**INSTRUCTIONS**

**on community service performed**

**due to ineffective enforcement of a fine**

**Article 1 § 1 of the Criminal Enforcement Code** Rulings in criminal proceedings, proceedings concerning fiscal offences and fiscal petty offences, and proceedings concerning petty offences, and disciplinary penalties and coercive measures resulting in imprisonment are enforced in accordance with the provisions of this Code, unless the law provides otherwise.

**Article 5 § 2 of the Criminal Enforcement Code** A sentenced person is obliged to comply with the instructions given by the competent authorities to enforce the ruling.

**Article 45 § 1 of the Criminal Enforcement Code** If enforcement of a fine of less than one hundred and twenty daily rates proves ineffective or the circumstances of the case show that it would be ineffective, the Court may convert the fine into community service, assuming that ten daily rates are equivalent to one month of community service, rounding up to the nearest whole month. Community service is determined in months, and the working hours per month are from 20 to 40 hours, pursuant to the provisions of [Article 53](https://sip.legalis.pl/document-view.seam?documentId=mfrxilrtgu2tsojvge4dmltqmfyc4mzvhaytamrwgq) of the Criminal Code.

**§ 2.** Provisions of Articles 53–58, Article 60, Article 63b and Article 63c apply to the performance of the work referred to in § 1, subject to § 5.

**Article 46 § 1 of the Criminal Enforcement Code** If the enforcement of the fine proved ineffective or the circumstances of the case show that it would be ineffective, the Court orders the enforcement of a substitutive sentence of imprisonment if:

1/ the sentenced person declares that they do not agree to undertake community service converted under Article 45 or they evade its performance, or

2/ conversion of the fine into community service is impossible or inexpedient.

**Article 47 § 1 of the Criminal Enforcement Code** If the fine has been paid in part, the President of the Court or an authorised judge orders a reduction of the substitutive penalty in a manner corresponding to the ratio of the amount paid to the amount of the fine.

**§ 2 of the Criminal Enforcement Code** The sentenced person may at any time release themselves from the substitutive sentence of imprisonment or the performance of work referred to in Article 45 § 1 of the Criminal Enforcement Code by depositing the amount still due as a fine.

**Article 48a § 1 of the Criminal Enforcement Code** The Court may at any time suspend the enforcement of a substitutive sentence of imprisonment ordered in the event referred to in [Article 46 § 1(1)](https://sip.legalis.pl/document-view.seam?documentId=mfrxilrtg4ytcmbqgezdoltqmfyc4mzygmydcnrqhe) if the sentenced person declares in writing that they will undertake community service and submit to its requirements. The suspension remains in effect until the community service has been completed or the amount due of the fine has been deposited.

**§ 2.** If the sentenced person evades community service, the Court orders the enforcement of a substitutive sentence of imprisonment.

**§ 6.** The enforcement of the same substitutive sentence of imprisonment under § 1 of the Criminal Enforcement Code may not be suspended again.

**Article 25 § 1 of the Criminal Enforcement Code** If the enforcement of the fine proved ineffective or the circumstances of the case show that it would be ineffective, the Court may convert the fine to community service and specify its duration. Community service lasts one week at minimum, and two months at maximum. The provisions of Articles 20 §2 and Article 21 §1 apply *mutatis mutandis*.

**§ 2.** If the enforcement of the fine proved ineffective or the circumstances of the case show that it would be ineffective, the Court orders the enforcement of a substitutive sentence of custody if:

1/ the person subject to penal measure declares that they do not agree to undertake community service converted under § 1 or they evade its performance, or

2/ conversion of the fine into community service is impossible or inexpedient.

**Article 26 of the Code of Petty Offences** A custodial sentence or substitutive custodial sentence may not be imposed if the perpetrator's personal conditions make it impossible to serve the sentence.

**Article 27 § 1 of the Code of Petty Offences** The perpetrator may be released from the substitutive custodial sentence at any time by paying the amount of money still due.

**§ 2 of the Code of Petty Offences** If the fine has been paid in part, the substitutive penalty is reduced in a manner corresponding to the ratio of the amount paid to the amount of the fine.

**Article 53 § 2 of the Criminal Enforcement Code** A sentenced person is obliged to diligently fulfil their obligations, and follow the rules of conduct of their place of work or stay.

**Article 57 § 2 of the Criminal Enforcement Code** If the sentenced person fails to appear as summoned or, having been advised of the rights, obligations and consequences related to performing unpaid, supervised community service, declares to the professional court probation officer that they do not agree to undertake work, the probation officer submits to the court a request to impose a substitutive penalty.

