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COUNCIL OF EUROPE CONSEIL DE L'EUROPE

Strasbourg, 01/03/2013
[PC-OC\Docs 2013\PC-OC (2013)2 Addendum]

**PC-OC (2013) 02 Bil
Addendum**

**EUROPEAN COMMITTEE ON CRIME PROBLEMS
COMITÉ EUROPÉEN POUR LES PROBLÈMES CRIMINELS
(CDPC)**

**COMMITTEE OF EXPERTS
ON THE OPERATION OF EUROPEAN CONVENTIONS
ON CO-OPERATION IN CRIMINAL MATTERS**

**COMITÉ D'EXPERTS
SUR LE FONCTIONNEMENT
DES CONVENTIONS EUROPÉENNES DANS LE DOMAINE PÉNAL
(PC-OC)**

Examples of national legislation and procedures with regard to conditional release and measures involving deprivation of liberty

Exemples de législation et de procédures nationales concernant la libération conditionnelle et des mesures privatives de liberté

ADDENDUM

Reply from the Russian Federation

Information on the Russian Legislation and the procedures of deprivation of freedom and conditional-early relief of convicted persons

In compliance with Article 44 of the Criminal Code of the Russian Federation deprivation of freedom for a determined term relates to one of the forms of punishment.

It is provided for in Article 56 of the Criminal Code of the Russian Federation that deprivation of freedom shall consist in isolation of the convicted person from society by means of sending him to a colony-settlement, placing him into a juvenile correction colony, medical treatment correctional institution, correctional general, strict or special regime colony, or to prison. Deprivation of freedom shall be stipulated for a term of from two months to twenty years.

Punishment in the form of deprivation of freedom (Part 6 of Article 88 of the Criminal Code of the Russian Federation) shall be imposed on a juvenile convicted person, who has committed a crime at the age of under sixteen years, for a term of no longer than six years. Punishment of juveniles of the same category, who have committed especially grave crimes, as well as other juvenile convicted persons shall be imposed for a term of no longer than 10 years and shall be served in juvenile correctional colonies. Punishment in the form of deprivation of freedom may not be imposed on a juvenile convicted person, who has committed at the age of under sixteen years a crime of little or average gravity for the first time, as well as on other juvenile convicted persons, who have committed crimes of little gravity for the first time.

Assignment of the type of correctional institution for those sentenced to deprivation of freedom shall be governed by Article 58 of the Criminal Code of the Russian Federation.

The serving of deprivation of freedom shall be imposed on:

- a) persons convicted for crimes committed through carelessness, as well as on persons sentenced to deprivation of freedom for commission of intentional crimes of little or average gravity, who have not previously served deprivation of freedom, - in colony-settlements. Taking into account the circumstances of commission of the crime and the personality of the guilty person, the court may prescribe that the said persons shall serve a punishment in correctional general regime colonies, with specifying the reasons for the decision made;
- b) men sentenced to deprivation of freedom for commission of grave crimes, who have not previously served deprivation of freedom, as well as on women sentenced to deprivation of freedom for commission of grave or especially grave crimes, including in the event of any type of recidivism, - in correctional general regime colonies;
- c) males sentenced to deprivation of freedom for commission of especially grave crimes, who have not previously served deprivation of freedom, as well as in the event of recidivism or dangerous recidivism of crimes, if the convicted person has previously served deprivation of freedom, - in correctional strict regime colonies;
- d) males sentenced to deprivation of freedom for life, as well as in the event of dangerous recidivism of crimes, - in correctional special regime colonies.

The serving of part of the term of punishment in prison may be imposed on men sentenced to deprivation of freedom for a term of over five years for the commission of especially grave crimes, as well as in the event of especially dangerous recidivism of crimes; in doing so the court counts the time of keeping the convicted person in custody pending coming of the judgement of conviction into legal force in the term of serving the punishment in prison. The serving of punishment in juvenile correction colonies shall be imposed on persons sentenced to deprivation of freedom, who have not reached the age of eighteen years by the time of delivering a judgement by court.

The change of the type of correctional institution shall be executed by a court in compliance with the criminal executive legislation of the Russian Federation.

