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# CRIMINAL CODE OF THE REPUBLIC OF BELARUS

of July 9, 1999 No. 275-Z

(as amended on 09-03-2023)

It is accepted by the House of Representatives on June 2, 1999

Approved by Council of the Republic on June 24, 1999

## General part

### Section I. Penal statute

#### Chapter 1. General provisions

#### **Article 1. Criminal code of the Republic of Belarus \***

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\* Parts of Articles and notes (except for having one part) in this Code are numbered by the Arab figures with point, Items of parts of Articles - the Arab figures with bracket.

1. Criminal code of the Republic of Belarus determines what socially dangerous acts are crimes, fixes the bases and conditions of criminal liability, establishes punishments and other measures of criminal liability which can be applied to the persons who committed crimes, and also enforcement powers of safety and treatment concerning the persons who made socially dangerous acts.

2. This Code is the single penal statute existing in the territory of the Republic of Belarus. The new laws providing criminal liability are subject to inclusion in this Code.

3. The criminal code of the Republic of Belarus is based on the Constitution of the Republic of Belarus and the conventional principles and rules of international law.

#### **Article 2. Tasks of the Criminal code**

The criminal code of the Republic of Belarus has task protection of the world and safety of mankind, person, its rights and freedoms, property, the rights of legal entities, the environment, public and state interests, the constitutional system of the Republic of Belarus, and also the established law and order from criminal encroachments. The criminal code of the Republic of Belarus promotes the prevention of criminal encroachments, education of citizens in the spirit of compliance with law of the Republic of Belarus.

#### **Article 3. Principles of the penal statute and criminal liability**

1. Criminal liability in the Republic of Belarus is based on the principles of legality, equality of citizens before the law, inevitability of responsibility, personal guilty liability, justice and humanity.

2. Nobody can be found guilty of crime execution and will subject to criminal liability differently as according to the court verdict and according to the law. Crime of act, its punishability and other criminal consequence in law are determined only by this Code. Norma Kodeksa are subject to strict interpretation. Application of the penal statute by analogy is not allowed.

3. Persons who committed crimes are equal before the law and races, nationalities, language, origin, property and official capacity, the residence, the relation to religion, beliefs, belonging to public associations, and also other circumstances are subject to criminal liability irrespective of floor.

4. Each person found guilty of crime execution is subject to punishment or other measures of criminal liability. Release from criminal liability or punishment is allowed only in the cases provided by this Code.

5. Person is subject to criminal liability only for those socially dangerous actions (failure to act) and the come socially dangerous effects provided by this Code made by it concerning which his guilt, that is intention or imprudence is ascertained. Criminal liability for innocent damnification is not allowed.

6. Punishment and other measures of criminal liability shall be fair, that is to be established and appointed taking into account nature and degree of public danger of crime, circumstances of its making and the identity of the guilty person. Nobody can bear criminal liability twice for the same crime.

7. The criminal code serves ensuring physical, mental, material, ecological and other safety of the person. To person who committed crime the penalty or other measure of criminal liability necessary and sufficient for its correction shall be imposed. Punishment and other measures of criminal liability do not aim at causing physical sufferings or humiliation of human dignity.

#### **Article 4. Explanation of separate terms of the Criminal code**

1. For the purposes of uniform and exact application of the terms used in this Code their following determinations are accepted.

2. Are understood as close relatives, family members and relatives:

1) close relatives are the parents, children, adoptive parents adopted (adopted) brothers and sisters, the grandfather, the grandma, grandsons, the spouse (spouse) of the victim or person who committed crime or the same relatives of the spouse of the victim or person who committed crime;

2) family members are the close relatives, other relatives, disabled dependents and other persons living jointly and conducting general economy with the victim or person who committed crime;

3) relatives are close relatives and members of the family of the victim or person who committed crime or other persons whom the victim or person who committed crime reasonably recognize as the relatives.

3. The citizen if other is not stipulated, is understood as the citizen of the Republic of Belarus, the foreign citizen and the stateless person.

#### 4. Are understood as officials:

1) public agents, that is deputies of the House of Representatives of National assembly of the Republic of Belarus, members of council of the Republic of National assembly of the Republic of Belarus, deputies of local councils of deputies, and equally government employees having the right within the competence to make orders or orders and to make decisions concerning persons who are not subordinated to them on service;

2) representatives of the public, that is the persons who are not in public service, but given in accordance with the established procedure authority to the public agent in case of accomplishment of obligations on protection of public order, fight against offenses, on administration of law;

3) persons, it is permanent or temporary or on special power occupying in organizations, the organizations or at the companies (irrespective of patterns of ownership), in Armed Forces of the Republic of Belarus, other troops and military forming of the Republic of Belarus the positions connected with accomplishment organizational and administrative either administrative type duties or the faces authorized in accordance with the established procedure on making of legally significant actions;

4) officials of foreign states, that is persons allocated in foreign states according to the legislation of these states the powers similar specified in Items 1-3 of this part, including arbitration judges and jury members, and equally in officials of the international organizations, members of the international parliamentary meetings, judges and officials of international courts.

