional inspection shall make a warning to a convicted woman in case she violated public order or labor discipline, or evades upbringing and taking care of her child.

10. If the convicted woman violates requirements provided by part three of the article 78 of the Criminal Code of the Republic of Tajikistan, correctional inspection at the place of her residence shall submit to court a recommendation to cancel court decision about release from punishment serving and sending convicted woman to serve the punishment imposed by court sentence.

11. A convicted woman evades upbringing of her child, if she having not abandoned her child officially left him in a maternity or in a child's home, has antisocial way of life and does not educate and take care of her child, or left her child with her relatives or other individuals, or escaped, or commits other actions that prove her evasion from upbringing of her child.

12. When a child reaches the age of three or in case of a child's death, correctional inspection shall submit to court a recommendation to release a convicted woman from serving the remaining part of the punishment or mitigate the unserved part of the punishment, or to send her to a correctional institution depending on the nature and degree of public danger of the crime committed, convicted woman's conduct, her attitude towards upbringing of her child.

#### **Article 210. Legal status of persons who have completed their punishment**

1. Persons who have completed their punishment shall have responsibilities and enjoy rights provided for citizens of the Republic of Tajikistan with restrictions determined for persons who have conviction. These restrictions can be determined only by law.

2. Persons who have completed their punishment except for cases explicitly provided by law, have the right to restoration of those legal interests that were not included into the sentence, but were violated in connection with its execution.

3. They are not obliged to provide information about the fact of their conviction.

4. The fact of serving a punishment shall not be a ground for infringing of the rights and legal interests of the person himself and his close relatives.

#### **Article 211. Providing social assistance to the persons released from punishment serving**

1. Social assistance shall be provided to convicted persons after their release from punishment serving.

2. Social assistance includes assisting in arrangement of employment and living conditions, providing material support, elimination of consequences of serving a sentence, provision of pensions, placing in medical institutions, boarding-schools, old people's homes, guardianship.

3. Persons released from punishment serving shall be provided with free trip to place of residence or employment within the territory of the Republic of Tajikistan as well as with food or money for their trip. In case they do not have seasonable clothes, shoes and funds to buy them, they shall be provided with clothes and shoes. They may be given lump-sum money allowance from a special fund of the criminal executive correctional institutions and bodies in order determined by the Government of the Republic of Tajikistan.

4. Released minors shall be sent to their parents or individuals replacing them.
5. If such sending is not possible, a juvenile commission at the place of the released person's residence shall undertake measures to find employment or place of study as well as to provide housing and living conditions for him upon recommendation of the colony's administration. In exceptional cases when sending a minor to the former place of residence is not expedient due to educational reasons, his placement in other places shall be done by the juvenile commission at the place of the colony's location taking into consideration the released person's opinion.
6. Persons released from punishment who need care as well as minors at the age under sixteen shall go to their places of residence accompanied by their relatives or other persons, or by an employee of the correctional institution.
7. The chief of a correctional institution or authorized by him representative of the administration shall explain to released persons their rights and responsibilities as citizens.
8. The institution in charge of execution of penalties of liberty restraint, confinement or deprivation of liberty shall inform in advance a correctional inspection of the internal affairs bodies as well as local government bodies and an employment agency about forthcoming release of a convicted person so that they undertake measures to provide social assistance.
9. The correctional inspection shall register the released persons mentioned in the present article. The issue of necessity and limits of providing social assistance, including provision of a room in a hostel of the centers of social adaptation for temporary residence is considered in regard to each person.

#### **Article 212. Institutions that provide social assistance to persons who completed their punishment**

1. Social assistance to persons released from punishment is provided by a correctional inspection, juvenile commission, administration, labor collectives and public organizations, enterprises, criminal executive institutions and bodies.
2. The coordination of the activities aimed to provide social assistance of all bodies and organizations shall be entrusted on a correctional inspection of the internal affairs bodies.
3. Instructions and recommendations of a correctional inspection are obligatory for heads of enterprises, institutions and organizations.

#### **Article 213. Observation and supervision over conduct of the persons released from punishment**

1. Conduct of the persons released from punishment shall be put under observation of correctional inspection of the internal affairs bodies, juvenile commission, administration, labor collectives and public organizations at the place of their residence, employment and study.

Educational activities shall be conducted with these persons with the purpose to consolidate the results of correction.