In the event of recidivism of crimes the punishment shall be imposed according to the rules of Article 68 of the Criminal Code of the Russian Federation. When imposing a punishment in the event of recidivism, dangerous recidivism or especially dangerous recidivism of crimes, the character and degree of social danger of the previously committed crimes, the circumstances by virtue of which the correctional

influence of the previous punishment proved to be insufficient, as well as the character and degree of social danger of the newly committed crimes shall be taken into account.

The term of punishment in the event of any type of recidivism of crimes may not be less than one third of the maximum term of the most severe type of punishment provided for the crime committed, but within the limits of the sanction of the corresponding Article of the Special Part of the Criminal Code of the Russian Federation.

In the event of any type of recidivism of crimes, if the mitigating circumstances provided for in Article 61 of the Criminal Code of the Russian Federation were established by court, the term of the imposed punishment may be less than one third of the maximum term of the most severe type of punishment provided for the crime committed, but within the limits of the sanction of the corresponding Article of the Special Part of the Criminal Code of the Russian Federation, and in the presence of exceptional circumstances, provided for in Article 64 of the Criminal Code of the Russian Federation, a more lenient punishment than the one provided for this crime may be imposed.

Conditional-early relief from serving a punishment shall be governed by Article 79 of the Criminal Code of the Russian Federation.

A person serving a punishment in the form of deprivation of freedom shall be subject to conditional-early relief, if the court admits that fully serving of the punishment imposed by court is not needed for his reformation. In doing so the person may be fully or partially relieved from serving a supplementary form of punishment.

Conditional-early relief may be applied only after the actual serving by the convicted person of:

- a) not less than one third of the term of the punishment imposed for a crime of little or average gravity;
- b) not less than half of the term of punishment imposed for a grave crime;
- c) not less than two thirds of the term of punishment imposed for an especially grave crime, as well as two thirds of the term of punishment imposed on a person previously conditionally-early relieved, if the conditionally-early relief was reversed on the grounds provided for in Part 7 of Article 79 of the Criminal Code of the Russian Federation;
- d) not less than three quarters of the term of the punishment imposed for the crimes against sexual inviolability of the minors, as well as for grave or especially grave crimes associated with illegal turnover of narcotic means, psychotropic substances, or precursors thereof, as well as for crimes provided for in Articles 205, 205.1, 205.2 and 210 of the Criminal Code of the Russian Federation;
- e) not less than four fifth of the term of punishment imposed for the crimes against sexual inviolability of minors under fourteen years old.

The term of deprivation of freedom actually served by the convicted person may not be less than six months.

When considering an application for conditional-early relief from serving a punishment filed by the convicted person for the crime against sexual inviolability of a minor under fourteen years old, a court shall take into account the results of a forensic psychiatric expert examination in respect of such convicted person.

A person serving deprivation of freedom for life may be conditionally-early relieved if the court admits that the further serving of this punishment is not needed and not less than twenty five years of deprivation of freedom has actually been served. Conditional-early relief from further serving of deprivation of freedom for life shall be applied only in the absence of malicious breaches by the convicted person of the established procedure for serving the punishment during the previous three years. A person, who has committed a new grave or especially grave crime while serving deprivation of freedom for life, is not subject to conditional-early relief.

Control over behaviour of the conditionally-early relieved person shall be executed by the authorized special state authority.

If during the remaining unserved part of the punishment:

- a) the convicted person committed a violation of public order for which an administrative penalty was imposed on him, or maliciously evaded discharging of duties imposed on him by a court when applying conditionally-early relief, as well as of compulsory measures of medical nature imposed by a court, the court upon the recommendation of the authorities mentioned in Part 6 of Article 79 of the Criminal Code of the Russian Federation may rule that the conditional-early relief and the execution of the remaining unserved part of punishment shall be reversed;
- b) the convicted person committed a crime through carelessness or an intentional crime of little or average gravity, the question of reversal or preservation of conditional-early relief is decided by court;
- c) the convicted person committed a grave or an especially grave crime, the court shall impose a punishment on him according to the rules provided for in Article 70 of the Criminal Code of the Russian Federation. Punishment shall be imposed according to the same rules in the event of commission a crime through carelessness or an intentional crime of little or average gravity, if the court reverses the conditional-early relief.