#### 5. Are understood as the officials holding responsible position:

1) President of the Republic of Belarus, President of Chamber of representatives and Chairman of the board of the Republic of National assembly of the Republic of Belarus, Prime Minister of the Republic of Belarus and their deputies;

2) heads of state bodies, directly subordinate or accountable to the President, Parliament, Government of the Republic of Belarus, and their deputies;

3) heads of local councils of deputies, executive and administrative organs and their deputies;

4) judges;

5) prosecutors of areas, the city of Minsk, areas, areas in the cities, the cities, the interdistrict and equated to them transport prosecutors and their deputies;

6) chiefs of investigative divisions, bodies of inquiry and their deputies, investigators;

7) heads of state control bodies, internal affairs, state security, the border service, financial investigations, customs, tax authorities, bodies and divisions on emergency situations and their deputies;

8) other officials whose positions are included in the personnel register of the Head of state of the Republic of Belarus and the personnel register of Council of Ministers of the Republic of Belarus.

6. The chief is understood as person to who the status of the serviceman extends and which on the official position or military rank has the right to give to subordinates orders and to require their execution.
7. The juvenile is understood as person who on the date of crime execution did not reach age of fourteen years.
8. The minor is understood as person who on the date of crime execution did not reach age of eighteen years.
9. Aged is understood as person who on the date of crime execution reached age of seventy years.
10. Mercenary motives are understood as the motives which are characterized by the aspiration to take from the committed crime for itself either relatives benefit of property nature or by intention to save themselves or relatives from material costs.
11. Hooligan motives are understood as the motives expressing the aspiration of the perpetrator to show explicit disrespect for society and to show neglect to the commonly accepted rules of the hostel.
12. The group of persons if other is not stipulated in Article of the Special part of this Code, is understood as the sign characterizing crime execution by group of persons without previous concert, by previous concert or organized group.
13. The all-dangerous method is understood as the crime execution method which is characterized by big destructive force or otherwise creating danger of death of people, causings bodily harms, other heavy effects (explosion, arson, flooding, etc.).
14. The term "obviously" is understood as the sign specifying that the legally significant circumstances provided by this Code are known to person committing crime.
- 14-1. The crime committed repeatedly is understood as the crime which is committed by person, earlier made any of the crimes provided by the same Article or Articles which are specially stipulated (specified) in the Special part of this Code. The crime is not recognized repeated if person was exempted for earlier committed crime from criminal liability or the criminal record for this crime was extinguished or removed in the procedure established by the law.
15. Systematicity is understood as the sign specifying more than two identical or homogeneous offenses committing by person.
16. Criminal and legal compensation is understood as measure of material nature which person who committed crime agrees to accept and shall perform as one of conditions of release from criminal liability or shall perform in case of application of other measures of criminal liability. Criminal and legal compensation is form of smoothing down of fault before society, is intended to promote correction of person who committed crime to recovery of social justice and is applied only in the cases provided by this Code.

17. Accomplishment of socially useful works in Articles 77 and 78 of this Code is understood as measure of corrective impact which execution the court can assign to person condemned with delay of execution of the punishment, conditional non-use of custodial sanction for certain term (further if other is not provided, – imprisonment), for the purpose of providing and (or) confirmation of its correction.

18. Computer information is understood as the information which is stored in computer system, network or on machine carriers, processed by computer system or transferred in space by means of any program technical means.

## Chapter 2. Action of the penal statute in space and in time

### **Article 5. Action of this Code concerning persons who committed crimes in the territory of the Republic of Belarus**

1. Person who committed crime in the territory of the Republic of Belarus is subject to responsibility under this Code.

2. The crime is recognized made in the territory of the Republic of Belarus if it is begun, either proceeded, or was ended in its territory, or made within the Republic of Belarus in partnership with person who committed crime in the territory of foreign state.

3. Person who committed crime on the vessel attributed to the port of the Republic of Belarus, which is in open water or airspace outside the Republic of Belarus is subject to criminal liability under this Code if other is not provided by the international treaty of the Republic of Belarus. Under this Code criminal liability is born also by person who committed crime on the warship or the military aircraft of the Republic of Belarus irrespective of the place of their stay.

4. The question of criminal liability of diplomatic representatives of foreign states and other citizens who, according to current laws and international treaties of the Republic of Belarus, are incompetent on criminal cases to courts of the Republic of Belarus in case of making by these persons of crimes in the territory of the Republic of Belarus is allowed in the diplomatic way on the basis of international treaties and rules of international law.