2. Persons released from places of detention, persons convicted for specially dangerous recidivism, persons who have served the punishment for grievous and specially grievous crimes or sentenced two or more times to deprivation of liberty for any deliberate crime, or persons released before completing the full term of punishment prescribed by the court and who again committed a deliberate crime during the unserved term of punishment, as well as activities of the persons who have completed deprivation of liberty, if their conduct during the period of serving a punishment or after release from it shows their unwillingness to improve themselves and observe the law shall be put under supervision of the bodies of internal affairs.

3. Putting and implementation of supervision shall be conducted by a correctional inspection both on its own initiative and upon recommendation of criminal executive bodies, other state bodies and public organizations.

4. The order of implementing observation and supervision is determined by the legal normative acts.

## **SECTION IX. Execution of the death penalty**

### **Chapter 22. Execution of the death penalty**

#### **Article 214. Order and place of detention of the persons sentenced to death penalty**

1. After imposition of sentence, a person sentenced to death penalty shall be transferred to a special solitary cell of reprimand prison under the strengthened guarding that provides his isolation. In exceptional cases, not more than two persons sentenced to death penalty may be kept in the same cell.

2. Before the sentence comes into legal force, a person convicted to death penalty has responsibilities and enjoys rights determined for the individuals kept in places of preliminary detention.

3. The list and number of objects and items, which a person convicted to death penalty can have with him, is determined by the Instructions on detention of the persons sentenced to death penalty in reprimand prisons and prisons of the Ministry of Internal Affairs of the Republic of Tajikistan.

#### **Article 215. Legal status of the person sentenced to death penalty**

1. After the sentence comes into legal force, persons convicted to death penalty have the right to submit clemency application to the President of the Republic of Tajikistan in the order determined by law.

2. A person sentenced to death penalty has the right to:



- a) have meetings with an attorney and other persons having right to render legal aid with no limitations during a working day;
- b) receive and send letters and telegrams without limitations;
- c) receive parcels, packages and postal packets without limitations;
- d) have one short-term meeting a month lasting up to two hours with close relatives before he leaves for a place of execution of the sentence;
- e) have a daily 30-minute walk;
- f) buy food and essentials without limitations for his own money;
- g) formalize necessary matrimonial and civil relations in the order specified by law;
- h) have meetings with priests;
- i) receive necessary medical aid.

3. Persons sentenced to death penalty in regard to whom the sentence came into legal force, but an issue of granting pardon has not been decided or whose clemency application was allowed, shall be kept under conditions defined for correctional colonies of special regime before sending them to a correctional institution for further punishment serving;

4. Persons sentenced to death penalty whose clemency application has been dismissed shall be kept under conditions defined for strict regime in prisons before sending them to respective institution for execution of the sentence.

### **Article 216. Order of appeal with clemency application by the person sentenced to death penalty**

1. Persons sentenced to death penalty can appeal with clemency application to the President of the Republic of Tajikistan within seven days from the day they are given a copy of the sentence or cassation decision. In this case, execution of the sentence shall be suspended until the President of the Republic of Tajikistan makes a decision.

2. If a person convicted to death penalty does not submit clemency application during the period mentioned or asserts his unwillingness to submit such application, the administration of a reprimand prison shall draw up a corresponding act about it with participation of public prosecutor.

3. A clemency application or an act with corresponding materials shall be submitted to the President of the Republic of Tajikistan not later than within three-day period from the day of receipt of the application or drawing up of the act.

### **Article 217. Time limit for consideration of a convicted person's clemency application**

1. Clemency application of the persons sentenced to death penalty or materials confirming refusal of these persons to submit clemency application shall be considered not later than within four months from the day of receipt of these materials in Executorial Apparatus of the President of the Republic of Tajikistan.

2. The decree of the President of the Republic of Tajikistan on grant of pardon or dismissing clemency application shall be forwarded for execution to the chief of a reprimand prison and the court that has passed the sentence.

### **Article 218. Security measures and grounds for using weapons**

Security measures and weapons may be used in regard to persons sentenced to death penalty on the same grounds as to the persons sentenced to deprivation of liberty.

### **Article 219. Grounds and order of execution of death penalty**

1. A sentence of the court that has come into force, conclusions of the Chairman of the Supreme Court of the Republic of Tajikistan and the General Public Prosecutor about absence of grounds for entering a protest against court sentence as an act of supervision, the decree of the President of the Republic of Tajikistan about dismissing clemency application as well as an act about a convicted person's refusal to submit clemency application shall serve as grounds for executing a sentence of death penalty.

