

Decree #277

of the President of Georgia

July 19, 2004 Tbilisi

Regarding the Rules of Pardoning

1. To ensure the exercise of authority determined by the article 73, paragraph 1, sub-par. "n" of the Constitution of Georgia and the article 78 of the Criminal Code of Georgia the Regulations on Implementation of Rules of Pardoning shall be approved.
2. The Presidential Decree #319 of May 13, 1998 regarding the Rules of Pardoning of convicts shall be invalidated.
3. Restrictions as determined by the Article 1, paragraph 3 of Regulations approved by this Decree shall not be referred to those persons, who had filed the petition (appeal) about pardon before the entry into force of this Decree. Issue of pardon of such persons shall be discussed if he meets the conditions determined by the rules of pardoning, approved by the Presidential Decree #319 of My 13, 1998.

M. Saakashvili

Regulations

on Implementation of Rules of Pardoning

Article 1

1. These regulations determine (specify) the rules of pardoning of convicts and those who have already served their sentences and their convictions are not annulled or withdrawn.
2. Pardon apply:
 - a) to a person who is convicted by the sentence of the Court of Georgia and serves his/her sentence on the territory of Georgia;
 - b) to a person, who is convicted by other court and serves his/her sentence on the territory of Georgia, if not determined otherwise by the International Agreements and Treaties of Georgia.
 - c) to a person who has served his/her sentence, but the conviction is not annulled or withdrawn yet.

3. Pardon do not apply to the convict, who:

- a) was sentenced to life imprisonment if he/she has not actually served 25 year in prison;
- b) serves his/her sentence for the commitment of two or more crimes and he/she has not actually served half of the sentence;
- c) is convicted for the grave or especially grave crime, was sentenced to more than 5 years imprisonment and has not served half of the assigned punishment;
- d) has previously been convicted and before his/her conviction was annulled or withdrawn repeatedly committed premeditated crime and has not served half of the assigned punishment;
- e) is convicted for the first time up to 5 years in prison and has not served 1/3 of the assigned punishment;
- f) has previously been amnestied or pardoned and before his/her conviction was annulled or withdrawn repeatedly committed premeditated crime;
- g) serves his/her sentence for the deliberate crime which he committed under conditional sentence within the probationary period appointed by court;
- h) was released on parole and before his/her conviction was annulled or withdrawn he/she repeatedly committed premeditated crime;
- i) (whose) unserved part of the sentence was changed to a lighter sentence by the court;
- j) is characterized negatively from the place of serving a sentence;
- k) does not admit guilt, repents for the committed crime or asks for pardon.

4. The issue of pardon of convicts determined by the paragraph 3 of this article shall be discussed in such case if any special circumstance (condition) exists and there is a proper decision of the Pardon Commission.

Article 2

1. For the purpose of preliminary discussion of the petitions (appeals) for pardon and submission of proposals to the President of Georgia regarding the pardon of convicts the Pardon Commission shall be set up (hereinafter, the Commission).
2. The composition of the Commission (Chairman, members) shall be determined by the Decree of the President of Georgia. The Commission is composed of the Members of the Parliament, the Public Defender of Georgia, other representatives from the community.
3. The Commission among its members shall select the Secretary of the Commission.

4. Sessions of the Commission are summoned by the Commission Chairman. The Commission members are sent the Agenda, regarding which they will represent their opinions in advance. The Commission is authorized to make a decision if at least two-third of the members participated in the discussions. The decision shall be deemed adopted if a majority of the attending members supports it; in case of equal number of votes, the Chairman shall have a casting vote.

5. Proposals of the Commission regarding pardon request or refusal will be noted (reflected) in the minutes of the Commission session.

6. Proposals of the Commission regarding pardon request are discussed by the President of Georgia, after which he receives a final decision on them.

Article 3

1. Pardons are issued by the President of Georgia in the form of a Decree.

2. Decree of the President of Georgia shall indicate the biographical data of the pardoned person, the judgment of the court, the article of the Criminal Code of Georgia based of which he/she was convicted and the form and grounds of pardon.

3. In case of denial of the petition (appeal) regarding pardon request the Commission shall take appropriate decision.

Article 4

If the petition (appeal) regarding pardon request is denied, the repeated petition (appeal) to request pardon can be filed to the Commission within six months, from the moment of denial of previous petition (appeal) by the Commission.