### **Article 6. Action of this Code concerning persons who committed crime outside the Republic of Belarus**

1. The citizen of the Republic of Belarus or the person without citizenship who is constantly living in the republic, the committed crimes outside the Republic of Belarus, are subject to responsibility under this Code if the acts made by them are recognized as crimes in the state in the territory of which they were made and if they did not bear criminal liability in this state, except the cases provided by part of 1-1 this Article. In case of condemnation of specified persons penalty is imposed within the sanction of Article of this Code, but shall not exceed upper limit of the sanction provided by the law of the state in the territory of which the crime was committed.

1-1. Citizens of the Republic of Belarus or the person without citizenship who is constantly living in the republic, the crimes which committed outside the Republic of Belarus provided by Chapter 32, Articles 373-375 of this Code are subject to responsibility under this Code if they did not bear criminal liability in foreign state.

2. The foreign citizen or the person without citizenship who is not living constantly in the Republic of Belarus, the committed crimes outside the Republic of Belarus, are subject to responsibility under this Code in cases of making of the heavy and especially serious crimes directed against interests of the Republic of Belarus.

3. This Code is applied irrespective of the criminal law of the place of making of act to the following crimes:

- 1) genocide (Article 127);
- 2) crimes against safety of mankind (Article 128);
- 3) production, accumulating or distribution of the prohibited means of warfare (Article 129);
- 4) ecocide (Article 131);
- 5) use of weapons of mass defeat (Article 134);
- 6) violation of the laws and customs of war (Article 135);
- 7) criminal violations of regulations of international humanitarian law during armed conflicts (Article 136);
- 8) failure to act or afterfeast of the criminal order during armed conflict (Article 137);
- 8-1) human trafficking (Article 181);
- 9) other crimes committed outside the Republic of Belarus liable to prosecution based on the international treaty, obligatory for the Republic of Belarus.

4. In the cases provided by parts 2 or 3 of this Article, persons are subject to responsibility under this Code if they were not condemned in foreign state and are brought to trial in the territory of the Republic of Belarus.

#### **Article 7. Issue of person who committed crime**

1. The citizen of the Republic of Belarus cannot be issued to foreign state if other is not provided by international treaties of the Republic of Belarus.

2. The foreign citizen or the person without citizenship who committed crimes outside the Republic of Belarus and being in the territory of the Republic of Belarus can be issued to foreign state for criminal prosecution or serving sentence according to the international treaty of the Republic of Belarus.

3. In the absence of such international treaty of person, specified in part two of this Article, can be issued to foreign state on the basis of the principle of reciprocity on condition of observance of requirements of the legislation of the Republic of Belarus.

### **Article 8. Collateral estoppel of crime execution in the territory of foreign state**

The criminal record and other criminal consequence in law of committing by person of crime in the territory of foreign state have criminal and legal value for the solution of question of criminal liability of this person for the crime committed in the territory of the Republic of Belarus according to international treaties of the Republic of Belarus.

### **Article 9. Action of the penal statute in time**

1. Crime and punishability of act are determined by the law existing during making of this act. Time of making of act time of implementation of socially dangerous action (failure to act) irrespective of time of approach of effects is recognized.

2. The law eliminating crime of act, commuting penalty or otherwise improving provision of person who committed crime has retroactive force, that is extends to persons who made the corresponding act to the introduction of such law in force including to the persons serving sentence or who served sentence, but having criminal record. From the date of entry into force of the law eliminating crime of act, the corresponding act made before its entry into force it is not considered criminal. If the new penal statute mitigates punishability of act for which person serves sentence, the court imposes penalty according to the sanction of the new penal statute, being guided by Article 62 of this Code.

3. The law establishing crime of act, strengthening punishment or otherwise worsening situation of person who made this act, has no retroactive force.

4. If the penal statute existing during crime execution was cancelled or changed by the penal statute eliminating crime of act, commuting penalty or otherwise improving provision of person who committed crime, but by the time of investigation of criminal case or consideration of the case in court other more stringent penal statute became effective, the softest intermediate law is subject to application.

5. Rules of this Article are applied also in cases when owing to cancellation or change of regulatory legal act for which violation of requirements criminal liability is established the corresponding act lost essential elements of offense, provided by this Code.

## **Section II. Bases and conditions of criminal liability**

### **Chapter 3. Criminal action**

#### **Article 10. Crime as basis of criminal liability**

The basis of criminal liability is making is guilty the act prohibited by this Code of type:

- 1) completed crime;
- 2) preparations for crime execution;

- 3) aggravated attempts;
- 4) partnership in crime execution.

