

# **Chapter 17**

## **Latvia**

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# **1 HISTORICAL DEVELOPMENT OF THE PROBATION SERVICE SYSTEM**

## **1.1 The start of probation in Latvia**

The beginning of probation system in Latvia can be traced to the first period of independence (1918-1940) when assistance to prisoners and suspended sentences were introduced. During Soviet rule some community sanctions and measures – like suspended sentences, correctional work and early release from imprisonment existed.<sup>1</sup> The supervision of offenders in the community was organised by the police. Development of the probation system in its Western European sense took place after Latvia regained its independence in 1991. Revision of the punishment system started in 90`s with the abolishment of capital punishment and drafting of new Criminal Law. In partnership with countries such as Canada, Sweden and the United Kingdom and others as well as organisations such as Soros Foundation Latvia, new strategies were developed and piloted. In 1999, community work service was introduced as a new alternative punishment and until 2005 local municipalities carried it out.

The term “probation” (*probācija*) appeared in Sentence Enforcement Code with the amendments of 14 October 1998. These amendments provided for the creation of Probation Service whose main task was assistance to persons released from prison. In 2001 a working group under auspices of the Ministry of Justice developed a Policy paper on development probation service and draft Law on the State Probation Service. Mrs Ilona Kronberga led the group. During development of the probation system, various models of probation services from around the world were reviewed. Canadian International Development Agency (CIDA) funded several projects in the area of Criminal Justice sector from 1998 to 2004, including expertise on the development of new Criminal Procedure code, and Probation Act. The probation working group visited Canada and several European countries. At the same time CIDA funded several pilot projects in local municipalities that were aimed to juvenile crime prevention. Some of them included models of juvenile probation service. Canadian experts became the first trainers of probation officers in Latvia. According to the Concept Paper on Development of the State Probation Service, the State Probation Service was founded as an institution under Ministry of Justice in October 2003. The Law on the State Probation Service entered into force on January 1, 2004.

## **1.2 Important developments**

### **1.2.1 Phase-in development of State Probation Service**

The Concept Paper on Development of the State Probation Service (adopted in 2002) provided gradual introduction of probation system in Latvia in two ways - territorial development and development of competence. The concept paper

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<sup>1</sup> For detailed description of development of probation during period of first independence and Soviet period described in A.M. van Kalmthout, J.Roberts, S.Vinding (2003) ‘Probation and Probation Services in the EU accession countries’ pp.185-189.

provided gradual creation of regional offices throughout Latvia until 2007. In practice the State Probation Service completed its territorial development in 2005 by creating Headquarters and 28 regional offices (five in 2003, five in 2004, 18 in 2005). The Law on the State Probation Service stipulated phase-in widening of the tasks of the new service. In 2003 and 2004 the service had competence over delivery of aftercare to ex-prisoners (on voluntary basis), preparation of pre-sentence reports to judges and prosecutors and co-ordination of community work service. According to law the supervision of persons during probation period was the task of State Probation Service since 2006.

There was no clear line drawn between the tasks of local municipalities and probation service during the start of co-ordination of community work service. The concept paper and law provided that probation service would have the role of methodical adviser to the local municipalities. That meant that the court would still send the judgements directly to local municipalities. Practice showed that the vast majority of local municipalities had a limited understanding about enforcement of sentences and limited financing from government. Due to the uneven system of enforcement, courts in some regions of country did not apply community work service or applied it only in few cases. During negotiations with representatives of local municipalities it was agreed that State Probation Service should take over all duties related to enforcement of community work service. In 2005 SPS took over organisation of community work service in 9 regions. In 2006 SPS took over organisation community work service in whole country.

### **1.2.2 Private or public**

State Probation Service (SPS) is a public organisation under the Ministry of Justice. The law gives mandate to SPS to delegate its tasks to private organisations. Currently State Probation Service is purchasing addiction treatment programme and services for halfway houses.

### **1.2.3 Volunteer-professional**

According to the Law on the State Probation Service probation officers are civil servants. Nevertheless the law provides wide possibilities to recruit volunteer probation workers. A volunteer system is in the early stages of development in probation, but there are volunteers that currently work to support aftercare. In 2007 it is planned to certify first volunteer mediators.

### **1.2.4 Assistance for delinquents - repression/control**

During the Soviet period supervision of offenders in society was organised by the police and it contained a formal requirement for offenders to register and to comply with the law. With the creation of the State Probation Service new meanings were added to supervision of offenders in society. Now it includes elements of control and assistance. Control is exercised over the compliance with court judgement. Assistance is directed toward the primary and criminogenic needs of clients. Community work service mainly includes the aspect of controls as part of a punishment including unpaid work for society while aftercare is

centred on assistance to clients with a smaller part of the control retained to ensure the fulfilment of the terms of agreement.

### **1.2.5 Central policy-making and management - decentralization**

Latvia has a centralised probation system. The cabinet of Ministers appoints the head of the State Probation Service. The headquarters in Riga makes general policy and standards of probation work. Local offices take part in the drafting of legal regulations. Some probation procedures are included in the regulations of the Cabinet of Ministers. The budget of the State Probation Service is governed by headquarters office.

### **1.3 Probation activities in a nutshell**

According to Article 7 of the State Probation Service Law State, Probation Service has the following tasks:

- delivery of aftercare and preparation of sentenced person for return to society;
- provision of assessment reports in relation to probation clients;
- elaboration of probation programs and delivery of programs to clients;
- organization of the criminal sentence – community work service;
- development of educational measures for juveniles – public works –;
- supervision of persons who are conditionally released from criminal charges (decision made by prosecutor);
- supervision of persons with suspended sentences and those released on parole;
- delivery of aftercare to persons released from imprisonment.

**Table 1: Number of clients under different activities of probation**

	<b>2004</b>	<b>2005</b>	<b>2006</b>
Mediation	-	51	251
Pre-sentence reports	61	633	1156
Pre-release reports	-	-	1226
Suspended sentence	-	-	4925
Parole supervision	-	-	832
Conditionally released from criminal liability	-	-	445
Community work for juveniles – educational measure	-	73	105
Community work service	-	535	2595
Aftercare	169	778	293
Clients placed in rehabilitation centres (half-way houses)	83	178	180

## **2 LEGISLATIVE BASIS AND MISSION**

### **2.1 Legislative Basis**

The main principles of the operation of probation system are laid down in Criminal Law 1998, Criminal Procedure Law 2005, Sentence Enforcement Code 1970 and Law on the State Probation Service 2003. Criminal Law defines the punishment system and content of suspended sentence. All persons above the age of criminal responsibility (14 years) and commit a crime can become clients of the State Probation Service.