Article 5

1. The following persons shall have a right to file the petition (appeal) to the President with a request of pardon as follows: persons defined in the paragraph 2 of the first article directly or their family members, member(s) of the Parliament of Georgia, individuals, groups, organizations and agencies. Petition (appeal) regarding pardon request shall be filed to the Administration chancellery of the President of Georgia, which after proper registration forwards it to the Department on Pardon Issued of the Domestic Policy office of the President's Administration (hereinafter – the Department).

2. Within one month after receiving the pardon petition (appeal) the Department shall ensure the request of all proper documentation from appropriate agency, based on which the Department drafts a notice and prepares the pardon case for the review by the Commission.

3. The appropriate agency is obliged within 2 weeks after receiving the request of documentation from the Department to ensure the provision of required materials. Besides, in the process of discussion of pardon issue, information regarding application of criminal

proceedings or disciplinary measure towards the convict shall be immediately provided to the Department.

4. Pardon case materials of the convicted person together with the petition (appeal) on pardon shall include:

- a) Copy of the judgment(s), based on which the person serves his/her sentence, also copies of those decisions that are made by the higher court instances regarding the judgment(s);
- b) Notice (reference) about the health condition of the convict;
- c) Information (data) about the harm caused by the committed crime;
- d) Notices about biographical data of the convict and his family situation;
- e) Data about previously filed pardon petitions and their discussion results;
- f) Information about the use of amnesty or pardon acts of the convict;
- g) Notice about previous convictions of the person;
- h) Data about use of measures as determined by the articles 72 or/and 73 of the Criminal Code of Georgia;
- i) Reference (characterization) of the convict issued by chairperson of the sentence execution body.

5. The petition (appeal) on pardon filed by the person who has served his/her sentence shall be accompanied by the following documents:

- a) Copy of the judgment(s);
- b) Notice about the served sentence;
- c) Reference (characterization) of the convict issued by the appropriate agency (is employed) or the local self-government body.

6. The petition (appeal) on pardon of the convicted person (who has served his/her sentence) may be also added by other materials that are essential to resolve the issue of pardon.

7. The Department shall submit to the Commission information and materials about those convicts, who are not subjects to pardon under the paragraph 3 of the first article of this Regulation.

8. In accordance to the proposals worked out by the Commission, the Department drafts the decrees to submit them to the President of Georgia, sends the extracts from the decree to appropriate agencies, sets control over their execution, drafts and registers the responds on pardon petitions (appeals). The Department shall also prepare materials about the practice of

use of pardon and periodically provide the Commission on Pardon and the President of Georgia with information about results of the discussion of pardon petitions (appeals).

Article 6

1. The following acts (measures) of pardon can be used, when the issue of pardon of convicts is discussed:

- a) Release from the prison (from serving a sentence);
- b) Partial release from serving a sentence – that is a reduction of the term of sentence;
- c) The unserved part of the sentence is changed by a lighter sentence.

2. If a person has served his/her sentence entirely, he/she may be lifted previous conviction by the pardon decree.

Article 7

During consideration of the petition (appeal) regarding pardon request, the following circumstances shall be taken into account:

- a) Personality of a convict, hazardous nature of the committed crime, previous convictions, terms of the sentence served, behavior of the convict in the areas of sentence, family conditions, health conditions, opinion of the victim and other circumstances;
- b) Behavior of the person who had served his/her sentence, the category of the committed crime and the period passed from the term of the sentence.

Article 8

1. By the decision of the Commission, in case of necessity, the petition (appeal) regarding pardon request together with the case files may be sent to the Office of the Chief Prosecution of Georgia, The Ministries of Internal Affairs, Justice and State Security.

2. The mentioned agencies shall submit their decisions to the Pardon Commission within 2 weeks from the moment of receiving the pardon case files.

Article 9

1. The Decree of Pardon of the President of Georgia is sent to the Ministry of Justice for it implementation, and in case of pardoning of the person who has already served his/her sentence – to the Ministry of Internal Affairs of Georgia.

2. The Decree of Pardon of the President of Georgia is sent to the Ministry of Internal Affairs of Georgia for the notice (for the record).