### **Article 11. Concept of crime**

1. Crime is recognized committed socially dangerous act (action or failure to act) which is characterized by the signs provided by this Code, and prohibited them under the threat of punishment is guilty.
2. The crime is recognized ended from the moment of act making.
3. The crime connected with approach of the effects specified in Articles of the Special part of this Code is recognized ended in case of the actual approach of these effects.
4. The action or failure to act which are formally containing signs of any act provided by this Code, but owing to insignificance not having the public danger inherent in crime are not crime. Act which did not cause is recognized insignificant and on the content and orientation could not do essential harm to the interests protected by the penal statute. Such act in the cases provided by the law can entail application of measures of administrative or authority punishment.

### **Article 12. Categories of crimes**

1. Crimes depending on nature and degree of public danger are subdivided into the crimes which are not constituting big public danger, less heavy heavy and especially heavy.
2. The intentional crimes and crimes committed on imprudence for which the law prescribes custodial sanction for the term of not over two years or other milder pinishment belong to the crimes which are not constituting big public danger.
3. Intentional crimes for which the law prescribes maximum punishment in the form of imprisonment for the term of not over six years, and also the crimes committed on imprudence for which the law prescribes custodial sanction for the term of over two years belong to less serious crimes.
4. Intentional crimes for which the law prescribes maximum punishment in the form of imprisonment for the term of not over twelve years belong to serious crimes.
5. Intentional crimes for which the law prescribes custodial sanction for the term of over twelve years, lifelong imprisonment or capital punishment belong to especially serious crimes.

### **Article 13. Preparation for crime**

1. Preparation for crime the finding or adaptation of means or tools or other intentional creation of conditions for making of specific crime is recognized.
2. Preparation for the crime which is not constituting big public danger does not attract criminal liability.



3. Responsibility for preparation for crime comes under the same Article of the Special part of this Code, as for completed crime, with reference to this Article.

#### **Article 14. Attempted crime**

1. Attempted crime the intentional action or failure to act of person which is directly directed to crime execution are recognized if at the same time the crime was not finished on the circumstances which are not depending on this person.

2. Responsibility for attempted crime comes under the same Article of the Special part of this Code, as for completed crime, with reference to this Article.

#### **Article 15. Voluntary refusal of crime**

1. Voluntary refusal from the crime is ceasing by the person of preparatory actions either cancelling or failure to act which are directly aimed on crime execution if the person understood possibility of finishing crime up to the end.

2. Act concerning which the voluntary refusal is performed does not draw criminal liability. The person which voluntarily refused finishing crime up to the end is subject to criminal liability only if the act which is actually made by him contains signs of other crime.

3. The voluntary refusal of the organizer (head) of crime or the instigator excludes criminal liability if these persons prevented crime execution. If their actions did not lead to prevention of crime, then the measures taken by them can be recognized as attenuating circumstances.

4. The voluntary refusal of the helper excludes criminal liability if person before the termination by the principal offender refuses to it in advance promised assistance or will eliminate results of already given help.

#### **Article 16. Partnership in crime**

1. Partnership in crime intentional joint participation of two or more persons in making of intentional crime is recognized.

2. Assisting offenders along with contractors organizers, instigators and helpers are recognized.

3. The contractor the person who directly committed crime, or directly participating in its making together with other persons, or committed crime by means of use of other persons which are not subject by law to criminal liability or who committed crime on imprudence is recognized.

4. The organizer (head) the person who organized crime execution or directing its making or the person who created organized group or the criminal organization or directing them is recognized.

5. The instigator person which inclined other person to crime execution is recognized.

6. The helper person promoting crime execution by councils, instructions, provision of information or tools and means of crime execution, removal of obstacles or rendering other help or person who was in advance promising to hide the criminal, the tools or means of crime execution, traces of crime or

objects got in the criminal way or person which was in advance promising to acquire or sell such objects is recognized.

7. Responsibility of the organizer, instigator and helper comes under the same Article of the Special part of this Code, as contractor, with reference to this Article. Other accomplices do not bear criminal liability for the acts made by the contractor and which were not covered by intention of accomplices.

8. If actions of the organizer, the instigator or the helper on the circumstances which are not depending on them will be unfortunate, responsibility of these persons comes for preparation for the corresponding crime.

9. Accomplices bear the increased responsibility if the crime is committed by group of persons, directly taken part in its making (soispolnitelstvo), either organized group, or the criminal organization. Participants of organized group and the criminal organization are recognized contractors irrespective of their role the committed crimes.

### **Article 17. Crime execution by group**

1. The crime is recognized made by group of persons if at least two persons jointly participated in making of this crime as his contractors (soispolnitelstvo).

2. The crime is recognized made by group of persons by previous concert if contractors agreed about joint making of this crime in advance.

### **Article 18. Organized group**

1. The crime is recognized made by organized group if it is made by two or more persons which previously united in the managed steady group for joint criminal activities.

2. Organizers (heads) of organized group bear responsibility for all crimes committed by group if these crimes were covered by their intention. Other participants of organized group bear responsibility only for crimes, in preparation or making of which they participated.