**§ 3.** The provision of § 2 applies *mutatis mutandis* if the sentenced person fails to undertake work within the determined deadline or otherwise evades serving the sentence of restriction of liberty or performing the obligations imposed upon them.

**Article 60 of the Criminal Enforcement Code** The Court and the professional court probation officer may at any time request that the sentenced person provide explanations concerning the progress of the sentence of restricted liberty and summon the sentenced person to appear in person for this purpose.

**Article 63b. § 1 of the Criminal Enforcement Code** For important reasons, in particular those justified by the remunerated work performed by the sentenced person or by their health, at the request of the sentenced person, the Court may determine the settlement of hours of unpaid, supervised community service in periods other than monthly, not exceeding the period of the sentence imposed or the total number of hours of work performed during that period.

**§ 2.** The Court should consider the request within 14 days of its submission.

**§ 3.** An order pursuant to § 1 may be appealed against.

**Article 63c of the Criminal Enforcement Code** For important reasons, in particular those justified by the remunerated work performed by the sentenced person or by their health, at the request of the sentenced person, once during the enforcement of the sentence of restricted liberty, the professional probation officer may issue a decision on the settlement of hours of unpaid, supervised community service in periods other than monthly, not exceeding the period of 6 months, and the period of the sentence imposed or the total number of hours of work performed during that period.

**Article 107 § 4a of the Criminal Code** A sentence of fine is expunged by operation of law after the expiry of one year from the enforcement or remission of the sentence or statute of limitations on its enforcement.

**§ 6.** If a criminal measure, forfeiture or compensatory measure has been imposed, the sentence may not be expunged before it has been enforced, remitted or subject to statute of limitations. The sentence may also not be expunged before the enforcement of the preventive measure.

**Article 46 § 1 of the Code of Petty Offences** The penalty is deemed to be non-existent after 2 years from the enforcement or remission of the penalty or statute of limitations on its enforcement.

**§ 2.** If the person subject to penal measure, before the expiry of the period provided for in § 1, commits a new offence for which a penalty of custody, restriction of liberty or a fine has been imposed, the penalty for both offences is deemed to be non-existent after 2 years from the enforcement or remission of the penalty for the new offence or statute of limitations on its enforcement.

**§ 3.** If a criminal measure has been imposed, the penalty may not be deemed non-existent before it has been enforced, remitted or subject to statute of limitations.

**RIGHTS**

* penalties and penal measures, compensatory measures, forfeiture, preventive measures are enforced humanely and with respect for the human dignity of the sentenced person; torture or inhuman or degrading treatment or punishment of the convicted person are prohibited (Article 4 § 1 of the Criminal Enforcement Code),
* a sentenced person retains their civil rights and freedoms; they can only be limited when the law so provides and by a non-appealable judgement under the law (Article 4 § 2 of the Criminal Enforcement Code),
* a sentenced person may apply for and participate in proceedings before the Court as a party in the cases provided for by law, file an appeal against orders rendered in the enforcement procedure (Article 6 § 1 of the Criminal Enforcement Code),
* a sentenced person may file applications, complaints and requests to the enforcement authorities; when filing an application, complaint or request, the sentenced person is obliged to substantiate the demands contained therein to the extent that allows for them to be considered, in particular to attach relevant documents (Article 6 § 2 of the Criminal Enforcement Code),
* a sentenced person may appeal to the Court against a decision of an authority referred to in 2(3)–(6) and 10 of the Criminal Enforcement Code, the President of the Court, an authorized judge or professional court probation officer, or the head of probation service team on the grounds that it is unlawful, unless the law provides otherwise (Article 7 § 1 of the Criminal Enforcement Code).

Note

**Community service does not constitute work within the meaning of the Labour Code. The obligation to document the incapacity for work is binding upon the sentenced person / person subject to penal measure. Temporary periods of incapacity for work have to be documented with a relevant sick leave. The probation officer and the designated workplace have to be informed of the incapacity as soon as practicable. Upon undertaking community service, the sentenced person / person subject to penal measure is covered by accident insurance.**

**I declare that I will reside at:**

.....................................................................

(exact address of stay)

**I declare that I consent to communication by telephone and e-mail**

**phone no.:**

**e-mail:**

*.... ................................................*

*(date and signature of sentenced person / person subject to penal measure\*)*

Drawn up in two copies for:

- 1 copy. - sentenced person / person subject to penal measure\*

- 1 copy. - file record.

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