3. The decision of the Commission to reject the pardon is sent to the applicant (petitioner) and for the notice – to the penitentiary body.

Article 10

1. The executive body of the sentence shall implement (execute) the Presidential Decree on Pardon of the convict immediately.

2. The executive body of the sentence sends information regarding implementation (execution) of the Presidential Decree on Pardon of the convict to the Department.

Decree #395

of the President of Georgia

May 20, 2005 Tbilisi

Regarding amendments to the Decree of the President of Georgia #277 of July 19, 2004 on the Rules of Pardoning

1. In accordance with the article 36 of the Law of Georgia on “Normative Acts”, the following amendments shall be made to the Decree #277 (SSM III, 22.07.04, #74) of the President of Georgia of July 19, 2004 regarding the Rules of Pardoning:

a) The words “in such case if” in paragraph 4 of the first article shall be added the words “the convict is minor (under age)” and paragraph 4 shall be formed to read as follows:

„4. The issue of pardon of convicts determined by the paragraph 3 of this article shall be discussed in such case if the convict is minor or if any special circumstance exists and there is a proper decision of the Pardon Commission.”;

b) the Article 2 shall be added the paragraph 7:

„7. The President of Georgia is authorized, at any stage of the discussion of pardon petition (appeal) and/or without consideration of requirements of this Regulation, to make a decision on pardon of the person. “;

c) The first indention of article 7 shall be considered the first paragraph and the second paragraph shall be added to read as follows:

„2. Petition (appeal) of the minor pardon shall be considered ahead of schedule and together with circumstances as determined by the first paragraph of this article, the level of his/her

psychological development, living and education conditions and other personal characteristics shall be taken into account.”.

2. The minor who has filed the petition (appeal) on pardon before the effective date of this Decree will be the subject of requirements determined by this Decree. The minor, who was denied to grant the petition (appeal) on pardon before the effective date of this Decree, has a right to file the petition (appeal) repeatedly without consideration of the terms determined by the article 4 of Regulations approved by the Presidential Decree regarding the Rules of Pardoning #277 of July 19, 2004.

Decree #441

of the President of Georgia

July 24, 2007 Tbilisi

Regarding amendments to the Decree of the President of Georgia #277 of July 19, 2004 on the Rules of Pardoning

1. In accordance with the article 36 of the Law of Georgia on “Normative Acts”, the following amendments shall be made to the Decree #277 (SSM III, 22.07.04, #74, article 653) of the President of Georgia of July 19, 2004 regarding the Rules of Pardoning and the article 2, paragraph 4 of this Regulation shall be amended to read as follows:

4. Sessions of the Commission, as a rule, shall be convened twice a year by the Resolution of the President of Georgia. Before the session, the Commission members are sent the Agenda, regarding which they will represent their opinions in advance. The Commission is authorized to make a decision if at least two-third of the members attends the session. The decision shall be deemed adopted if more than half of the Commission members supports it; in case of equal number of votes, the Chairman shall have a casting vote.”.

2. This Decree shall enter into force upon its publication.

Decree #171

of the President of Georgia

March 16, 2010 Tbilisi

Regarding amendments to the Decree of the President of Georgia #277 of July 19, 2004 on the Rules of Pardoning

1. In accordance with the article 20 of the Law of Georgia on “Normative Acts”, the following amendments shall be made to the Decree #277 (SSM III, 22.07.04, #74, article 653) of the President of Georgia of July 19, 2004 regarding the Rules of Pardoning:

a) Article 5:

a.a) paragraphs 1, 2 and 3 shall be amended to read as follows:

„1. The following persons shall have a right to file the petition (appeal) to the President with a request of pardon as follows: persons defined in the paragraph 2 of the first article directly or their family members, member(s) of the Parliament of Georgia, individuals, groups, organizations and agencies. The petition (appeal) regarding pardon request shall be filed to the Organizational Body of the Administration the President of Georgia, which after proper registration forwards it to the Department of Citizens’ Constitutional Rights of the President’s Administration (hereinafter – the Department).

2. Within one month after receiving the pardon petition (appeal) the Department shall ensure the request of proper documentation from appropriate agencies, based on which the Department drafts a notice and prepares the pardon case for the review by the Commission.