### **Article 19. Criminal organization**

1. The criminal organization consolidation of organized groups or their organizers (heads), other participants for development or implementation of measures for implementation of criminal activities or creation of conditions for its maintenance and development is recognized.

2. The member of the criminal organization the person which intentionally is taking part in activities of the criminal organization or rendering assistance in development or implementation of measures for implementation of such activities or to creation of conditions for its maintenance and development is recognized.

3. The crime is recognized made by the criminal organization if it is made by the member of such organization in pursuance of its criminal objectives or on the instructions of the criminal organization by person who is not the member of this organization.

4. Organizers (heads) of the criminal organization bear responsibility for all crimes committed in pursuance of criminal objectives of this organization if these crimes were covered by their intention. Other members of the criminal organization bear responsibility only for crimes, in preparation or making of which they participated.

#### **Article 20. Release from criminal liability of the member of the criminal organization or gang**

The member of the criminal organization or gang (except the organizer or the head) who voluntarily declared existence of the criminal organization or gang and promoting their exposure is exempted from criminal liability for participation in the criminal organization or gang and made by it as a part of the criminal organization or gang of crime, except for especially serious or serious crimes connected with infringement of life or health of the person.

### Chapter 4. Wine

#### **Article 21. Wine and its forms**

1. The fault is the mental relation of person to the made socially dangerous act expressed in the form of intention or imprudence.
2. Guilty only the responsible person who made socially dangerous act can be found of crime it is intentional or on imprudence.

#### **Article 22. Crime execution is intentional**

1. The crime committed intentionally socially dangerous act made with direct or indirect intent is recognized.
2. The crime is recognized committed with direct intention if person which made it understood public danger of the action or failure to act, expected their socially dangerous effects and wished their approach.
3. The crime is recognized committed with indirect intent if person which made it understood public danger of the action or failure to act, expected their socially dangerous effects, did not wish, but consciously allowed approach of these effects or was indifferent to them.

#### **Article 23. Crime execution on imprudence**

1. The crime committed on imprudence socially dangerous act made by levity or negligence is recognized.
2. The crime is recognized committed by levity if person which made it expected possibility of approach of socially dangerous effects of the action or failure to act, but without good causes expected their prevention.
3. The crime is recognized committed due to negligence if person which made it did not expect possibility of approach of socially dangerous effects of the action or failure to act though it in case of necessary attentiveness and foresight shall and could expect them.

**Article 24. Wine in the crime which is not connected with approach of effects**

1. In crime for which availability is not required socially dangerous consequences the form of fault is established on the relation of the person to socially dangerous act.

2. The crime is recognized committed intentionally if person which made it understood socially dangerous nature of the action or failure to act and wished to make it.

3. The crime is recognized committed on imprudence if person which made it did not understand socially dangerous nature of the action or failure to act though it shall and could understand it.

**Article 25. Combination of intention and imprudence in case of crime execution (difficult fault)**

The difficult fault is characterized by intentional crime execution and imprudence in relation to the effects which were caused this crime with which the law connects the increased criminal liability. In general such crime is recognized committed intentionally.

**Article 26. Innocent damnification (case)**

Act is recognized committed is innocent if person which made it did not understand and based on the circumstances of a matter shall not or could not understand public danger of the action or failure to act or did not expect possibility of approach of socially dangerous effects and based on the circumstances of a matter shall not or could not expect them.

**Chapter 5. Conditions of criminal liability****Article 27. Age from which there comes criminal liability**

1. Person which reached by the time of crime execution of sixteen-year age, except as specified, provided by this Code is subject to criminal liability.

2. Persons who made the acts prohibited by this Code aged from fourteen up to sixteen years are subject to criminal liability only for:

- 1) murder (Article 139);
- 2) negligent homicide (Article 144);
- 3) intentional causing heavy bodily harm (Article 147);
- 4) intentional causing less heavy bodily harm (Article 149);
- 5) rape (Article 166);
- 6) violent acts of sexual nature (Article 167);
- 7) kidnapping (Article 182);
- 8) theft (Article 205);
- 9) robbery (Article 206);
- 10) robbery (Article 207);

- 11) racketing (Article 208);
- 11-1) plunder of property by modification of computer information (Article 212);
- 12) stealing of the vehicle or small size vessel (Article 214);
- 13) intentional destruction or damage of alien property (parts 2 and 3 of Article 218);
- 14) taking of the hostage (Article 291);
- 15) plunder of firearms, ammunition or explosives (Article 294);
- 16) intentional reduction in worthlessness of the vehicle or means of communication (Article 309);
- 17) plunder of drugs, psychotropic substances, their precursors and analogs (Article 327);
- 17-1) trafficking of drugs, psychotropic substances, their precursors or analogs (parts 2-5 of Article 328);
- 18) hooliganism (Article 339);
- 19) obviously untrue report on danger (Article 340);
- 20) defilement of constructions and spoil of property (Article 341);
- 21) escape from the correctional facility performing custodial sanction, the arestny house or from custody (Article 413);
- 22) *No. 112-Z is excluded according to the Law of the Republic of Belarus of 26.05.2021*

3. The minor who reached the age provided by parts 1 or 2 of this Article is not subject to criminal liability if it is determined that owing to the lagging in mental development which is not connected with mental disturbance (disease) it during making of socially dangerous act was not capable to understand the actual nature or public danger of the act.