Criminal Procedure Law defines the role of probation service in different stages of criminal procedure. Sentence Enforcement Code prescribes the general procedure for enforcement of all criminal sentences, including community work service. It also includes rules on supervision of persons with suspended sentences and persons on parole. The Law on Educational Measures for Juveniles contains rules on community work service – one of the possible diversions from criminal procedure used for juveniles. Community work service can be applied to juveniles as educational measures if they have reached the age of 11 years.

The Law on the State Probation Service, which came into force on 1 January 2004, is the main legal act that sets the organization of the State Probation Service and general principles of its operation. The Law includes regulations on the rights and obligations of client, general rules about the tasks of the service, rules on co-operation with prisons and institutions for resettlement of offenders in society. The Law contains a chapter on the operation of Consultative Boards. These boards are composed of representatives from law enforcement bodies and local municipalities and are operating in all probation areas in country. Requirements for becoming probation officer and volunteer probation worker are also included in the Law on the State Probation Service.

Secondary legislation in the form of regulations of the Cabinet of Ministers stipulates the operation of the Probation Service in greater detail. Currently there are twelve regulations of the Cabinet of Ministers defining the work of probation system. They can be divided in two categories – those that prescribe the conduct followed by probation officers in dealing with clients (order of supervision, organisation of aftercare, order of mediation process etc.) and more general regulations (on information system and file processing). In addition to laws and regulations of the Cabinet of Ministers State Probation Service issues guidelines for probation officers. Mandate for issuing of internal legal acts are provided in the Law on State Administration.

### **2.2 Mission and mission statement**

The mission of the State Probation Service is to care about the safety of society. The main task of the Service is to reduce offending. This statement is included in the Draft Strategy of the State Probation Service for 2007-2009 which shall be approved by the Cabinet of Ministers in 2007. Strategy of the State Probation

Service is closely linked to the Strategy of the Ministry of Justice that provides tasks for a 3-year planning period. The Ministry of Justice has set the following initiatives in area of probation:

- strengthening of administrative capacity of sentence enforcement institutions (Prison administration and State Probation Service). This priority includes an increase in the salaries of probation officers, additional staff for work with specific categories of clients – sex offenders and clients with mental disorders;
- development of the social correction programmes and services for the resettlement of offenders. This priority provides introduction of programmes in the prisons that would be carried out by the probation officers;
- creation of a unified information system for State Probation Service and prison administration;
- expanding of mediation in criminal matters. That includes involvement and training of volunteers as mediators.

The Draft Strategy of the State Probation Service sets tasks of the Service in all areas of operation. As a result, mainstream developments are in compliance with the Strategy of the Ministry of Justice.

### **2.3 Crime prevention**

The Ministry of Interior is responsible for the creation of policy on crime prevention in Latvia. There are many institutions, including the State Probation Service involved in the drafting and implementation of this policy. Mediation and the organisation of community sanctions are among the activities of crime prevention. The SPS does not have a legal obligation to organise primary prevention activities but in practice many municipalities in co-operation with secondary schools and police service organize events for pupils. Twice a year the SPS organizes events for juveniles in the Cesis Correctional Establishment for Juveniles. These events involve volunteers who work with juveniles during workshops or organisation of Sports Games. Consultative Boards play an important role in co-ordination of crime prevention. They are created under the wing of probation and include representatives from court, police, prosecutor's office, social service and they meet on a regular basis to discuss problems and possible solutions in the field of crime prevention.

### **2.4 Victim protection**

Protection of victims enters into competence of the State Probation Service through its mission of caring about the safety of society. By managing each individual case probation officers must assist potential victims and if necessary co-operate with police to protect them. According to Criminal Procedure Law a victim has the right to settlement with offender in all types and in all stages of criminal procedure. State Probation Service provides free of charge mediators to lead the process of mediation. There are no specific procedures laid down for co-operation between agencies in area of victim protection. In 2006 Legal Assistance Administration was created under the Ministry of Justice tasked with paying compensation to crime victims. There are several NGO`s that deal with

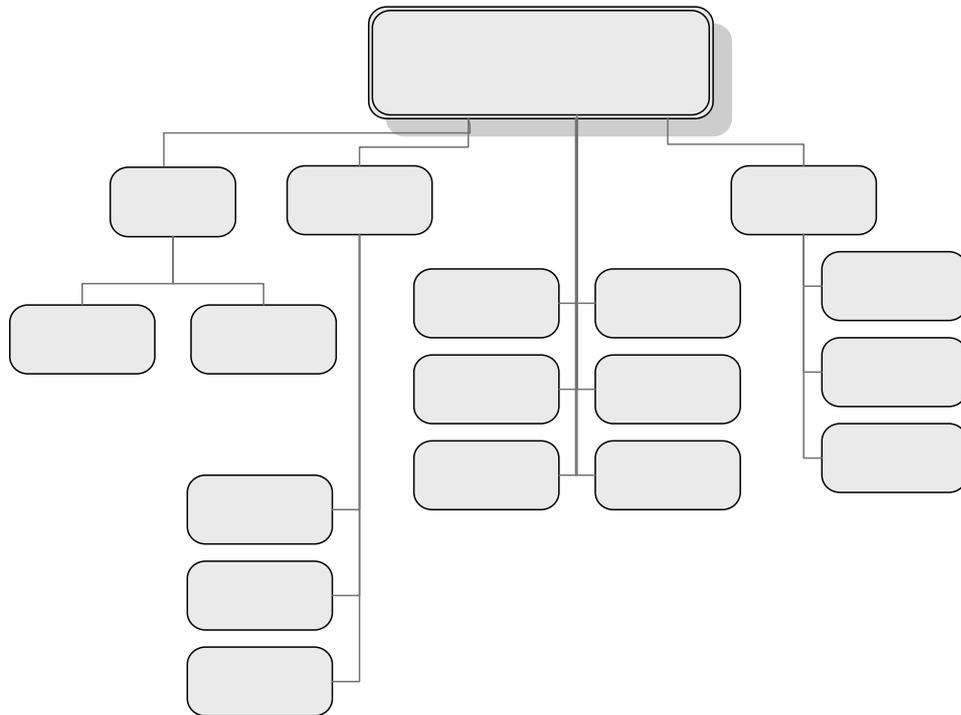
rehabilitation of victims of violent crimes and children that have suffered from violence.

