

37 (I) of 2009



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(English translation)

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Number 37(I) of 2009

A LAW TO AMEND THE PRISONS LAWS

The House of Representatives enacts as follows:

- Short title. 62(I) of 1996
12(I) of 1997
96(I) of 2005
116(I) of 2008.
- Amendment of section 2 of the principal law.
- Substitution of section 14 of the principal law.
1. This Law may be cited as the Prisons (Amendment) Law of 2009 and shall be read as one with the Prisons Laws of 1996 to 2008 (hereinafter referred to as the "principal law") and the principal law and this Law may together be cited as the Prisons Laws of 1996 to 2009.
2. Section 2 of the principal law is amended by the addition, in the appropriate alphabetic order, of the following new term and its definition:
- "Parole Board" means the Independent Parole Board of Prisoners¹ on License established by virtue of section 14."
3. The principal law is hereby amended by the deletion and the substitution of section 14 with the following new section:
- "Appointment of Parole Board on License"
14. (1) The Council of Ministers shall appoint for a period of three years a Parole Board of Prisoners on License, composed of five members in accordance with subsection (2), with a duty and power to examine and decide, in accordance with the way and the proceedings provided for in this Law, on prisoner's applications, in accordance with sections 14A and 14B, in relation to their conditional release on license, for the continuance of the remaining part of their sentence thereof, outside the Prisons and to exercise any other power provided to it by virtue of this Law.

¹ Though the Greek texts refers to the term "kratoumenos" (which includes people detained and not necessarily convicted), in the English translation the word prisoner is used, because it is clear that the substantial provisions of the Law relate to people already convicted and serving a term of imprisonment.

(2) Members of the Parole Board by virtue of subsection (1), shall be appointed persons of a high standing and probity, one member being an ex judge with long experience in criminal law, another member being a lawyer and three other members being persons qualified in specializations related to the subject, such as Forensic Psychiatric, Forensic Psychology, Psychiatric, Psychology, Criminology, Sociology and the specialization of Social Worker.

(3) One member of the Parole Board shall be appointed as Chairman by the Council of Ministers and another member shall be elected as Vice-Chairman by the Parole Board.

(4) Before assuming their duties, the Chairman and the members of the Parole Board shall make an affirmation before the President of the Republic that they will carry out their duties faithfully”.

Addition of new sections 14A to 14M.

4. The principal law is hereby amended by the addition, immediately after section 14 thereof, of the following new sections 14A to 14N:

Right of prisoners to submit an application for release on license, power of the Board to examine requests and set conditions and restrictions”

14A(1) A prisoner who has served half his sentence, which exceeds two years, or, who is sentenced in life imprisonment and has served at least twelve years of his sentence, shall be entitled to submit directly to the Parole Board, a written application for conditional release on license, for continuing serving the rest of his sentence thereof, outside the Prisons.

(2) The Parole Board shall examine, according to the provisions in this Law, the prisoner’s applications submitted therein, in accordance with the provisions of subsection (1) of this section and section 14B and may decide on the conditional release on license of prisoners, for continuing serving the rest of their sentence or sentences outside the Prisons or, may reject the applications.

(3) The Parole Board, considering the factors and matters referred to in subsection (1) and (2) of section 14G, shall decide the conditions and restrictions which, under the circumstances, shall consider appropriate to set, for the release of a prisoner on license and may set as a condition that the prisoner during the service of all or any part of the remaining part of the sentence out of Prison, will be under the surveillance and supervision of a person as referred to in the decision.

(4) Without prejudice to the power of the Parole Board to decide by virtue of subsection (3) of the conditions and restrictions, which considers appropriate to set in each case, the said conditions and restrictions may, for the purpose of reducing the risk of recidivism of the prisoner, include among others –

- (a) prohibition, within the time laid down in the decision, of accommodation, work, visitation or transport of the prisoners, in places, premises, buildings or establishments therein, or, in districts or other places set out in the decision of the Parole Board,
- (b) prohibition of contact of the prisoner, in any way, for a prescribed time laid down in the decision, with a certain person or persons of certain age, occupation or category,
- (c) the prisoners' commitment to undergo, within a prescribed time laid down in the decision, into treatment for rehabilitation from drugs or abuse of alcohol or treatment from any other condition of addiction which evidently is connected with committing criminally punishable acts,

(d) the prisoners' commitment to find, within a prescribed time laid down in the decision, work or occupation or/and attend training or educational programme or programmes of occupational rehabilitation.