2. Death penalty is executed not in public by shooting. Death penalty if imposed on several persons is executed separately in regard to each individual and in absence of others.

### **Article 220. Persons who are present while execution of death penalty**

1. A public prosecutor who implements supervision over legality in institutions of deprivation of liberty and preliminary detention, the chief of the institution in charge of execution of the sentence and a doctor have the right to be present while execution of death penalty.

2. Death of a convicted person is verified by a doctor. A protocol about execution of the sentence is drawn up and signed by the persons mentioned in the first part of the present article.

### **Article 221. Notification about execution of death penalty**

1. The chief of the institution where sentence of death penalty was executed shall immediately notify by a special letter the Information agency of the Ministry of Internal Affairs of the Republic of Tajikistan about execution of the sentence.

2. The information center shall notify the court that passed the sentence about its execution within three days.

3. Having received such information, the court shall send a notification to the department (bureau) of ZAGS at the last residence place of the convicted person for registration of convicted person's death, but if it is not possible to identify his permanent residence it shall be sent to the department of ZAGS at the location of the court that passed the sentence. Simultaneously, it shall inform close relatives about execution of death penalty. A body shall not be given out for burial, and burial place shall not be disclosed.

#### **Article 222. Stay of execution of the death penalty**

1. If a person sentenced to death penalty displays symptoms of mental disorder, the administration of reprimand prison shall organize his medical examination by a commission of three doctors-experts, and a corresponding protocol shall be drawn up.

2. If it is established that a convicted person has a mental disease that deprives him of ability to be aware of his actions or be in control of them, death penalty shall not be executed, and a protocol of the medical examination shall be forwarded to the court that passed the sentence.

### **SECTION X. Control over probationers**

#### **CHAPTER 23. Exercise of control over probationers**

#### **Article 223. Bodies that exercise control over probationers**

1. Control over conduct of probationers during probation period is exercised by inspection on correctional affairs at the abiding place of convicted persons, and in regard to servicemen during the period of military service - by command of military units.

2. Staff of other agencies of the bodies of internal affairs may take part in exercise of control over conduct of probationers in the order defined by legislation of the Republic of Tajikistan and other normative legal acts.

#### **Article 224. Calculation of the probation period**

1. Probation period is calculated from the moment when sentence of the court enters legal force.

2. After expiry of the probation period, control over the conduct of probationers shall be stopped and he shall be struck off the register of inspection on correctional affairs.

#### **Article 225. Order of exercising control over conduct of probationers**

1. Inspection on correctional affairs shall keep personal records of convicted persons during probation period, control in collaboration with the staff of other services of the internal affairs bodies, observation of public order by convicted persons and performance of the responsibilities imposed on them by court.

2. If a supplementary punishment of revocation of the right to hold a post or to do specific activity is imposed, inspection on correctional affairs in a full extent realizes activities specified in articles 33-38 of the present Code.

3. In case if a probationer was called up to actual military service, a copy of the sentence and in necessary cases other documents required for control over his conduct at the service place are forwarded to the military registration and enlistment office. Command of a military unit is obliged to notify inspection on correctional affairs within 10-day period about registration of the person, and upon termination of the service - about leave of the military unit.

4. Probationers are obliged to report to inspection on correctional affairs and command of a military unit about their conduct, fulfill responsibilities imposed on them by court, visit inspection upon request. In case of failure to appear in inspection without valid reasons, a convicted person shall be subject to forcible bringing.

5. In case if a probationer evades the control, inspection on correctional affairs shall conduct initial activities to identify his location and reasons of evasion.

#### **Article 226. Responsibility of a probationer**

1. If a person put on probation evades fulfilling responsibilities imposed on him by court or violates public order for what administrative punishment measure was imposed, inspection on correctional affairs notifies him in writing about the possibility of revocation of the probation.

2. If a probationer does not fulfill responsibilities specified in part four of the article 225 of present Code and in view of other circumstances proving appropriateness of imposition of other responsibilities on him, the chief of inspection on correctional affairs submits respective proposal to court.

3. If a probationer systematically commits violations for which disciplinary punishment measure was imposed on him or malignantly evades fulfilling of the responsibilities imposed by court, the chief of inspection on correctional affairs shall submit to court proposal about revocation of the probation and execution of the punishment imposed by court.