### 3 THE ORGANIZATION OF PROBATION SERVICES

#### 3.1 Main characteristics

The State Probation Service was established by the ruling of the Cabinet of Ministers on 7 October 2003 as a State organisation under supervision of the Ministry of Justice. There are two forms of subordination of state administration – control and supervision. Supervision means the rights of higher institutions or officials to examine the lawfulness of decisions taken by lower institutions or officials and to revoke unlawful decisions, as well as to issue an order to take a decision in case of unlawful failure to act (State Administration Structure Law). The State Probation Service is found throughout all the territory of Latvia in concordance with the jurisdiction of law courts; all in all, 28 territorial divisions have been formed. The structure of State Probation Service includes Headquarters and local offices. Bigger regional offices are divided in branches.

**Figure 1: Structure of the state probation service**



In order to deliver specific services for during aftercare or supervision, probation service is purchasing services from halfway houses. These services are delivered by NGO`s or local municipalities. The "Akrona" Company delivers addiction treatment program.

## **3.2 Internal organization**

### **3.2.1 Probation workers**

Requirements to be met by civil servants and employees of the State Probation Service are set out in the State Probation Service Law. Persons who comply with the requirements of the State Civil Service Law may apply for the position of civil servant of the State Probation Service. A person may be a candidate for a civil service position who: is a citizen of the Republic of Latvia; is fluent in the Latvian language; has a higher education; has not reached the age of retirement determined by law; has not been convicted of deliberate criminal offences, or has been rehabilitated, or for whom the conviction has been set aside or expunged; has not been dismissed from a civil service position by a court judgment in a criminal matter; has not been found as lacking the capacity to act in accordance with the procedures prescribed by law; is not or has not been in a permanent staff position in the State security service, intelligence or counter-intelligence service of the U.S.S.R., the Latvian SSR or some other foreign State; is not or has not been a participant in organizations prohibited by law or by an adjudication of a court; and is not a relative (a person who is married to, or in kinship or affinity of the first degree with, or a brother or sister of, a civil servant) of the head of an institution or a direct supervisor. Persons who have at least secondary education, have personal characteristics, skills and previous work experience conforming to specific job requirements can apply for State Probation Service employee positions.

All personnel working with case management are civil servants. Employees are involved in office work. The majority of probation workers are people with education in social work, social pedagogy, pedagogy, psychology and law, but there are probation officers with education in different fields like engineers or physicians. It is very important for probation officers to have the right competencies for work. Currently volunteer probation workers are working in aftercare and with juvenile offenders in prison. Although there are not many of them at the moment, the State Probation Service has a long-term plan to develop system of volunteer mediators. Persons who have expressed the wish to participate in the implementation of probation tasks may become voluntary probation workers if after consultations with the officials of the State Probation Service they have received an approval to perform certain probation tasks, have reached age of 18 and know the Latvian language. The State Probation Service shall enter into collaboration agreements with voluntary probation workers. The growth of the number of workers in the State probation Service has considerably improved - in end of 2003 eight people started to perform their obligations in State Probation Service and by the end of 2006 number of staff members reached 413 (there were 430 staff positions). 74 of them were employed in headquarters,

339 in local offices. The turnover of staff is high – 50 employees have left service from January to June 2007 mainly due to low salaries.

The staff working in headquarters can be divided in two categories; those organising and monitoring probation works with clients and the administrative staff. The tasks of headquarters office is to plan and implement probation policy – hire people; deliver training; draft amendments to laws and prepare by-laws, internal regulations; monitor the quality of probation work and ensure professional assistance; ensure local offices with technical equipment and other resources necessary for work; represent service in different working groups, give opinion on legal acts prepared by other institutions. Personnel of local offices consist of the head of office, his deputy and probation officers. Some larger probation offices have technical assistants. The head of office is responsible for distribution of responsibilities among staff. The responsibilities vary from one local unit to another. There are units where each probation officer works with a specific function but there are offices where a worker is doing several functions together (for example, supervision, pre-sentence report and mediation).

### **3.2.2 Education, training requirements and opportunities**

There is no specific type of University degree required (see 3.2.1.), but preference is given to staff with education in social work, social pedagogy and psychology. Nevertheless, the State Probation Service is trying to ensure that at least one lawyer is employed in each office in order to consult on legal issues. Currently there are discussions on lowering requirements for workers organising community work service and supervision of low risk offenders. There is no comprehensive training programme for probation staff. There have been many initiatives during the three years of existence of probation service in Latvia but this field still has to be improved. There are several ways that probation staff may be trained: official training for civil servants organised by State Administration School, training on working procedures and methods organised by different divisions of headquarters, training involving different lecturers from other institutions and abroad. Besides training, an important part of the work includes professional supervision of probation officers, especially those who are delivering probation programs. In the future, State Probation Service is planning to create a training and research centre. State Probation Service is promoting academic education of staff. Together with the University in Latvia a two-year programme was created to gain qualifications needed for probation workers. State Probation Service is also covering half of the costs if a probation officer is studying to get a masters degree in sciences related to probation work.

### **3.2.3 Other organizations involved in probation work**

There are different organisations involved in probation work on the local level. In order to organise community work the State Probation Service has concluded agreements with more than 600 organisations of local municipalities, state organisations and NGO`s. Currently there are five halfway houses for persons released on parole or after full term of imprisonment. Private organisations are participating in open competition to deliver services to clients of probation. Main

tasks of centres are to provide accommodation, help with employment, professional education and living arrangement. In 2006 those centres housed 180 clients of the State Probation Service. There are no professional organisations for probation staff in Latvia.