Provided that, observing the terms or restrictions for the time being by the prisoner set by the Parole Board by virtue of the present subsection and subsection (3), concerning his release on license, as well as any additional or amended terms or restrictions by virtue of subsection (1) of section 14E, is supervised by the person mentioned in subsection (3) of this section, under whom, the surveillance and supervision of the prisoner is placed, and who from time to time informs the Parole Board in writing, in relation to the observance of the terms and restrictions and the habilitation of the prisoner in society.

(5) For the purposes of submitting an application for conditional release under license by virtue of subsection (1) of this section and section 14B, half the sentence to be served by the prisoner in order to be entitled to submit an application, shall be half the sentence imposed to him by the Court.

(6) By virtue of this Law, the release of prisoners on license for continuing serving their sentence outside the Prisons, shall concern the way the sentence which is imposed by the Court is executed, as though the sentence may be reduced or commuted by virtue of Article 53.4 of the Constitution and for the purposes of sections 14 to 14N, the remaining part of the sentence of imprisonment that a prisoner has to continue to serve outside the Prisons, shall be the remaining part of the sentence imposed by the Court as though it has been

reduced or commuted by virtue of Article 53.4 of the Constitution.

Provisions relating to consecutive and concurrent sentences.

14B(1) An application for release on license, as provided for in section 14A, can also be submitted by-

- (a) a prisoner who has served at least twenty-five years of imprisonment of consecutive sentences of life imprisonment,
- (b) a prisoner who has served half of the total duration of the consecutive sentences, other than the sentences referred to in paragraph (a), or, in case where the longest sentence of the consecutive sentences is the life imprisonment, he has served at least fifteen years of imprisonment,
- (c) a prisoner who has served half of the concurrent sentences or who has served half of the longest sentence of the consecutive sentences partly concurrent with another, so that the longest in duration sentence overlaps the other sentence or sentences, or, in case where the longest sentence in question, is the life imprisonment, he has served at least fifteen years thereof.

(2) A prisoner who has served either in, or, out of Prisons his consecutive sentences, or, the sentences with the longest in duration of sentences partly concurrent and still has to serve any other sentence or sentences, whether concurrent with others or not, shall, in relation to each sentence or concurrent sentences, be entitled to apply for release on license, provided that he has served the

necessary part of the sentence or sentences for which he has applied, by virtue of the provisions of this Law.

(3) A prisoner who has served his consecutive or partly concurrent sentences on license out of the Prisons and still has to serve any other sentence or sentences , whether concurrent or not with others, returns back to the Prison for their service and in each case that the prisoner is thereafter released following a request by virtue of subsection (2) and serves the remaining part of any sentence or sentences on license, returns back to the Prisons until he has served all the sentences he has to serve.

Rejection of applications of prisoners who do not satisfy the requirements, new applications, delivery of decisions.

14C(1) The Parole Board rejects any application for the conditional release on license, without examining its substance, if it appears that this was submitted before the lapse of time required for its submission according to the provisions of this Law. A prisoner, whose application has been rejected by virtue of this section, shall not be restrained to submit a new application, in order to be examined on its merits, provided that the requirements of this Law in relation to the time of submission of the application are fulfilled.

(2) A prisoner, whose application is rejected by the Parole Board, following examination on its merits, may not submit a new application in relation to the same sentence or sentences, by virtue of the provisions of this Law, unless one year, from the date of the rejection of the application by the Parole Board, has elapsed. In relation to serving sentence of life imprisonment or imprisonment exceeding fifteen years, a new application may not be submitted unless the lapse of two years from the date of the rejection of the application by the Parole Board.

(3) The Parole Board delivers to the prisoner its decision on the application he submitted, whereas after the said delivery, the decision ceases to be confidential and is also being delivered to the Director. In case of a decision for the release on license, this shall also be transmitted to the Ministry of Justice and Public Order, for their information.

Execution by the Director of the decision of the Board for the release on license.

