

The bodies of investigation

1. The bodies of investigation are

- 1) police
- 2) commanders of military units and chiefs of the military enterprises for the crimes committed within the territories of garrisons, or in connection with the military personnel of temporary service, or for the military crimes
- 3) state fire control stations for the crimes committed in connection with fire
- 4) state tax bodies for the tax-related crimes
- 5) customs bodies for the crimes of smuggling
- 6) bodies of national security within the authorities vested in them by law.

Chapter 21 Preventive Punishments

Article 153. Definition and types of preventive punishments

1. Preventive punishments are compulsory measures that are applied towards either suspect or defendant in the course of criminal procedures in order to prevent them from inappropriate behavior or to provide for the enforcement of court ruling.
2. Preventive punishments are
 - 1) custody
 - 2) collateral
 - 3) written guarantee not to leave
 - 4) personal guarantee
 - 5) corporate guarantee
 - 6) submission under the control
 - 7) submission under the control of commanders
3. Custody and collateral may be applied only for the defendant. Submission to the control may be applied only for under age persons. Submission for the control of commanders shall apply only towards the military servicemen, or deserters in course of muster.
4. The preventive punishments listed in *para* shall not apply in conjunction. Collateral is considered as an alternative preventive punishment, and shall apply only in the case of submission of court ruling on the custody of defendant.

Article 154 The basis for the application of preventive punishments

1. The preventive punishments shall be applied by court, prosecutor, investigator, or bodies of investigation only in the cases when the evidence obtained in the course of criminal procedure are sufficient to assume that either suspect or defendant may
 - 1) try to conceal oneself from the criminal investigation bodies
 - 2) prevent the preliminary and court procedures by illegally exercising the pressure on the persons engaged in criminal court procedures, falsifying or hiding evidences that are

detrimental for the case, recording unjustified absenteeism while called by the criminal investigation bodies

- 3) commit actions that are forbidden by the criminal code
 - 4) avoiding criminal responsibility and bearing the stipulated penalty
 - 5) cause impediments for the enforcement of court ruling.
2. Custody and its alternative preventive punishment shall apply only for the crimes which are subject of maximum imprisonment term of more than 1 year, or if suspect or defendant commits actions stipulated in the paragraph 1 *para.*
 3. When determining the necessity of allocation of preventive punishment towards the suspect or the defendant, as well as the mode of preventive punishment the following factors are detrimental
 - 1) the nature and the level of graveness of the committed action
 - 2) the personal characteristics of the suspect or defendant
 - 3) the age and health status of suspect or defendant
 - 4) occupation of suspect or defendant
 - 5) marital status and the availability of defendant for the body of criminal procedure
 - 6) property possession
 - 7) permanent residence of the defendant
 - 8) other detrimental factors

Article 155 The order of application of preventive punishments

1. The preventive punishment is applied by the ruling of the court, prosecutor, inspector or bodies of investigation. The ruling of the body undertaken the criminal procedure on the application of preventive punishment shall be reasoned, composed of detailed description of the crime committed by suspect or defendant substantiated on the subject of the mode of preventive punishment to be applied.
2. Custody, collateral are applied only by the ruling of the court in the course of court session with the mediation of the bodies of criminal investigation or by the personal mediation of the defendant counsel.
3. The body of the criminal procedures informs the suspect or defendant on the mode of the preventive punishment to be applied with immediate submission of the copy of the ruling.

Article 157 The term of custody

1. The suspect's custody term starts from the factual time of detention or if he/she is not detained from the time of enforcement of the court ruling on the preventive punishment.
2. The following is included within the term of custody
 - 1) the time when the person is starting to be in detention
 - 2) in medical institutions, where the person is kept upon the decision of the bodies of criminal procedures. Medical examination as well as the temporary mental disorders

discovered in the course of criminal procedures, including compulsory medical treatment applied towards the suspect or defendant

- 3) The pre-trial term of custody in the course of criminal investigation shall not exceed 2 years, unless otherwise stated in this code. The term of keeping a person in detention in the medical institution as well as the term of pre-trial custody in the course of criminal procedure is ceased on the day when the prosecutor communicates the case to the court, or when defendant or its council learn about the case, or when custody as a preventive punishment is ceased.
- 4) The court may prolong the term of pretrial custody in the course of criminal procedures of up to 1 years considering the level of graveness of the committed crime.
- 5) The term of pre-trial custody in the course of criminal procedure shall not exceed
 - 1) 1 year
 - 2) the maximum imprisonment term that is applicable for the crimes that the defendant is accused for if the term of imprisonment for such crimes does not exceed 1 year
 - 3) the maximum term of custody is not limited in the course of court procedures.