## **4 PROBATION IN DIFFERENT PHASES OF THE CRIMINAL PROCESS**

### **4.1 General**

The State Probation Service in Latvia is involved in the work with offenders in all stages of the Criminal Justice process and also in after-care outside the criminal justice system. Tasks of the probation system are described in Law on State Probation Service, Criminal Procedure Law and Sentence Enforcement Code. 2005 Criminal Procedure Law determines the order of criminal procedure – investigation of a criminal offence, criminal prosecution, and the trial of a criminal matter. Sentence enforcement code determines institutions responsible for enforcement of sentences and order of enforcement. Division one of the Criminal Procedure Law names the persons involved in criminal proceedings – person directing the proceedings, expert of an expert-examination institution, invited expert, auditor, public prosecutor in criminal proceedings, investigating judge, maintainer of state prosecution, maintainer of private prosecution – victim or his representative, judge and court. Probation officers are not among the participants of criminal proceedings according to current law.

**Table 2: Activities of Probation during the Different Stages of Criminal Procedure**

	Pre-Trial Phase See: 4.2	Trial and Enforcement Phase See: 4.4	Post Release Phase See: 4.4
Preparing a Social Enquiry report	x	x	
Supervision/assistance etc. to offenders whose cases were conditionally waived	x		
Mediation/victim support	x	x	x
Supervising/organizing etc. community service		x	
Supervising etc. drug/alcohol treatment programs		x	x
Supervising etc. other community sanctions, namely community work service	x	x	
Pre - sentence report		x	

Supervising etc. suspended sentence		x	
Assistance/ support to prisoners in prison		x	
Supervising etc. conditional release/parole		x	
Report before conditional release from prison		x	

## **4.2 Pre-trial phase**

### **4.2.1 General**

Criminal Procedure Law determines the activities of persons directing the procedure. The person directing the proceedings in pre-trial stage is the investigator – in an investigation, the public prosecutor – in a criminal investigation. Although the law does not name authorities of probation service as persons involved in criminal proceedings there are certain activities that are organized by probation service during the pre-trial phase. Such activities include mediation between victim and offender, supervision in cases of termination of criminal proceedings, conditional releasing from criminal liability and the enforcement of community work service in cases of injunction of a public prosecutor regarding a penalty. Section 243 of Criminal Proceedings Law determines pre-trial measures among which are placements under police supervision. Although probation is not involved in enforcement in pre-trial measures there are plans to institute a bail-supervision program in the coming years. It is not clear yet if the new measure will replace placement under police supervision or will be added to the existing list of measures. Currently there are three bail supervision pilots for juveniles funded by Soros Foundation Latvia. They are working in close co-operation with probation offices and in the future may become part of the service.

### **4.2.2 Mediation**

The State Probation Service can be involved in criminal proceedings from the moment it is initiated. The suspect has the right to settle with the victim<sup>2</sup>. A victim may settle, in all stages of proceedings and in all types thereof, with the person who caused harm to him or her. In the cases provided for in the law, a settlement shall be the grounds for the termination of criminal proceedings<sup>3</sup>. The termination of criminal proceedings may be possible in the cases of criminal violation or a less-serious offence (if sanction provides a maximum deprivation of liberty of up to 5 years). Parties may settle between themselves, through lawyers or using services of a mediator. In determining that a settlement is possible in criminal proceedings, and that the involvement of an intermediary is useful, a

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<sup>2</sup> Criminal Procedure Law 2005, s. 66.

<sup>3</sup> Criminal Procedure Law 2005, s. 97 (8).

person directing the proceedings may inform the State Probation Service<sup>4</sup>. In practice most mediation cases are referred to probation by the police or prosecutors and rarely by the court. Suspected persons are quite active in initiating mediation as it is a possibility to terminate criminal proceedings. The organization of mediation process by law is currently under development in the Cabinet of Ministers.

#### **4.2.3 Termination of criminal proceedings, conditionally releasing from criminal liability by prosecutor**

If a public prosecutor, taking into account the nature of and injury caused by a committed criminal offence, personal characterising data, and other conditions of a case, accepts that an accused will henceforth not commit criminal offences, the prosecutor may terminate criminal proceedings, conditionally releasing the accused from criminal liability<sup>5</sup>. Termination is possible if an accused agrees that he has committed a criminal violation or a less serious crime, and has not previously been penalized regarding an intentional criminal offence. In terminating criminal proceedings and the conditional release from criminal liability, a public prosecutor shall determine a time period for an examination of three to eighteen months. Supervision is exercised by the State Probation Service. The prosecutor may impose upon the accused the duties provided for in Criminal Law. These are: to apologize to the victim, to compensate the harm caused within a specific time period, to register periodically at the State Probation Service and to participate in probation programmes, to refrain from specific types of actions or activities and to receive medical treatment for alcoholism, narcotic, psychotropic, toxic substance addiction or other addictions. If the person breaks conditions or commits additional crimes during examination period, the prosecutor makes a decision to renew criminal proceedings, and direct such proceedings in accordance with general procedures.

#### **4.2.4 Injunction of a public prosecutor regarding a penalty**

The injunction of a public prosecutor regarding a penalty is a new measure that was invented by Criminal Proceedings Law 2005. This measure is possible if a person has committed a criminal violation or a less-serious crime, and a public prosecutor believes that a penalty connected with deprivation of liberty should not be applied to such person, but that a penalty of some kind is warranted<sup>6</sup>. The prosecutor may end the criminal proceedings, drawing up an injunction regarding a penalty. A public prosecutor, in his or her injunction regarding a penalty, may apply a pecuniary penalty or community service to an accused person, yet not more than half of the maximum pecuniary penalty or duration of community service provided for in the Criminal Law (Maximum provided in Criminal Law is 280 hours). State Probation Service enforces the community work service when this sanction is imposed by court.

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<sup>4</sup> Criminal Procedure Law 2005, s. 381.

<sup>5</sup> Criminal Procedure Law 2005, s. 415.

<sup>6</sup> Criminal Procedure Law 2005, s. 420 (1).

#### **4.2.5. Pre-trial report**

In cases of termination of criminal proceedings, conditionally releasing from criminal liability and injunction of a public prosecutor regarding a penalty, the law gives a right to prosecutor to require a report from State Probation Service in order to obtain personal characterising data<sup>7</sup>. The report called “evaluation report” is similar to those in the cases of pre-sentence or pre-release report. The content of the report is similar to one prepared for court in pre-sentence stage and given in the format of the probation documents.