4. Commission of prohibited actions or failure to fulfill actions prescribed for a probationer more than two times during one year or long-term (more than 30 days) non-fulfillment of the obligations imposed by court is considered to be malignant evasion of fulfillment of responsibilities.

#### **Appendix**

#### **LIST**

#### **OF THE PROPERTY THAT IS NOT SUBJECT TO CONFISCATION ACCORDING TO THE COURT SENTENCE**

The following property and items that belong to a convicted person as his personal property or as share in common property, necessary for a convicted person or his dependants are not subject to confiscation:

1. A dwelling house with household buildings or its separate parts if a convicted person and his family permanently live there (not more than one house for a family).
2. An apartment or its separate part, if a convicted person and his family permanently live there (not more than one apartment for a family).
3. Ground area where a house and household buildings that are not subject to confiscation are situated as well as ground area necessary for farming and subsidiary small-holding.
4. Sole cow, or sole heifer if a cow is absent; sole goat, sheep or pig in households that have neither a cow nor a heifer; household buildings and domestic livestock of the persons engaged in agrarian sector in the amount necessary for meeting minimal needs of individual's family as well as poultry.
5. Fodder required for livestock until new harvest of fodder is collected or start of depasturation.
6. Seeds necessary for the next sowing of crops.
7. Pieces of furniture, utensils, clothing necessary for a convicted persons and his dependants:
  - a) refrigerator, TV-set, radio-receiving set and other household electric appliances;
  - b) clothing, shoes, linen, bedding, furniture, kitchen and dining utensils that were used (excluding items made of precious metals and precious stones except for wedding rings and items that are family relics, as well as items of historic and artistic value);
  - c) all children's belongings (except for computer, audio and video equipment).
8. Food products in the amount necessary for a convicted person and his family until new harvest if the main activity of a convicted person is farming. As for other cases, food products and money of the total amount equal to hundred minimal monthly salaries (on the day of confiscation) for a convicted person and individuals he is obliged to provide for;
9. Fuel necessary to prepare meal and to heat a living quarters during heating season for a family.
10. Items (implements), manuals and books necessary for professional activities of a convicted person (except for items made of precious materials as well as those of historical and artistic value, and in cases when a convicted person is deprived of a right to do respective activity by the court's sentence, or when items (implements) have been used by him to commit a crime.
11. Travel facilities specially designed for movement of invalids.

12. International and other prizes that a convicted person has been awarded with.

In case if confiscation covers property that is a share of a convicted person in common property, a size of his share is determined after excluding from it the property and items mentioned in the present List.

## **DECREE**

### **of Majlisi namoyandagon of the Majlisi Oli of the Republic of Tajikistan**

#### **On consummation of the Criminal Executive Code of the Republic of Tajikistan**

Majlisi Namoyandagon of the Majlisi Oli of the Republic of Tajikistan **decrees:**

1. To consummate Criminal Executive Code of the Republic of Tajikistan after its official publication beginning from January 1, 2002 except for the cases for which by present decree other terms are established.

2. Unless laws and other normative legal acts are brought into conformity with the Criminal Executive code of the Republic of Tajikistan , they are applied in the part not contradicting the Criminal executive Code of the Republic of Tajikistan.

3. Government of the Republic of Tajikistan:

shall submit proposal about bringing laws to conformity with the Criminal executive code of Republic of Tajikistan to Majlisi Namoyandagon of the Majlisi Oli

shall bring its decisions to conformity with the present Code.

4. Enforcement of provisions of the articles 62-69 and 160-165 of present Code shall be prorogued to January 1, 2003.

Articles 62-69 and 160-165 of present Code shall be consummated beginning from January 1, 2003.

Chief of Majlisi namoyandagon

of the Majlisi Oli of the Republic

of Tajikistan S. Khairulloev

Dushanbe, 28 June 2001

№ 339

**DECREE**

**of Majlisi milli of the Majlisi Oli of the Republic of Tajikistan**

**On the Criminal Executive Code of the Republic of Tajikistan**

Having considered the Criminal executive Code of the Republic of Tajikistan, Majlisi milli of the Majlisi Oli of the Republic of Tajikistan **decrees:**

To approve the Criminal executive code of the Republic of Tajikistan.

Chief of Majlisi milli

of the Majlisi Oli of the

Republic of Tajikistan M. Ubaidulloev

Dushanbe,

23 July 2001

№ 217

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