

## **On Approval of the Agreement on the Establishment of the Council of Heads of Penitentiary Services of the Member-States of the Commonwealth of Independent States**

### *Unofficial translation*

Decree of the President of the Republic of Kazakhstan dated October 26, 2016 No. 360

#### *Unofficial translation*

In compliance with subparagraph 1) of Article 15 of the Law of the Republic of Kazakhstan dated May 30, 2005 "On International Treaties of the Republic of Kazakhstan" I HEREBY RESOLVE AS FOLLOWS:

That the attached Agreement on the Establishment of the Council of Heads of Penitentiary Services of the Member-States of the Commonwealth of Independent States (hereinafter - the Agreement), concluded on October 16, 2015 in Burabay shall be approved.

2) That the Ministry of Internal Affairs of the Republic of Kazakhstan shall be designated as the competent body responsible for the implementation of the Agreement.

3. That the Ministry of Foreign Affairs of the Republic of Kazakhstan shall notify the Executive Committee of the Commonwealth of Independent States of the decision taken.

4. That this Decree shall be enacted on the date of its signing.

*President of the Republic of Kazakhstan*

*N. Nazarbayev*

*Official*

*Certified*

*text*

## **AGREEMENT**

### **on the Establishment of the Council of Heads of Penitentiary Services of the Member-States of the Commonwealth of Independent States**

The Member-States of the Commonwealth of Independent States, hereinafter referred to as the Parties,

bearing in mind the international nature and the present scale of transnational organised crime, which constitutes a threat to the security of the Parties,

attaching great importance to the development of cooperation and desiring to coordinate interaction in the implementation of penal policy,

being aware that it is in their interests to develop such co-operation,

proceeding from the aims and objectives of the Commonwealth of Independent States,

have agreed as follows:

#### **Article 1**

For the purposes of this Agreement, the penitentiary service shall mean the competent authority of the Party responsible for the implementation of law enforcement functions, the functions of execution of criminal sanctions against convicts and other coercive measures of criminal legal influence, the functions of custody of persons suspected or accused of committing a crime and defendants in custody, their security and escorting, as well as monitoring the conduct of persons on probation, persons released on parole from serving their sentence, convicts granted a stay of sentence by a court, and persons suspected or accused of committing a crime while under house arrest and their compliance with court-imposed prohibitions and (or) restrictions.

## **Article 2**

The Parties shall establish a Council of Heads of Penitentiary Services of the Member-States of the Commonwealth of Independent States (hereinafter referred to as the Council).

## **Article 3**

The Council shall carry out its activities under the Regulations of the Council of the Heads of Penitentiary Services of the Member-States of the Commonwealth of Independent States, which shall be an integral part hereof.

## **Article 4**

Each Party shall determine the competent authority responsible for implementation of this Agreement and inform the depositary thereof simultaneously with the notification on the fulfillment of domestic procedures necessary for the enactment hereof.

In case of change of the competent body responsible for implementation of this Agreement, the Parties shall inform the depositary thereof.

## **Article 5**

By agreement between the Parties, amendments and additions may be incorporated to this Agreement in the form of protocols as an integral part hereof.

## **Article 6**

This Agreement shall not affect the rights and obligations of each Party deriving for it from other international treaties to which it is a party.

## **Article 7**

Disputes between the Parties arising out of the application and interpretation hereof, shall be settled through consultation and negotiation between the Parties concerned or by another procedure agreed upon by the Parties.

## **Article 8**

This Agreement shall be enacted upon expiry of 30 days from the date of receipt by depositary of the third notification on the fulfillment by Signatories of domestic procedures, necessary for its enactment.

For those Parties that have executed domestic procedures later, this Agreement shall be enacted upon expiry of 30 days from the date of receipt by depositary of appropriate documents.

## **Article 9**

This Agreement shall be open for accession by any Member-State of the Commonwealth of Independent States sharing its objectives and principles, by depositing an instrument of accession with the depositary.

For the acceding State, the Agreement shall enter into force:

(a) 30 days after the date of receipt of the instrument of accession by the Depositary, provided that the Agreement has entered into force at the time of deposit of the instruments of accession with the Depositary;

(b) on the date of enactment of the Agreement, provided that the Agreement has not entered into force at the time of deposit of the instruments of accession with the Depositary.

## **Article 10**

This Agreement shall be concluded for an indefinite period. Each of the Parties shall have the right to withdraw from this Agreement by giving the depositary at least 6 months' written notice of its intention and by settling financial and other obligations incurred during the term hereof.

Concluded in Burabay Rural Settlement (Republic of Kazakhstan) on October 16, 2015 in one original counterpart in the Russian language. The original copy shall be kept by the Executive Committee of the Commonwealth of Independent States, which shall send a certified copy to each State that has signed this Agreement.