### **4.3 Trial and enforcement phase**

#### **4.3.1 General**

During the trial and enforcement phase State Probation Service provides upon request a pre-sentence report to assist the judge in making a decision about the most appropriate penalty. The service shall also provide free of charge a mediator if the court has asked for one or the victim or accused has expressed desire to settle (For mediation see chapter 4.2.2.). During the enforcement phase probation service is involved in enforcement of alternative sanction, community work service and supervision of persons under suspended sentences. All persons with suspended sentence undergo probation supervision from 6 months to 3 years, according to judgement of the court. Community work service is an alternative sanction that can be determined from 40 to 280 hours and that is organised by State Probation Service. There is no legal obligation for the judge to ask the consent of the sentenced person upon implementation of sanctions or suspended sentence. The only exception is treatment for alcohol or drug addiction. However, there are some judges that request the opinion of the sentenced person for imposition of community work service or condition to undergo programme. Currently the service has a limited role during enforcement of custody – it assists sentenced persons in preparing for release and provides the pre-release report for the administrative commission of prison and court, as well as programmes in the correctional institution for juveniles. According to the policy paper on resettlement of offenders it is planned that probation officers should work in prisons. The tasks of probation officer would be assisting preparation of the sentence enforcement plan and running of programs.

#### **4.3.2 Pre-sentence report**

The legal ground for request of pre-sentence report is set in Criminal Procedure Law and Law on State Probation service. In preparing for trial in a criminal court session, a judge shall decide to request an assessment report from the State Probation Service<sup>8</sup>. Law on State Probation Service provides that the prosecutor, court or administration of prison can request evaluation report. An evaluation

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<sup>7</sup> Criminal Procedure Law 2005, s. 415 (2).

<sup>8</sup> Criminal Procedure Law 2005, s. 491.

report shall include a characterisation of the probation client and an evaluation of his or her social circumstances, as well as the opinion of the State Probation Service regarding the person<sup>9</sup>. The judge may decide if he/she needs a pre-sentence report in the specific case. There has been debate over requesting of pre-sentence reports in all cases when a juvenile is sentenced and this has become the practice in some regions. During discussions with judges and prosecutors in consultative boards of probation, an agreement was reached in several regions that a request for pre-sentence report will be sent by the prosecutor. This is due to the willingness of many judges to speed-up the trial phase. Currently there are no specific laws or regulations of the Cabinet of Ministers governing content of the report, its preparation or timeframe for preparation. Procedure of preparation is laid down in internal guidelines for probation officers. When submitting a request, the judge or prosecutor includes information about person, criminal activity and deadline of submission of request. Probation service has asked judges and prosecutors to send the request at least 3 weeks before report is due.

The probation officer informs the accused about the purpose of the pre-sentence report and the right to refuse co-operation with probation service. Furthermore, probation officers shall request the confirmation of client to meet with his relatives, employer and representative of education establishment (if he/she studies)<sup>10</sup>. In case the person refuses to co-operate, the report is not prepared and the prosecutor or judge is informed. During preparation of pre-sentence report, the probation officer uses risk and needs assessment tool. The tool used in Latvia has been developed based on the assessment tool of the British Columbian government in Canada. The report is structured to highlight the re-offence risks and specific needs of individuals. The content of risk need assessment tool corresponds to sections of the pre-sentence report in the formats of probation documents in this book. The factors evaluated in the tool are divided in dynamic factors and static factors. Dynamic factors evaluate existing needs of a person and shows where the work of probation officers must be targeted. Static factors show criminal history of a person and predict risk of re-offending.

In the conclusion part of the report the probation officer suggests possible resources for the offender in society and proposes conditions that would be advisable for the offender while under supervision of probation. If there are obstacles to an imposition of community work service, that is always mentioned in the report. The conclusion part should not contain any suggestion to the judge which sanction would be more appropriate for the person but give an overview of possibilities in society. The report is not expected to provide supervision plan either.

### **4.3.3 Probation procedures and processes**

#### **4.3.3.1. Supervision of persons with suspended sentence**

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<sup>9</sup> State Probation Service Law 2003/amended 2006, s.15.

<sup>10</sup> Law of State Probation Service 2005, s. 25.

Section 55 of Criminal Law and Chapter 30 of Sentence Enforcement Law outlines supervision of suspended sentence. Currently the court can suspend the following sentences: deprivation of liberty, custodial arrest, community work or a fine. The sentence is suspended if a court, taking into account the nature of the committed criminal offence and the harm caused, the personality of the offender and other circumstances of the matter, becomes convinced that the offender will not commit violations in the future. The term of probation of not less than six months and not exceeding three years is prescribed. The term of probation starts when the judgement has entered into force. According to section 55 (6) of Criminal Law the court may place upon the convicted person the following obligations:

- to compensate the harm caused, within a specified term;
- not to change place of residence without the consent of the State Probation Service;
- to participate in probation programmes according to instructions of the State Probation Service;
- not to attend specified places;
- to be present at place of residence at the time specified;
- to observe other conditions, which the court has recognised as necessary to achieve the purpose of the sentence.

The court may also impose treatment for a convicted person who has committed a criminal offence due to alcoholism, narcotic, psychotropic addiction or toxic substance addiction with his or her consent<sup>11</sup>. According to section 155 of Sentence Enforcement Code convicted person has the following obligations:

- to register at State Probation Service within five days after the judgement has entered into force;
- to comply with legitimate requests of State Probation Service;
- to appear in Probation Service in the time set by probation officer;
- to inform probation officer about the place of residence, work and education establishment;
- to request permit of probation officer to leave the place of residence for a time longer than 15 days;
- to inform the Probation Service about compliance with obligations set by the court and sources of income.

The Criminal Law provides that if a convicted person granted a suspended sentence does not fulfil the obligations imposed by the court without a valid justification or repeatedly commits administrative violations, the court, pursuant to a submission of State Probation Service, may make a decision regarding serving of the sentence determined for the convicted person, or extension of the term of probation for one year<sup>12</sup>. If a convicted person granted a suspended sentence commits a new criminal offence during the term of probation, his or her imposed sentence shall be implemented. Supervision of suspended sentence is organised according to internal regulation of the State Probation Service. Currently there are also regulations of the Cabinet of Ministers under preparation. There are several phases during supervision: assessment; drafting of

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<sup>11</sup> Criminal Procedure Law 2005, s. 55 (7).