### **Article 28. Diminished responsibility**

1. Person who during making of socially dangerous act was in diminished responsibility condition is not subject to criminal liability, that is could not understand the actual nature and public danger of the action (failure to act) or direct it owing to mental disturbance (disease).

2. Enforcement powers of safety and treatment can be applied to person recognized deranged by court.

### **Article 29. The reduced sanity**

1. Person who during making of socially dangerous act was in condition of the reduced sanity that is could not understand fully value of the actions or direct them owing to mental disturbance (disease), is not exempted from criminal liability.

2. The condition of the reduced sanity can be considered in case of assignment of punishment or other measures of criminal liability, and also form the basis for application to person of enforcement powers of safety and treatment.

### **Article 30. Criminal liability of person who committed crime in state of intoxication**

1. Person who committed crime in alcohol intoxication or in the condition caused by consumption of drugs, psychotropic substances, their analogs, the toxic or other stupefying substances is subject to criminal liability.

2. In case of crime execution by person having chronic alcoholism, drug addiction or toxicomania, the court along with application of punishment or other measures of criminal liability can appoint enforcement powers of safety and treatment.

### **Article 31. Making of act in the heat of passion**

Criminal liability for the act made in condition of suddenly arisen heat passion (affect) caused by violence, mockery, great insult or other illegal or rough immoral actions of the victim or the long psychoinjuring situation which arose in connection with systematic delinquent or immoral behavior of the victim when person could not understand fully value of the actions or directs them, comes only in case of intentional causing death, heavy or less heavy bodily harm.

### **Article 32. Administrative or disciplinary pre-judiction**

In the cases provided by the Special part of this Code, criminal liability for the crime which is not constituting big public danger comes if act is made within year after imposing of administrative or authority punishment for the same violation.

### **Article 33. The acts attracting criminal liability on demand**

1. The acts containing signs of crimes:

- 1) intentional causing less heavy bodily harm (part of 1 Article 149);
- 2) intentional causing heavy or less heavy bodily harm in the heat of passion (Article 150);
- 3) intentional causing heavy or less heavy bodily harm in case of exceeding of the measures necessary for detention of person who committed crime (Article 151);
- 4) intentional causing heavy bodily harm in case of exceeding of limits of justifiable defense (Article 152);
- 5) intentional causing slight injury (Article 153);
- 6) torture (part of 1 Article 154);
- 7) causing heavy or less heavy bodily harm on imprudence (Article 155);
- 8) rape (part of 1 Article 166);
- 9) violent acts of sexual nature (part of 1 Article 167);

- 10) compulsion to actions of sexual nature (part of 1 Article 170);
- 11) disclosure of secrecy of adoption (adoption) (Article 177);
- 12) disclosure of medical secret (parts 1 and 2 of Article 178);
- 13) coercion (Article 185);
- 14) threat of murder, causing heavy bodily harms or destruction of property (Article 186);
- 15) slander (Article 188);
- 16) copyright violation, related rights and right of industrial property (Article 201);
- 17) violation of inviolability of home and other legal ownerships of citizens (part of 1 Article 202);
- 18) violation of mystery of correspondence, telephone negotiations, cable or other messages (part of 1 Article 203);
- 19) illegal actions concerning information on private life and personal data (part 1 of Article 203-1);
- 20) refusal in provision to the citizen of information (Article 204);
- 21) causing property damage without plunder signs (part of 1 Article 216);
- 22) illegal alienation of entrusted property (Article 217);
- 23) intentional destruction or damage of alien property (part of 1 Article 218);
- 24) destruction or damage of alien property on imprudence (Article 219);
- 25) evasion from repayment of accounts payable (Article 242);
- 26) coercion to transaction or to refusal of its making (part of 1 Article 246);
- 27) disclosure of trade secret (Article 255);
- 28) violation of safety rules or operation of small size vessels (part of 1 Article 316);
- 29) road traffic offense or operation of vehicles (part of 1 Article 317);
- 30) abuse of regulations, ensuring safe functioning of transport (part of 1 Article 321);
- 31) plunder or destruction of personal papers (Article 378);
- 32) coercion to accomplishment of obligations (part of 1 Article 384),

attract criminal liability only in the presence of the expressed in the procedure for the requirement of person, victim of crime, any of his full age close relatives or family members established by the criminal procedure law in the cases provided by the criminal procedure law or his legal representative or the representative of the legal entity to bring the guilty person to trial.