14D. Decision of the Parole Board, for the conditional release of a prisoner on license, by virtue of the provisions of this Law, shall be sufficient authorization for the Director to allow the prisoner to leave the prisons and to continue serving his sentence or sentences for the remaining part of it or them out of the Prisons, as long as the conditions and restrictions of his release on license laid down by the Parole Board are observed, and as long as the license for release and service of the remaining part or parts of his sentence or sentences outside the Prisons continues to apply, moreover the Director shall execute at once the decision delivered to him by the Parole Board.

Amendment of conditions and restrictions, obligation for compliance.

14E(1) The Parole Board may, at any time, on reasonable grounds, either following the prisoners' application, or, ex officio, or following written information by virtue of subsection (4) of section 14A made by the person who has the supervision and surveillance of the prisoner, by a new decision, cancel or amend any condition or restriction set by its decision for the release on license by virtue of this Law, or, set additional conditions and restrictions and in such case inform the Director in writing, as well as the prisoner at his latest known address, for its said decision:

Provided that the Parole Board may, by virtue of this subsection cancel any term that may have set for the supervision or

surveillance of the prisoner by virtue of subsection (3) of section 14A, or decrease or increase the period of supervision or surveillance or set as a term, if not already provided

for, that when serving the remaining part of the sentence of the prisoner outside the Prisons or, any part thereof, the prisoner shall be under the supervision and surveillance according to the provisions of this Law:

Provided further that, more strict or additional conditions or restrictions may only be set after the Parole Board gives the prisoner the right to be heard and in such case, the provisions relating to oral interviews of section 14H shall apply.

(2) A prisoner who is serving the remaining part of his sentence outside the Prisons following the decision of the Parole Board, by virtue of this Law, shall be obliged to comply with the conditions and restrictions of the time being, of his release on license.

Revocation of the decision of the Board, automatic raising of the effect of the release on license, recall-to- prison order.

14F(1) The Parole Board may at any time, with a duly justified decision, delivered to the Director, revoke its previous decision for the conditional release on license of a prisoner, if it is satisfied, after giving the chance to the prisoner to be heard, that he neglected to comply with any condition or restriction for the time being in effect, set by the Board, for the said release:

Provided that in relation to the right of the prisoner to be heard, by virtue of this subsection, the provisions for the oral interviews of section 14H shall apply.

(2) In case of revocation by virtue of subsection (1), the relevant decision and the release on license and service of the remaining

part of the prisoner's sentence out of the Prisons, shall cease to be in force and the Director shall deliver the decision of the Parole Board to the prisoner, at his last known address, recalling the prisoner to the Prisons for continuing serving his sentence.

(3) Every decision of the Parole Board for the release on license of a prisoner, by virtue to this Law and service of the remaining part of his sentence out of the Prisons, shall automatically cease to be in effect in case where the prisoner commits any new offence for which he is sentenced to imprisonment while serving the remaining part of his sentence out of the Prisons.

(4) In case where a decision and release on license and service of the remaining part of the prisoner's sentence or sentences out of the Prisons ceases automatically to be in force by virtue of subsection (3), the Director shall serve a notice to the prisoner, at his last known address, recalling the prisoner to the Prisons for continuing serving his sentence or sentences.

(5) A prisoner who, after serving his sentence or sentences on license, does not return to the Prisons to serve any other sentence or sentences or, for whom the license ceases to be in effect following revocation according to the provisions of subsection (1), or automatically, according to the provisions of subsection (3) and whereas the prisoner is recalled by the Director to return to the Prisons and omits to do so, shall be considered to be absent from the Prisons without lawful authorization and he is considered as escaping from lawful custody, thus, shall be under arrest and whereas he is arrested, shall be sent to the Prisons without the issue of a new arrest warrant.

Continuing serving sentence inside the Prisons after the release on license ceases to be in effect.

14G(1) The period from the date the prisoner begins to serve the remaining part of his sentence or sentences outside the Prisons on license, until the date his release on license may cease to be in effect, either due to being recalled or automatically by virtue of section 14F, is calculated in the period of serving the said sentence or sentences.

(2) Subject to the provisions of this Law, a prisoner who returns and continues serving his sentence or sentences in the Prisons following revocation of the release on license by the Parole Board, or after this automatically ceases to be in effect by virtue of section 14F, shall not be prevented from submitting a new application by virtue of this Law for his release on license in relation to the same sentence or sentences, or in relation to any other sentence that he shall serve, including the sentence that might have been imposed to him for an offence committed while on license out of the Prisons:

Provided that, a new application for release on license may not be submitted by virtue of this subsection, unless, at least one year passes by from the date that the prisoner returns to the Prisons and in case such application is submitted before the said time lapses, the Parole Board shall reject it, without examining its merits.