Article 162 Collateral

1. Collateral is money, securities or other valuables deposited in the court by one or many persons in order to cease the custody term assigned to defendant for crimes of extreme and medium graveness, aimed at making the defendant available for the bodies of criminal procedures. Upon the consent of the court the real estate may be taken as a collateral.
2. In special cases including but not limited to the unavailability of the information on defendant, or if he/she does not have permanent residence, or was trying to conceal himself from the bodies of criminal investigation, the court with the provision of appropriate justification may rule on the unacceptability of collateral for suspending the custody term.
3. The provider of collateral bears the burden of proof of the value of collateral
 - 1) if incriminated for committing not grave crimes the value of collateral should not be less than 200 times of the minimal wage.
 - 2) if incriminated for committing the crimes of medium graveness the collateral should not be less than 500 times of the minimal wage.
4. Upon the receipt of the proof or provision of collateral the body of criminal investigation orders to cease the custody
5. If the suspect conceals himself from the bodies of the criminal procedures or without the concept leaves to other location the prosecutor shall communicate to the court the mediation for transferring the collateral to the state revenues. The ruling of the court on the appropriation of collateral may be appealed by the provider of collateral in the courts of higher instances
6. The collateral shall be returned to the owner in all cases when the action stipulated in the paragraph 6 para are not proved or if the collateral as a preventive punishment is ceased.
7. The decision on returning the collateral shall be made by the body of criminal procedure in conjunction with the decision to cease or to change the preventive punishment.
8. In case when the defendant breaches the liabilities and specified restrictions, the collateral, as a preventive punishment, may be replaced by custody.

Article 164. Personal Guarantee

1. Personal guarantee is the underwriting provided by the persons in good reputation, who verbally or by monetary means guarantees that the suspect or defendant will act appropriate and service the subpoena communicated by the body of criminal procedures.
2. The guarantor may be a mature physical person. The guarantor shall pay the fee in the amount of 500 times of the minimal wage.
3. The number of guarantors shall not be less than 2 persons. In the exceptional cases the personal guarantee as a preventive punishment may be applied by one guarantor of the outstanding reputation.

Article 265 The corporate guarantee

1. The corporate guarantee is written guarantee provided by legal person in good reputation which states that it by its reputation and monetary allocations guarantees the appropriate behavior, service of subpoena and realization of other liabilities by suspect or defendant.
2. By taking this responsibility the legal person should pay fee in the amount of 1000 times of the minimal wage.

Article 170 Appeal of the preventive punishments.

1. The application of, including the choice of the mode of, the preventive punishment as well as the decision of the criminal investigation bodies may be appealed to the prosecutor by the suspect, defendant, its lawyer, legal representative, or other interested party.
2. The ruling of the court on the application of the preventive punishment may be appealed in the court of higher instances.

Article 195. Preserving official and commercial secrecy.

1. In the course of the criminal court procedure the measures stipulated by law taken at preserving the commercial, official and other secrets.
2. In the course of court procedures unreasonable filing, storage, usage and disseminating of the information that contains commercial, official and other secrets is not permitted. Upon the request of the court, prosecutor, inspector, and criminal investigation body the person shall not disclose the information containing commercial, official and other secrets, for which he is responsible.
3. If the body of criminal investigation requires within the limits of this code to inform or to submit secret information, the persons can not refer to the fact of commercial or official secrecy in order not to disclose the information, however the persons possess the right to

require from the prosecutor, inspector , the body of investigation written justification on the necessity of disclosing of such information .

4. In cases of giving the evidences that contain commercial, official and other secret information , civil servant and the employee of the enterprises, regardless of their ownership type, shall inform in written form appropriate supervisors, if otherwise not forbidden to do so by the body conducting the investigation.
5. If the disclosure of the information for the persons requested to do so, during the court session, jeopardizes them, there shall be the close court session.