On behalf of the Republic of Azerbaijan

On behalf of the Russian Federation

On behalf of the Republic of Armenia

On behalf of the Republic of Tajikistan

On behalf of the Republic of Belarus

On behalf of Turkmenistan

On behalf of the Republic of Kazakhstan

On behalf of the Republic of Uzbekistan

On behalf of the Kyrgyz Republic

On behalf of Ukraine

On behalf of the Republic of Moldova

Appendix  
to the Agreement on the  
Establishment  
of the Council of Heads  
of Penitentiary Services  
of the Member-States  
of the Commonwealth of Independent States  
dated October 16, 2015

## **REGULATIONS**

### **on the Council of Heads of Penitentiary Services of the Member-States of the Commonwealth of Independent States**

#### **I. General provisions**

1. The Council of Heads of Penitentiary Services of the Member-States of the Commonwealth of Independent States (hereinafter referred to as the Council) shall be the body of sectoral cooperation of the Commonwealth of Independent States and shall be designed to ensure coordination of cooperation of penitentiary services in the penitentiary sphere.

2. The Council shall be guided in its activities by the Charter of the Commonwealth of Independent States, international treaties and decisions adopted within the framework of the Commonwealth of Independent States, as well as by these Regulations.

3. The Council shall act in cooperation with the Executive Committee of the Commonwealth of Independent States, the Inter-Parliamentary Assembly of the Member-States of the Commonwealth of Independent States, the public authorities of the Member States of the Commonwealth of Independent States.

4. The Council shall be accountable in its activities to the Council of Heads of Member-States of the Commonwealth of Independent States.

5. The Council shall organise its work on the basis of plans drawn up and approved by it.

The Council shall annually provide information on its activities to the Executive Committee of the Commonwealth of Independent States.

## **II. Focal areas of the activities and functions of the Council**

6. The focal areas of the activities of the Council shall be:

the determination of priority areas of cooperation in the penitentiary sphere of the Member-States of the Commonwealth of Independent States;

coordinating practical cooperation among penitentiary and other interested national services and agencies of the Member-States of the Commonwealth of Independent States on major aspects of the penitentiary sphere in carrying out the functions of the Council;

facilitating the implementation of adopted interstate and intergovernmental decisions in the penitentiary sphere of the Member-States of the Commonwealth of Independent States.

The primary functions of the Council shall be:

the development of targeted programmes on the priority areas of joint activities of the penitentiary services of the Member-States of the Commonwealth of Independent States;

the development of proposals for harmonizing the penitentiary legislation of the Member-States of the Commonwealth of Independent States;

the cooperation with the relevant bodies of the Member-States of the Commonwealth of Independent States, sectoral cooperation bodies of the Commonwealth of Independent States, as well as international and non-governmental organisations and public associations on issues within the competence of the Council;

the organisation of the exchange of information at the meetings of the Council on the implementation of documents adopted by the Member-States of the Commonwealth of Independent States in the penitentiary sphere;

reviewing the implementation by the penitentiary services of the Member-States of the Commonwealth of Independent States of the commitments undertaken pursuant to the decisions of the Council;

the consideration of other issues within the competence of the Council.

### **III. Rights of the Council**

7. The Council shall be entitled to

adopt, within its competence, decisions and recommendations aimed at developing cooperation and interaction among the penitentiary services of the Member-States of the Commonwealth of Independent States;

submit proposals to the Council of Heads of State, the Council of Heads of Government, the Economic Council and the Council of Foreign Ministers of the Commonwealth of Independent States in accordance with the established procedure;

establish working bodies (committees, commissions, working groups) in the areas of the Council's activities in compliance with the established procedure and, if necessary, approve regulations thereon;

attract scientists and specialists in accordance with the established procedure for the implementation of certain functions of the Council;

take decisions on other matters within the competence of the Council.

### **IV. Organisation of the work of the Council**

8. The heads of the penitentiary services of the States-Parties to this Agreement ( hereinafter referred to as “the members of the Council”) shall be the members of the Council.

Each State shall have one vote on the Council.

The Head of the Penitentiary Service of the State-Party to this Agreement may designate a permanent representative with appropriate powers of decision-making at meetings of the Council.

A Council member unable to attend a meeting may delegate his/her representative with decision-making powers to the meeting of the Council.

The Head of the Secretariat of the Council and a representative of the CIS Executive Committee shall be members of the Council in an advisory capacity.

9. The Council chairmanship shall rotate among each member of the Council based on the principle of rotation in the Russian alphabetical order of the names of the Member-States of

the Commonwealth of Independent States, normally for a period of one year, unless otherwise decided by the Council. The preceding and succeeding chairmen of the Council shall be its co-chairmen.

In the temporary absence of the Chairman of the Council, his/her duties shall be vested in one of the Co-Chairmen.

10. The Chairman of the Council shall:

- exercise the general management of the Council's activities and be responsible for the fulfilment of the objectives entrusted to him/her;

- conduct the meetings of the Council;

- on behalf of the Council sign and send documents to the penitentiary services of the Member-States of the Commonwealth of Independent States;

- represent the Council in the bodies of the Commonwealth, as well as the public authorities of the Member-States of the Commonwealth of Independent States in concordance with the established procedure;

- maintain and develop contacts with other organisations at the level of their working (executive) bodies within their competence;

- assist in ensuring cooperation among the penitentiary services of the Member-States of the Commonwealth of Independent States;

- perform other activities related to ensuring the Council's activities.