In compliance with Article 97 of the Criminal Code of the Russian Federation compulsory measures of medical nature may be imposed by a court on persons:

- a) who have committed actions provided for in Articles of the Special Part of the Criminal Code of the Russian Federation in a state of insanity;
- b) those, who after the commission of a crime have become mentally deranged, which makes the imposition or execution of punishment impossible;
- c) who have committed a crime and suffer from mental disorders, which do not exclude sanity;
- d) who, at the age of over eighteen years, committed a crime against sexual inviolability of a minor under fourteen years old, and suffer from sexual preference disorder (pedophilia), which does not exclude sanity.

Compulsory measures of medical nature shall be imposed on the persons mentioned in Part 1 of Article 97 of the Criminal Code of the Russian Federation only in cases when the mental disorders were connected with the possibility of these persons to cause other material harm or with the danger to themselves or to other persons.

A court may impose the following types of compulsory measures of medical nature (Article 99 of the Criminal Code of the Russian Federation):

- a) compulsory out-patient observation and treatment by a psychiatrist;
- b) compulsory treatment in a psychiatric in-patient hospital of a general type;
- c) compulsory treatment in a psychiatric in-patient hospital of a specialized type;
- d) compulsory treatment in a psychiatric in-patient hospital of a specialized type with intensive observation.

Provisions of the Criminal Code of the Russian Federation and the Criminal Executive Code of the Russian Federation which govern punishment in the form of deprivation of freedom entered into force by Federal Law of the 27th of December 2009 № 377-FZ «Concerning the Introduction of Amendments to Specific Legislative Acts of the Russian Federation in Connection with the Enactment of the Provisions of the Criminal Code of the Russian Federation and the Criminal Executive Code of the Russian Federation concerning Punishment in the Form of Deprivation of Freedom».

A person convicted to restriction of freedom, while serving punishment at the place of residence, does not have a right to: leave home in a specific time of a day, visit particular places, including those where mass events are held and participate in them, leave the territory of the municipality, change place of residence and of work (studies) without coordination with the criminal executive inspection (hereinafter – CEI, inspection) and others.

Meanwhile the court charges a convicted person with an obligation to appear in the criminal executive inspection from one to four times a month for registration. The imposition of limitations by a court on the convicted person on changing the place of residence or of stay without consent of the CEI, as well as on leaving the territory of the municipality is obligatory.

This punishment shall be imposed for a term of from two months to four years in the capacity of the main type of punishment for the crimes of little or average gravity, as well as for a term of from six months to

two years in the capacity of the supplementary type of punishment to deprivation of freedom in the event provided for in corresponding Articles of the Special part of the Criminal Code of the Russian Federation.

The criminal executive inspection at the place of residence of the convicted person shall serve him within 15 days from obtaining a copy of the judgement (ruling, regulation) with a formal notice on the necessity to appear in the inspection for registration. A convicted person is obliged to appear within 3 days after receiving the mentioned notice in the CEI, where the rights and obligations, procedure and terms for serving a punishment, as well as responsibility for their violation are explained to him, job placement assistance is rendered.

When registering, the convicted person is subject to fingerprinting and photographing. Criminal executive inspections carry out an educational work with the person convicted to punishment in the form of deprivation of freedom. Within 3 days from registering the person convicted to deprivation of freedom, inspection shall inform a body of internal affairs at the place of his residence of it.

In the event of malicious evasion of serving a restriction of freedom by the convicted person, which was imposed as the main form of punishment, a court, upon CEI's presentation may substitute the unserved part of punishment with the forced labour or the deprivation of freedom at two days of restriction of freedom or one day of deprivation of freedom per two days of restriction of freedom.

Criminal case may be instituted under Article 314 of the Criminal Code of the Russian Federation in respect of the convicted person, on whom the restriction of freedom was imposed as the supplementary punishment, and who maliciously evades of serving this punishment.