3. The appropriate agency is obliged within 2 weeks after receiving the request of documentation from the Department to ensure the provision (sending) of required materials to the Department. Besides, in the process of discussion of pardon issue, information regarding application of criminal proceedings or disciplinary measure towards the convict shall be immediately provided to the Department.”;

a.b) Paragraphs 7 and 8 shall be amended to read as follows:

“7. The Department shall submit information to the Commission about those convicts, who are not subjects to pardon under the paragraph 3 of the first article of this Regulation. The Commission makes a decision regarding denial of pardon requests if, following to the article 1, par.4 of this Regulation, other decision was not made.

8. In accordance to the proposals worked out by the Commission, the Department ensures drafting of the decrees for the submission to the President of Georgia and sending of the extracts from the decrees to appropriate agencies.”;

b) Article 8, paragraph 1 shall be amended to read as follows:

“1. By the decision of the Commission, in case of necessity, the petition (appeal) regarding pardon request together with the case files may be sent to the Prosecutor’s Office of Georgia, the Ministry of Internal Affairs and the Ministry of Penitentiary System, Probation and Legal Aid.”;

c) Article 9:

c.a) Paragraph 1 shall be amended to read as follows:

1. The Decree of Pardon of the President of Georgia is sent to the Ministry of Penitentiary System, Probation and Legal Aid for its implementation, and in case of pardoning of the person who has already served his/her sentence – to the Ministry of Internal Affairs of Georgia.”;

c.b.) paragraph 3 shall be amended to read as follows:

“3. The decision of the Commission on denial of pardon request is sent to the executive body of the sentence, which shall inform the convicted person about the decision of the Commission.”;

d) Article 10, paragraph 2 shall be amended to read as follows:

“2. The executive body of the sentence sends information regarding implementation (execution) of the Presidential Decree on Pardon of the convict to the Department.”.

2. This Decree shall enter into force upon its publication.

M. Saakashvili

Decree #695

of the President of Georgia

August 30, 2010 Tbilisi

Regarding amendments to the Decree of the President of Georgia #277 of July 19, 2004 on the Rules of Pardoning

1. In accordance with the article 20 of the Law of Georgia on “Normative Acts”, the following amendments shall be made to the Decree #277 (SSM III, 22.07.04, #74, article 653) of the President of Georgia of July 19, 2004 regarding the Rules of Pardoning and the words in article 5, par. 1 of this Regulation “Organizational Body” shall be replaced by the words “Management and Human Resources Body”, and the words “the Department of Citizens’ Constitutional Rights” shall be replaced by the words “Department of Citizenship, State Orders and Pardon Issues” .

2. This Decree shall enter into force upon its publication.

M. Saakashvili

Decree #37

of the President of Georgia

January 28, 2013 Tbilisi

Regarding amendments to the Decree of the President of Georgia #277 of July 19, 2004 on the Rules of Pardoning

1. In accordance with the article 20 of the Law of Georgia on “Normative Acts”, the following amendments shall be made to the Decree #277 (SSM III, 22.07.04, #74, article 653) of the President of Georgia of July 19, 2004 regarding the Rules of Pardoning:

a) Article 2, paragraph 2 shall be amended to read as follows:

2. The composition of the Commission (Chairman, members) shall be determined by the Decree of the President of Georgia. The Commission is composed of the Public Defender of Georgia and other members.”;

Decree #423

of the President of Georgia

June 12, 2013 Tbilisi

Regarding amendments to the Decree of the President of Georgia #277 of July 19, 2004 on the Rules of Pardoning

1. In accordance with the article 20 of the Law of Georgia on “Normative Acts”, the following amendments shall be made to the Decree #277 (SSM III, 22.07.04, #74, article 653) of the President of Georgia of July 19, 2004 regarding the Rules of Pardoning and the article 5, paragraph 1 shall be amended to read as follows:

“1. The following persons shall have a right to file the petition (appeal) to the President with a request of pardon as follows: persons defined in the paragraph 2 of the first article directly or their family members, member(s) of the Parliament of Georgia, individuals, groups, organizations and agencies. Petition (appeal) regarding pardon request shall be received by the Management and Human Resources Body of the President’s Administration of Georgia, which after proper registration forwards it to the Department on Citizenship and Pardon Issues Department of the President’s Administration (hereinafter – the Department).”.

2. This Decree shall enter into force upon its publication.