11. The Council shall approve its procedures and regulations.

12. As a rule, the Council shall meet alternately in the States-Parties to this Agreement, as appropriate, but at least once a year.

13. The meetings of the Council shall be duly convened if attended by at least half of its members or their representatives.

14. The Council shall take decisions within its competence by a qualified majority (three-fourths of those voting); decisions of a procedural nature shall be taken by simple majority.

The penitentiary services of the Member-States of the Commonwealth of Independent States shall, where necessary, adopt appropriate acts within their competence to ensure the implementation of decisions taken by the Council.

Those members of the Council who do not agree with a decision taken, may express a dissenting opinion or declare the disinterestedness of their state penitentiary service in a particular matter, which shall not be regarded as an obstacle to the adoption of a decision.

15. The representatives of other interested States may participate in the work of the Council as observers, if the Council so decides.

16. Extraordinary meetings of the Council may be convened as necessary.

An extraordinary meeting of the Council shall be convened by its Chairman upon his/her initiative or on the proposal of at least three of its members.

17. Specialists and experts from interested ministries and agencies of the Member-States of the Commonwealth of Independent States, as well as representatives of working bodies may be invited to the meetings of the Council.

## **V. Council Secretariat**

18. Organizational, technical and information support for the activities of the Council shall be provided by the Secretariat.

By decision of the Council, the functions of the Secretariat, including on a permanent basis, shall be performed by one of the units of the Penitentiary Service of a State-Party to this Agreement. These functions shall be carried out by the Penitentiary Service unit in conjunction with the relevant structural sub-division of the Executive Committee of the Commonwealth of Independent States.

A representative of the penitentiary service unit charged with the functions of the Secretariat shall be the Head of the Secretariat (Secretary of the Council), and a representative of the Executive Committee of the Commonwealth of Independent States shall be the Deputy Head of the Secretariat.

19. The Secretariat shall:

- organise and ensure that the meetings of the Council are held in accordance with the procedure prescribed in these Regulations. When holding out-of-country meetings in the Member-States of the Commonwealth of Independent States, this work shall be carried out jointly with the penitentiary services of the host states;

- prepare materials to be considered at Council meetings;

- pursuant to the established procedure, send to the penitentiary services of the Member-States of the Commonwealth of Independent States the provisional agenda and draft documents to be submitted for consideration at the forthcoming meeting of the Council;

- ensure that decisions adopted within the framework of the Council are forwarded to the penitentiary services of the Member-States of the Commonwealth of Independent States in a timely manner;

- arrange meetings of experts in conformity with the decisions of the Council on the preparation of draft documents to be considered at the Council meetings;

- keep the minutes of the meetings of the expert groups of the Council;

- cooperate with the penitentiary services of the Member-States of the Commonwealth of Independent States in terms of timely identification of participants in the Council meeting and the preceding expert meeting to discuss issues on the agenda of the next meeting of the Council;

- jointly with the penitentiary services of the Member-States of the Commonwealth of Independent States, monitor the implementation of the decisions taken by the Council and inform the Chairman and members of the Council of the results;

within its competence, interact with other sectoral cooperation bodies of the Commonwealth of Independent States, as well as with the relevant division of the Executive Committee of the Commonwealth of Independent States in terms of coordination and preparation of draft documents discussed during the Council meetings and submitted for consideration.

In order to carry out its functions, the Secretariat of the Council shall have the right to request necessary information from the penitentiary services of the Member-States of the Commonwealth of Independent States in compliance with the procedure established by the legislation of the Parties.

20. The Secretary of the Council shall be appointed by a decision of the Council.

The Secretary of the Council shall:

direct the activities of the Secretariat;

organise the work of the Council between meetings;

carry out organizational and informational support of the activity of the Council in cooperation with the Executive Committee of the Commonwealth of Independent States.

The Secretary of the Council may be relieved of his/her duties upon his/her own request or by decision of the Council.

21. The record-keeping and custody of Council documents shall be carried out by the structural unit of the Executive Committee of the Commonwealth of Independent States, where the representative thereof is a member of the Secretariat.

## **VI. Financing**

22. The expenses relating to the financing of the Council meeting shall be borne by the penitentiary service of the host State-Party to this Agreement.

23. Expenses for the secondment of the members of the Council and participants in the meeting shall be borne by the sending state authorities and organisations of the Member-States of the Commonwealth of Independent States.

I hereby certify that the attached text is an authentic copy of the Agreement on the Establishment of the Council of Heads of Penitentiary Services of the Member-States of the Commonwealth of Independent States, adopted at the meeting of the Council of Heads of the States of the Commonwealth of Independent States, held on October 16, 2015 in Burabay Rural Settlement, Republic of Kazakhstan. The original copy of the aforementioned Agreement shall be kept at the Executive Committee of the Commonwealth of Independent States.

*First Deputy Chairman  
of the Executive Committee -  
CIS Executive Secretary*

*V. Garkun*