(3) A prisoner who falls within the provisions of section 12 and who returns to Prisons and continues serving his sentence or sentences following revocation of the decision of the Parole Board or where such decision ceases automatically to be in force by virtue of section 14F, shall not be entitled to the benefits by virtue of the said section, unless one year passes by from the date of his return to Prisons and provided that during which, he shows

industry and good conduct.

Examination of applications for release on license.

14H(1) In deciding on a prisoner's application for release on license and for the conditions and restrictions which is intentional to be set, the Parole Board examines, takes into consideration and evaluates in each case all the following factors:

- (a) the prisoner's degree of danger to others and the likelihood of recidivism,
- (b) the preservation of the protection of the society through the prevention of offences similar to the ones the prisoner is sentenced to imprisonment for, the concurrent or consecutive sentences the remaining part of whom he requests to serve outside the Prisons,
- (c) possible personal, family or other circumstances that may corroborate to the conditional release on license of the prisoner, without this being opposed to the protection of the society:

Provided that the factor for the preservation of the protection of the society through the prevention of offences, shall have a particular importance in relation to prisoner's applications who serve sentence or sentences of life imprisonment or long term sentences due to the commission of offences relating to violence.

(2) In order to evaluate all the factors referred to in subsection (1), the Parole Board, shall examine in each prisoners' case the following:

- (a) The nature of the offence for which the prisoner is serving the sentence of imprisonment, the remaining part of

which he requests serving outside the Prisons;

- (b) the sentence, the remaining part of which the prisoner requests to serve outside the Prisons;
- (c) in case the prisoner's application concerns serving the remaining part of concurrent or consecutive sentences outside the Prisons, the type of all the offenses for which concurrent or consecutive sentences were imposed, shall also be examined, as well as all the sentences imposed for the said offences;
- (d) written comments of the Court when imposing the sentence or sentences referred to in paragraphs (b) and (c);
- (e) the criminal record of the prisoner;
- (f) previous opportunities possibly given to the prisoner by the Court and/ or the administration of the Prisons to prevent his recidivism
- (g) the intentions and the plans of the prisoner for a successful and lawful integration back into the community;
- (h) whether the prisoner has made positive and successful efforts for solving the problem or problems that let him to the commission of the offence or offences referred to in paragraphs (a) and (c);
- (i) the behavior of the prisoner towards the Prisons' staff and the way he dealt with the matter of observing the disciplinary rules of the Prisons;

- (j) whether, at present, the detention of the prisoner in the high security wing of the Prisons is considered necessary;
- (k) whether the prisoner factually regrets for his criminal behavior and whether he has realized the consequences of his criminal behavior for the victim or the victims and their families;
- (l) whether the prisoner is aware of his problems or/and perceptions that led to the commission of the offence or offences referred to in paragraphs (a) and (c) and whether he has factually contributed to a considerable reduction of the risk to repeat them;
- (m) the report of the forensic psychiatrist of the Prisons, most especially in cases of severe psychological problems;
- (n) the behavior of the prisoner when, likely placed under the administration of the Prisons in a position of trust.
- (o) likely trustworthy information by the administration of the Prisons or the Police creating reasonable grounds that the prisoner, by his release on license, plans malicious acts against the victim or the family or friends of the victim;
- (p) the whole behavior of the prisoner during the period he previously served part of the sentence or sentences or part of any other sentence or sentences out of the Prisons by virtue of a decision of the Parole Board for his release on license;
- (q) the prisoner's degree of

dangerousness.

Obtaining information, interviews of prisoners.

14I(1) For the purposes of section 14H, the Parole Board shall have the power and duty, in each prisoner's case-

(a) to obtain all the necessary written information both by the administration of the Prisons as well as other services, including reports by the following services with suggestions addressed to the Parole Board:

(i) the Social Welfare Services of the Ministry of Labour and Social Insurance,

(ii) the Police,

(iii) the Psychiatric Health Services of the Ministry of Health,

(iv) the administration of the Prisons,

(b) to call the prisoner for an oral interview and –

(i) hear the prisoner and any likely experts, witnesses and lawyers of his own,

(ii) receive and examine any written informative material and data that the prisoner may submit for supporting his own views,

(iii) allow the prisoner or his lawyer, before the oral interview takes place, to inspect any written informative material obtained by the Parole Board, in relation to his

application, and where so requested by the prisoner, to place to his disposal during the interview, the persons who provided the said material, for submission of questions by the prisoner himself or his lawyer.