<sup>12</sup> Criminal Procedure Law 2005, s. 55 (9).

plan and supervision that includes two elements - counselling and control. As the State Probation Service has started supervision only from 2006, many procedures are still under development and require more detailed regulation. There is a handbook on the question of risk-based interview developed.

There are two assessment tools currently used by the State Probation Service - community risk need assessment tool and assessment tool for juveniles. Both were developed based on assessment tools used by the Government of Canada. The person must be assessed and a supervision plan must be drafted not later than 6 weeks after the first interview. According to the risk assessment instrument there are 3 levels of supervision – high, medium and low. The plan is drafted together with the sentenced person but there is some part of the plan concerning control over the obligations imposed by the court that stays unknown to sentenced person. The intensity of work is set by internal regulations of service and may be from 1 intervention per month for persons with low risk of offending till at least 4 interventions per month for persons with high risk of offending. Each person has a case manager that is responsible for assessment and drafting of plan. This person follows the plan, assists the person to find the solutions to problems and directs that person's program. Probation officers that are specially trained run the programs. All programs are created for groups but they are sometime adjusted to individual persons if the participation in a group is not possible due to some reasons. The persons with a high and medium risk of offending are those that must be involved in probation programs, because according to researches done they benefit most. Probation programmes are based on cognitive-behavioural approach and are taken over from other jurisdictions. These are EQUIP (programme for juveniles), Respectful Relationships (domestic violence), Violence Prevention Programme, Substance Abuse Management. The accreditation system for programs is under development; there is a plan to create an accreditation board. A person serving custodial sentence currently has limited possibilities to undergo programs. The Probation Service on mutual agreement with Prison Administration has implemented programme for juveniles in Cesis Correctional Facility for Juveniles. The main activity during enforcement of sentence is preparation for release – assistance in finding a place to live, work or help with gaining of necessary documents.

#### **4.3.3.1. Enforcement of community work service**

Community service is compulsory participation in public service. A convicted person or a person for whom community service has been specified with a public prosecutor's injunction regarding penalty, will serve the punishment by doing work in the area where he or she resides. The community service implementation authorities will specify this work during free time outside regular employment or studies and without remuneration<sup>13</sup>. Community service can be determined for a term of not less than forty hours and not exceeding two hundred and eighty hours. The order of enforcement of community work service is set in chapter 24 of Sentence Enforcement Code and in the future more detailed procedures will be outlined in Regulations of Cabinet of Ministers. The probation service concludes

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<sup>13</sup> Criminal Law 1998, s. 40.0

agreements with work providers (institutions of municipality, NGO`s, libraries, schools, kindergartens etc.) for a sentenced person. Together with work providers and sentenced persons, a work execution plan is drafted and signed by all parties. A sentenced person can work up to 2 hours and with his consent – up to 4 hours per day if he is working or studying. If the person is not working or studying he can work up to 8 hours per day. Probation officer contacts work providers to check if a person is working every day and if the person is working according to the agreed plan. Without notifying the sentenced person officers also have the duty to check that the sentenced person is working. Frequency of controls on working place is set out in internal rules of service. If a sentenced person evades, in bad faith, serving the sentence, a court may substitute custodial arrest for the unserved sentence, calculating two hours of work as one day of custodial arrest.

#### **4.4 Post-release phase**

Conditional release from custodial sentence is possible if the convicted person has not committed violations and, to the extent possible, has voluntarily made compensation for financial losses caused by his or her crime; or in cases where the convicted person has committed the criminal offence due to substance addiction, if he or she agrees to treatment<sup>14</sup>. Release is possible if a person has actually served not less than half of the sentence if he/she committed a criminal violation or less serious crime. They must have served not less than two-thirds of the sentence imposed for a serious crime, or if the convicted person is a person who previously has been sentenced with deprivation of liberty for an intentional crime and the conviction is in force. If person has committed especially serious crime or if the convicted person was previously conditionally released prior to completion of sentence and has again committed an intentional crime during the period of supervision, the requirement is not less than three-quarters of the sentence imposed. If life imprisonment has been imposed, conditional release is possible after twenty-five years of a sentence of deprivation of liberty. The court makes the decision of release. The procedure of release involves the administrative commission in the prison composed of representatives from prison, probation and prosecutors office. Some commissions may include representatives from local municipalities.

The commission checks whether the person has administrative or disciplinary punishments in force and assesses the readiness of the person to actively involve in resettlement activities. The State Probation Service prepares the pre-release report that is submitted to the administrative commission and the court. If conditional release is rejected, the decision of the administrative commission can be appealed in the court. If the administrative commission decides on release of a person, the materials of the case are sent to the court. In all cases the pre-sentence report with the recommended obligations is attached to the materials of the case. The court decides on release and obligations that will be imposed on released person. Persons under conditional release have the same obligations as ones with suspended sentence (see 4.3.3.1). In some cases the court decides about the obligation of the person to reside in a halfway house. Procedure of

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<sup>14</sup> Criminal Law 1998, s. 61.

assessment, planning, assistance and control are also similar. In most cases those persons have unresolved social issues that have been caused by long term of imprisonment; therefore assistance ensuring basic needs are necessary. If a person who has been conditionally released prior to completion of sentence commits a new criminal offence during the period of the sentence unserved, the court determines sentence for him/her. If the person breaks the obligations imposed or set in the law the court may decide on determining sentence. During independence of Latvia general amnesty by law has been granted in 1992, 1994 and 1997. Individual pardons by state president have been granted to 421 persons since 1993. The State Probation Service is not involved in supervisions of persons under amnesty or individual pardon.