2. The prosecutor has the right to bring criminal case on signs of making of the crimes specified in this Article, only in the cases provided by the criminal procedure law.

3. Provisions of parts 1 and 2 of this Article are applied also in the cases provided by part of 6 notes to Chapter 24 and the note to Chapter of 31 of this Code.

## Chapter 6. The circumstances excluding crime of act

### Article 34. Justifiable defense

1. Each citizen has right of defense from socially dangerous encroachment. This right belongs to person irrespective of opportunity to avoid encroachment or to ask for the help other persons or authorities.

2. The action made in condition of justifiable defense is not crime, that is in case of protection of life, health, property, the dwelling, the rights of the defending or other person, interests of society or the state against socially dangerous encroachment by causing encroaching harm if at the same time exceeding of limits of justifiable defense was not allowed.

3. Exceeding of limits of justifiable defense discrepancy of protection to nature and danger of encroachment, explicit for the defending person, when encroaching needlessly intentionally death or heavy bodily harm is caused is recognized.

4. Are not exceeding of limits of justifiable defense of action of the defending person if this person owing to unexpectedness of encroachment could not estimate nature and danger of encroachment objectively.

### Article 35. Damnification during detention of person who made socially dangerous act

1. Damnification to person who made socially dangerous act provided by this Code during his detention for transfer to authorities and suppression of possibility of making of new socially dangerous acts by it when it tries is not crime or can abscond also vessels if other means to detain such person did not represent possible and at the same time exceeding necessary for this purpose was not allowed died.

2. Exceeding of the measures necessary for detention of person who made socially dangerous act provided by this Code their explicit discrepancy to nature and degree of public danger made by the detained person of socially dangerous act and to circumstances of detention when obviously excessive, not caused by situation harm is needlessly caused to person is recognized. Such exceeding involves criminal liability only in cases of intentional deprivation of life or causing heavy or less heavy bodily harm.

3. Also the victims and other citizens have possessory lien of person who made socially dangerous act provided by this Code along with specially authorized persons.

### Article 36. Emergency

1. The action made in emergency condition that is for prevention or elimination of the danger which is directly menacing to the personality, the rights and legitimate interests of this person or other persons, to interests of society or state if this danger could not be under these circumstances



eliminated with other means and if the damage suffered is less considerable, than prevented is not crime.

2. The condition of emergency is recognized also if the actions made for the purpose of prevention of danger did not achieve the goal and harm came, despite efforts of person who was honestly expecting it to prevent.

### **Article 37. Mistake available the circumstances excluding crime of act**

1. If person owing to delusion considered that it is in condition of justifiable defense or emergency or performs detention of person who committed crime, but based on the circumstances of a matter shall not or could not understand lack of the circumstances excluding crime of act, its actions are estimated respectively by rules of Articles 34, of the 35 and 36 of this Code.

2. If in the developed situation person and could expect lack of the circumstances excluding crime of act, it is subject to responsibility for damnification on imprudence.

### **Article 38. Stay among assisting offenders on special task**

1. Person who, carrying out according to the current legislation special task according to the prevention, identification or suppression of crime and being effective with other his participants is not subject to criminal liability, by force will commit crime.

2. Rules of part one of this Article are not applied to person who committed especially serious or serious crime connected with infringement of life or health of the person.

### **Article 39. The act connected with risk**

1. Act (action or failure to act) which did harm to the right protected interests is not crime if this act was made in the conditions of reasonable risk for achievement of the socially useful purpose.

2. The risk is recognized reasonable if committed act corresponds to modern scientific and technical knowledge and experience, and the effective objective could not be achieved by the actions which are not connected with risk and person which allowed risk reasonably calculated that it took all feasible measures for prevention of harm to the right protected interests.

2-1. The economic (business) risk can be recognized reasonable if the effective objective could be achieved also not by risk acts (decisions), but with smaller economic result.

3. The risk is not recognized reasonable if it was obviously integrated to threat of environmental disaster, public disaster, approach of death or causing heavy bodily harm to person which did not express consent to that his life or health were delivered in danger.

### **Article 40. Execution of the order or order**

1. Damnification to the interests protected by this Code by person acting in pursuance of the order, obligatory for it, or the order given in accordance with the established procedure is not crime. Criminal liability for causing such harm is born by person who made the illegal order or the order.

2. Person who committed intentional crime under obviously criminal order or the order bears criminal liability in accordance with general practice.