(2) During the interviews of prisoners there shall be keeping of minutes, which, when approved by the Parole Board these are ratified thereof and signed by its Chairman.

Decisions and meetings of the Parole Board.

14J(1) Decisions of the Parole Board shall, by virtue of this Law, be taken by simple majority, and in case of an equality of votes, the presiding member shall have a casting vote. For calculating majority, the present members shall be considered.

(2) The decisions of the Parole Board shall be in writing and reasoned and in case of a decision for the release on license, this shall include:

(a) the conditions and restrictions that the Parole Board shall set for the release,

(b) the possibility of the Parole Board to cancel or amend or set additional, conditions and restrictions,

(c) the possibility of the Parole Board to revoke the decision in case of non-compliance to the conditions and restrictions and that, in any such case, the prisoner is obliged to return to the Prisons after a recall-to-prison order by the Director, and

(d) the obligation of the prisoner to return to the Prisons after a recall-

to-prison order by the Director in case a new offence is committed by him and for such offence he is sentenced to a sentence of imprisonment, or, in case he has to serve another sentence in the Prisons.

(3) In relation to the meetings of the Parole Board, the following provisions shall apply:

(a) at the meetings of the Parole Board there shall be minutes taken, which, upon approval by the Parole Board, are signed by its Chairman.

(b) the meetings shall be convened by the Chairman of the Parole Board, who shall specify the matters of the daily agenda, presides over the meetings and leads its proceedings.

(c) the presence of the majority of the members of the Parole Board shall form a quorum.

(d) the Vice-Chairman of the Parole Board shall substitute the Chairman and exercise all his powers in case of impediment on his part.

(4) The decisions of the Parole Board by virtue of this Law may be appealed by the prisoner by a recourse made to the Supreme Court by virtue of Article 146 of the Constitution.

Termination,
resignation etc
of the members
of the Parole
Board.

14K(1) The service of the members of the Parole Board may not be terminated prior to the expiry of their tenure of office, except by the Council of Ministers and only for any of the following special reasons:

(a) mental or physical inability or incapacity or any other illness incapacitating the member of the Parole Board to perform effectively his duties for the rest of his term of office, or, no participation in the proceedings of the Parole Board for a long period due to illness;

(b) frequent absence or negligence during the performance of his duties.

(2) Any member of the Parole Board resigns from his term of office, if he submits to the Council of Ministers his resignation from such office in writing, which shall not be subject to withdrawal, and it shall become effective immediately, no prior approval from the Council of Ministers being required.

(3) In case of termination or resignation of the Chairman of the Parole Board, by virtue of subsections (1) and (2), the Council of Ministers shall appoint instantly another person as Chairman of the Parole Board for the remainder of the term of office of the Chairman.

(4) The Council of Ministers may extend the term of office of the members of the Parole Board for three months and only where this is necessary for completing any proceedings initiated by virtue of this Law.

(5) The members of the Parole Board shall be compensated in the way this is provided for, from time to time by the Council of Ministers.

Employment of
personnel of
the Parole
Board.

14L(1) The Parole Board shall employ its own staff, which, is included in the Public Budget and falls under the Chapter of the Ministry of

Justice and Public Order.

(2) The Parole Board may engage the services of experts, which are considered necessary for the performance of the duties and powers, by virtue of this Law.

Annual Reports of the Parole Board.

14M(1) The Parole Board shall submit an annual report to the Council of Ministers concerning its activities by virtue of this Law, including observations and suggestions, without any reference to prisoner's names or data that reasonably may reveal their identity.

(2) The Parole Board shall communicate the annual report to the President of the Republic, the President of the House of Representatives, the Attorney-General, the Minister of Justice and Public Order and the Chief of the Police.

Scope of the provisions of sections 14 until 14M.
...(1) of 2009.

14N. The provisions of sections 14 until 14M of this Law shall also apply for prisoners already serving sentence of imprisonment at the date of entry into force of the Prisons (Amendment) Law of 2009".