#### **4.5 Care and after-care outside the criminal justice system**

Aftercare was one of the first functions of State Probation Service when it was created in 2003. It is a separate activity described in Law on the State Probation Service and partly in the Sentence Enforcement Code. Persons who express a wish to co-operate with the State Probation Service after the full term of sentence may conclude an agreement. The agreement can be concluded for a period not exceeding 12 months. After this period, if needed, it can be prolonged to 6 months. The person has the right to conclude an agreement 6 months after he has been released from an institution. The aftercare includes consultation provided by a probation officer on issues of available resources - housing, education, and work possibilities. There are possibilities for a person to participate in probation programmes including cognitive behavioural programmes and resettlement programs. Resettlement programs include housing in a half way house. The State probation Service is financing the stay of clients in half way houses for six months. In some cases it can be prolonged to 9 months. During aftercare there is close co-operation with local municipalities, State Employment Agency and NGOs that assist clients in setting up their lives following imprisonment.

## **5 FINANCES, REGISTRATION, EVALUATION AND OUTSIDE OPINION**

### **5.1 Finances**

State Probation Service is financed according to Law on Budget that is annually passed by parliament. Financing of the State Probation Service is negotiated with the Ministry of Justice and Cabinet of Ministers. Part of the budget of State Probation Service comprises grants from different EU and national funds. SPS has gained EQUAL grant for project on promotion of employment of sentenced persons. The budget of the project implemented from 2005 to 2007 comprises 1, 3 million lats (1, 8 million EUR). There are no other sources of funding. The budget is divided in several segments: wages, running expenses and capital investments. The amounts allotted to those segments can be changed only by the amendments to the budget law that usually is made once per year. The money

that has not been spent during budget year must be returned to the State Treasury. The responsibility over legitimate use of allocated budget lies with the head of the State Probation Service. He has the power to sign agreements for purchase of goods and services. Most services and goods (stationary, equipment) are purchased using open competition.

**Table 3**

	Probation Services	Prison System
Total current yearly expenditure (2007) in EUR	7,43 million	49,72 million
Average number of employed staff	513	3 126
Daily average number of offenders/clients dealt with <sup>15</sup>	7 000	6 548

The number of clients of the State Probation Service will grow since the function of supervision has started since January 2006 and probation period can be up to 3 years.

## **5.2 Accounting**

State Probation Service is accountable to the Ministry of Justice and Cabinet of Ministers for disbursing the allocated budget. The Ministry of Justice monitors expenditure of the budget on a quarterly basis. Each year State Probation Service submits detailed a report on the use of the budget to the Ministry of Justice. This report together with reports from other institutions is submitted to Ministry of Finance. The Internal Audit Unit is an advisory body to the head of the State Probation Service. The audit unit of the Ministry of Justice as well as State Audit Office administers the lawfulness of expenditure of state money. The State Audit Office of the Republic of Latvia is an independent institution subjected only to the law that ensures control over the utilization of central and local government resources, implementation of functions set in regulatory enactments and provision of recommendations for improvement of central and local government work. Since the development of the State Probation Service in 2003 there have been two revisions organised by State Audit Office.

## **5.3 Registration systems and evaluation procedures**

Funding for the development of an information system has been allocated in 2007. According to the Strategy of Ministry of Justice it is planned to create a uniform information system for prison and probation services. The purpose of an information system is to compile data about clients and work with clients, to create automatic data compilation and to make analyses for purposes of management, evaluation and scientific work. Different types of users will have access to the information system. Currently all information about clients is stored

<sup>15</sup> Data from January 2007 State Probation Service and Prison Administration [www.ivp.gov.lv](http://www.ivp.gov.lv)

in paper files. Each client is registered and has one file that is amended if the client returns to probation service under any function. The amount of information stored in the file depends on the type and length of work. There is a lack of sufficient data to measure the effectiveness of probation work. Sentence Register under the Ministry of Interior is only partly computerised and therefore study on recidivism is not possible. Survey on judges' opinions about organisation of community work service is in process. In the coming years it is planned to organise survey on the quality of pre-sentence reports.

#### **5.4 Societal support and client's views**

A survey on society's opinion toward the State Probation Service and persons released from prison were conducted in the beginning of 2006. 1064 respondents were interviewed. The results of survey showed that 28% of Latvian inhabitants have heard about probation. 47% of respondents who have heard about the Service evaluated its operation positively. Survey also shows that people associate the name of State Probation Service with aftercare rather than with community work service, supervision or mediation. Research on organisation of community work service in Latvia was conducted in 2006. The methodology was qualitative in nature and included interviews with clients. Results showed that overall opinion of the quality of work of the probation service is related to the quality of the work of the case manager. Mostly clients view their case managers positively, especially when these case managers respect the individual needs of clients during the planning and enforcement of sentence. Positive and respectful attitude were also valued by clients. Public relation policy includes information of the public about activities of probation through national newspapers, local newspapers, radio and TV. The majority of information to the general public is given through local newspapers. Bigger media are mostly interested in probation service activities when some loud cases – like sex-offences against children happen.

#### **6 PROBATION CLIENTS' RIGHTS**

The rights of the clients are included in several legal acts including Law on State Probation Service and Sentence Enforcement Code. A probation client has the right to request and receive information regarding the implementation procedures of the judgment of a court or decision of prosecutor, to request and receive information regarding possible assistance, to request and receive information regarding his or her rights, to utilize the social behaviour correction services offered by the State Probation Service and to apply for and participate in social behaviour correction programs. All procedures that relate to third parties (clients) must be set in the By-laws of cabinet of Ministers. Currently there are twelve by-laws under development. That means, in the future probation clients will have a clear understanding about how the process of enforcement of sentence or other activity of the Probation Service must be organized. According to Sentence Enforcement Code persons with suspended sentence have the right to get acquainted with the supervision plan, submit complaint to higher official

about unlawful action of a probation officer and to request the change of probation officer.

General orders of complaints against acts of state officials are set in the Administrative Procedure Law. This applies to the State Probation Service, as it is an institution of State Administration. Each decision made by a probation officer must include information about order and time limits for appeal. These procedures are also included in by-laws on probation (For example, regulation of the cabinet of Ministers on the organization of Community Work Service). A complaint against a probation officer is filed in the following order: head of the State Probation Service, Ministry of Justice and administrative court. In cases specified by Criminal Procedure Law, a sentenced person can submit complaint to a general court. Aside from the procedures described above, any private individual has the right to apply to the Ombudsman's Office with a submission or complaint. The Ombudsman's Office is a new institution created in 2007. Prior to that, the State Human Rights Office performed the functions of the Ombudsman. There have been no complaints against actions of State Probation Service up to now but a remarkable amount of complaints have been submitted concerning circumstances in Latvian prisons.