3. Person who did not execute obviously illegal order or the order is not subject to criminal liability.

## Chapter 7. Plurality of crimes

### Article 41.

*No. 112-Z is excluded according to the Law of the Republic of Belarus of 26.05.2021*

### Article 42. Cumulative offenses

1. Cumulative offenses are recognized making of two or more crimes provided by different Articles of the Special part of this Code or different parts of the same Article, and making of the crimes provided by the same Article of the Special part of this Code from which one are qualified as completed crime, and others - as preparation, attempt or partnership in crime of which person was not condemned for one is equal. At the same time person bears criminal liability for each committed crime under the relevant article of this Code.

2. If the crime is provided by different Articles of the Special part of this Code from which one regulation is general, and another special, cumulative offenses is absent and criminal liability comes on special regulation.

### Article 43. Recurrence of crimes

1. Recurrence of crimes making of intentional crime by person having criminal record for intentional crime is recognized.

2. The recurrence of crimes is recognized dangerous:

1) in case of committing by person of intentional crime for which it is condemned to imprisonment if earlier this person at least three times were condemned and served custodial sanction for intentional crimes;

2) in case of committing by person of serious crime if earlier it at least two times were condemned and served custodial sanction for serious crimes or it was condemned and served custodial sanction for especially serious crime;

3) in case of committing by person of especially serious crime if earlier it at least two times were condemned and served custodial sanction for serious crimes.

3. The recurrence of crimes is recognized especially dangerous:

1) when person commits serious crime if earlier he was at least two times condemned and served custodial sanction for especially serious crimes;

2) when person commits especially serious crime if earlier he was condemned and served custodial sanction for especially serious crime.

4. Criminal records for the crimes which are committed by person aged up to eighteen years, or the criminal records removed or extinguished in the procedure established by the law are not considered in case of recognition of recurrence of crimes.

5. The recurrence of crimes attracts more stiff punishment on the basis and in the limits set by this Code.

## Section III. Criminal liability

### Chapter 8. General provisions about criminal liability

#### Article 44. Criminal liability and its purposes

1. Criminal liability is expressed in condemnation on behalf of the Republic of Belarus according to the court verdict of person who committed crime and application on the basis of condemnation of punishment or other measures of criminal liability according to this Code.

2. Criminal liability aims at correction of person who committed crime, and the prevention of making of new crimes both the convict, and other persons.

3. Criminal liability is designed to promote recovery of social justice. Condemnation of person who committed crime is the basis for collection from it as property damage, income gained in the criminal way and material compensation of moral harm.

#### Article 45. Criminal record

1. Condemnation of person for the crime committed by it creates the legal condition of criminal record consisting in possibility of application to the convict of punishment or other measures of criminal liability according to the court verdict and this Code.

2. Person is considered offender from the date of the introduction in legal force of the court verdict up to repayment or removal of criminal record if the sentence was not cancelled in the procedure established by the law.

3. In the cases provided by this Code during criminal record term for the convict preventive observation or preventive supervision can be exercised. The procedure and conditions of implementation of preventive observation and preventive supervision are determined by the Penitentiary code of the Republic of Belarus.

#### Article 46. Realization of criminal liability

1. Criminal liability is implemented in condemnation:

- 1) using the imposed penalty;
- 2) with delay of execution of the imposed penalty;
- 3) with conditional non-use of the imposed penalty;
- 4) without assignment of punishment;

5) using concerning minor enforcement powers of educational nature.

2. In case of crime execution along with criminal liability, and also in case of release of person from criminal liability on the bases provided by this Code special confiscation is applied.

#### **Article 46-1. Special confiscation**

1. In case of crime execution are subject to special confiscation, that is forced uncompensated taking in property of the state: the property got in the criminal way or acquired on the money earned in the criminal way; income gained from use of this property and also crime objects if they are not subject to return to the victim or the other person; tools and means of crime execution belonging to person who committed crime; the things withdrawn from circulation. Irrespective of the property right the vehicle which was managed by person who committed crime, stipulated in Article 3171 of this Code is subject to special confiscation (except for the vehicles which were disposed from legal ownership of the owner (user) in spite of himself or as a result of illegal actions of other persons).

2. If special confiscation of the property got in the criminal way or acquired on the money earned in the criminal way of income gained from use of this property at the time of decision making about special confiscation is impossible owing to loss, expenditure, destruction, realization or for other reasons, from the convict, person exempted from criminal liability in the income of the state the sum of money corresponding to property value, got in the criminal way or acquired on the money earned in the criminal way and (or) to the size of income gained from use of this property is collected. The size of the sum of money which is subject to collection is determined by court on the date of adjudgement, the resolution, determination.

### **Chapter 9. Punishment and its types**

#### **Article 47. Concept of punishment**

Punishment is the enforcement power of criminal law action applied according to the court verdict to person condemned for crime, and consisting in the deprivation or restriction of the rights and freedoms of the convict provided by the law.