The Personal Data Protection Law protects the fundamental human rights and freedoms of natural persons, in particular the inviolability of private life, with respect to the processing of data regarding natural persons. All probation officers make a commitment in writing to preserve and not disclose personal data in an unlawful manner. Law prescribes duty not to disclose the personal data even after termination of legal employment or other contractually specified relations. The only exceptions to disclosure of data are those permitted according to law. One example would be during the investigation of a criminal case, when the probation service would disclose data about clients to the police.

In Latvia there are laws that guarantee free legal aid. The state covers legal expenses in civil, criminal and administrative cases. For one case, the state covers the following expenses: legal aid for three hours, preparation of legal documents (no more than 3 documents), and legal representation in court (no more than 40 hours). To obtain free legal aid in civil and administrative cases, a person needs to submit an application to the legal aid administration. In criminal cases, the person should go to the police, court or prosecutor to ensure that legal aid administration covers all expenses. An application sample for free legal aid can be found on the legal aid administration web page – [www.jpa.gov.lv](http://www.jpa.gov.lv) or go to their administrative office in person. Persons can also get legal advice from the municipality.

In conformity with the Criminal Procedure Law, offenders have the right to access the services of an interpreter when he/she is formally accused. Interpretation of mediation process is also available and this right will be set out in the Regulations of Cabinet of Ministers under development. Most probation officers are fluent in Russian; therefore communication with Russian speaking clients is simplified. All documents shall be written in the state language – Latvian. There are no specific provisions on translation except mediation.

## **7 NEW DEVELOPMENTS**

There are several areas of reforms that may influence operation of the State Probation Service in Latvia. These new initiatives are included in the Strategy of the Ministry of Justice for 2007-2009. Review of the criminal sanction system and drafting of the concept paper punishment system is taking place in 2007. The outcome of new policy is not clear yet, but it is aimed to provide more possibilities for combination of different sanctions, invent new additional punishments – different restrictions and probation supervision. That means a shift in numbers of probation clients and development of new procedures. Another issue under discussion is the implementation of bail supervision that would be carried out by the State Probation Service. This reform will not be started before 2010. The State Probation Service is anticipating an increase of workload due to the reform of suspended sentence. In 2006 the Cabinet of Ministers adopted a concept paper that reduces possibilities for judges to implement suspended sentence. Furthermore it will prolong maximum probation period from 3 to 5 years. This reform was partly a result of some loud court cases showing that the punishment system is too flexible and therefore too soft. If the concept will be implemented the number of sentenced persons in prisons may increase and in the long run also in probation (due to long periods of supervision).

The concept paper on resettlement work in prisons is elaborated to provide an introduction of social workers, psychologists and programs in prisons. Probation officers will deliver programs. With this reform probation service will start work with the prisoner from the first day of his sentence. To implement this reform new staff members for probation service will be necessary. Creation of an information system for probation service will ease the file processing system and will ensure compilation of data about clients. Furthermore, analyses of results of probation work will be possible. The contract on creation of information system has started and it must become partly operational by the end of 2008. In the future the Ministry has planned to unify information systems of State Probation Service and Prison Administration. Due to several cases when young children were sexually abused and killed by strangers there have been new and emotionally charged discussions about possible solutions to protect children from sexual violence. The main solutions media and members of parliament have focused on so far are public sex-offender register, lifetime imprisonment and electronic monitoring. The proposal of amendment to law concerning introduction of a public register has been submitted to parliament by some members. Currently the Ministry of Justice and the Ombudsmen Office are organizing debates on possible alternative solutions that would include prevention, treatment and revision of sanction system in order to prolong supervision if necessary.

A significant influence on the development of the State Probation Service is related to inflation and the implications of the Latvian government's plan for cutting inflation. The Latvian economy grew by 11.9 percent in 2006. Inflation has grown to 8.5 percent in March 2007. Due to rise of economy and lack of working force in the country salaries at probation service have become inadequate, especially in Riga and some other bigger cities. Included in the plan are a limitation of public sector salary increases and the creation of new staff

positions. Therefore, the implementation of continued reforms as provided in the strategies of Ministry of Justice and State Probation Service is uncertain.

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J. Wheeldon and T. Sanford, *Toward Integrated Community Justice in Latvia* in University of Latvia Law Journal, Fall 2002

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## ANNEX 1

### Criminal Statistics

**Table 1.1: Input offender statistics<sup>16</sup>**

	2004	2005	2006
Deprivation of liberty	3 366	2 672	2 701
Suspended sentences, from them:	7360	6421	4750
<i>Deprivation of Liberty</i>	7 069	6 102	4 550
<i>Arrest</i>	0	2	0
<i>Community work service</i>	106	133	94
<i>Fine</i>	185	184	106
<i>Arrest</i>	4	4	5
Confiscation of property	-	556	738
Community Work Service	1 439	1 608	1 865
Fine	657	541	4 628
Total	12 826	11 246	13 949

**Table 1.2: Persons released on parole**

2004	2005	2006
842	1071	941

### **2 Offender population statistics on 1 January 2007<sup>17</sup>**

**Table 2.1**

Sanction	Number of persons
Deprivation of liberty	4744
Suspended sentence	4041
Parole supervision	557
Conditionally released from criminal liability	319
Community work service	467

<sup>16</sup> Statistics from Court Information System.

<sup>17</sup> Statistics from State probation service and Prison Administration [www.ivp.gov.lv](http://www.ivp.gov.lv)

### 3. Staffing statistics

**Table 3.1**

Year	Total number of staff	Headquarters	Local offices
January, <b>2004</b>	25	8	17
January, <b>2005</b>	44	15	29
January, <b>2006</b>	259	61	198
January, <b>2007</b>	413	72	339

The number of staff of local offices will grow, it is planned to employ around 80 probation officers till the end of 2007. 48 employees' left probation service in 2006. In 2007 this amount increased to 50 persons from January till June. Main reason for big turnover is low remuneration, but there are other factors of psychological nature. In 2007 average salary of probation officer in Latvia was 540 Euros.