



Probation in Europe

Romania

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The European Organisation
for Probation

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1. Introduction

1.1 Probation organization

Probation in Romania is running under the authority of the Ministry of Justice. In general terms, probation system is responsible for implementing the non-custodial sanctions at national level but also for assistance of certain types of victims of crime (especially psychological assistance). More detailed, probation system is responsible for a various range of tasks and activities (starting with drafting pre-sentence reports and ending with psychological counselling of victims of crime / inside the community, in court or in penitentiary / individual or in partnership) and offenders with different age, gender and status (minors and adults / females and males / indicted and convicted persons / with custodial and non-custodial sentences / conditional released or pardoned persons etc.).

Probation system is the only organisation responsible for probation around the country even it cooperates with local NGOs and other governmental agencies. The situation is different for the victims of crime, more agencies, public services and intergovernmental organisations (e.g. National Agency against Human Trafficking, International Organisation for Migration) being involved in assistance and protection of the victims of crime.

1.2 Probation activities in a nutshell

Probation activities in Romania might be distinguished by two characteristics: they are numerous and they are various. Since 2001 when the system has started-up to nowadays many of the secondary activities were added by the law to the main ones. Consequently, the portfolio of probation duties has become large and diversified, sometimes with activities not very well tailored to probation. In order to ensure a systematic approach these activities should be split in core activities and secondary activities.

The core activities provided by the Law no. 129/2002 for approving and amending Governmental Ordinance no. 92/2000 (GO no 92/2000) regarding the structure and functions of probation services are:

- a. writing evaluation reports (rom: “referat de evaluare”). An evaluation report could be a pre-sentence report required by the prosecution or by the court before or during the trial or an after-sentence report required by the court during the supervision period. First type of evaluation report consists mainly in a social and criminological analysis of the offender and his or her offence and its aim is to assist the prosecution or the court in personalising the measure or the sanction that should be imposed on the offender. The second type of evaluation report borrows certain elements from the first one but the focus is moved on the achievements and the behaviour of the offender during the supervision period.
- b. supervising the offenders in the community (rom: “supravegherea persoanelor condamnate in comunitate”). This is a process of monitoring how convicted persons comply with the supervision measures and fulfil the obligations imposed by the court. The main method of control take the shape of the meetings with the offender at the probation office, when the probation counsellor verify for the changes related to the personal situation and requests different types of documents that could prove the real condition of the offender. Probation counsellor cooperates

also with police and other public institutions or makes home visits.

- c. providing upon request assistance and counselling for convicted persons (rom: “asistentă și consilierea persoanelor condamnate”). This is a process of offering support for social reintegration of offenders. The philosophy behind it is that control without care is not effective and once the criminogenic needs are covered the offender is more likely to stop offending. Assistance and counselling could be provided upon request to offenders under probation supervision, to inmates during detention and also to conditional released or pardoned convicted persons with their consent.

The secondary activities are provided by various laws and comprise a long list of duties and responsibilities as is follow:

- a. offering psychological assistance and other forms of assistance to certain types of victims of crime (especially for the victims of violent crimes). Although, this is one of the main activities according by the law, in fact it is very poorly represented in the statistics at national level.
- b. participation to the conditional release commission in detention places. The probation counsellor has the duty to analyse the personal files of inmates proposed for conditional release together with the members of the commission, to check if the conditions for release are fulfilled and to express his opinion regarding the acceptance or refusal of conditional release. Even it is not a main activity it consumes a lot of resources.
- c. participation in court upon request when minors are subject of criminal cases. The court must to summon the probation service in the cases with minors but the presence of a counsellor into holding court is not mandatory.
- d. providing reports for minors in conflict with the law but not legally responsible (under the age of 14). The court asks for this kind of report in all the cases when a special measure of protection is needed.
- e. participation in some cases when the hearing with victims or plaintiffs takes place at the prosecution or the court level.

1.3 General remarks about the implementation of Probation Rules

Generally speaking, probation activity in Romania complies with the European Probation Rules adopted by the Council of Europe in Rec. (2010)¹ (hereinafter EPR). However, in order to reflect more effectively the Council of Europe recommendations and also the new changes in the Criminal Code (due to come into force in 2013), Ministry of Justice launched for public debate two important draft laws: The law concerning the organization and the functioning of the probation system and The law regarding the execution of punishments, educative measures and other non custodial measures imposed during trial. One of the most important changes that will be introduced as recommended in the EPR is the integrated concept of supervision as an interlinked process of control and assistance. The current legislation operates an artificial distinction between these two to as separate activities.

2. Historical Development of the Probation System

2.1 History from the origins to 2008

From the historical point of view a few developmental stages could be observed:

1936 – 1991: the first ideas regarding the offenders' rehabilitation were introduced in the Romanian legislation under the influence of the humanitarian movement striving to improve the treatment of offenders and especially the inmates' life. Ideas like educating the inmates or assisting them after release were introduced for the first time in the Romanian legislation in 1874 by the Law of prison regime. According to this law each prison had to set up a "supervision committee" ("societati de priveghere") with the explicit aim of educating the inmates and assist them after release. This idea was emphasised also in the Criminal Code from 1936. At the article 50 of this Code it was stated that each county court will co-ordinate the activity of a patronage society (NGO) ("societate de patronaj") responsible for the social reintegration of ex-inmates especially of minors ex-inmates. That was a real after care service in a modern sense meant to deal with "la crise de la liberation". Art. 65 of the same Code regulated the suspended sentence for the first time in the Romanian legislation being used mainly to suspend short-term imprisonment. In regulating this new juridical institution, the legislative body adopted the French way ("la loi de sursis", "sursis a l'execution") of suspending the execution of imprisonment and not to suspend the application of the sanction as in other countries. The idea of suspended sentence after the conviction remained in the Penal Code of 1969 and it was extended in 1992 to another form of suspended sentence – suspended sentence with supervision (rom: "suspendarea pedepsei sub supraveghere").

1991 – 2000: in 1991 the General Administration of Prisons came under the authority of Ministry of Justice (previously Ministry of Interior coordinated it). From 1994 to 1997 the crime rate increased significantly from 421 to 496 per 100,000 inhabitants. Due to the limited range of sentences and also to the sentence patterns the custodial rate was one of the highest in Europe. According to World Prison Population (Home Office, 2000) the average prison rate for Europe was for the same period of time about 85 per 100,000 national population whilst Romanian prison rate was 225. The immediate implication of that was that the prison system faced a lot of human rights and administrative problems, the most important one being the overcrowding. As a consequence of this situation the Ministry of Justice started in 1996 to promote a more creative way of implementing justice.

One of the first measures was to initiate an experimental centre of probation in the prison of Arad (a medium-sized city in the West part of Romania). This experiment brought together civil society, General Administration of Prisons, local courts and local authorities. The intention was to test some elements of probation (e.g. pre-sentence reports, supervision in the community) in the existing penal and social context of Romania. From the very beginning the experiment was supported by Know How Fund of UK. In 1998 the assistance of Department for International Development/Know How Fund progressed further through the "Probation in Romania" project which had the aim of working with the Ministry of Justice to establish probation on a national level. As a result, by the end of 2000 eleven experimental probation centres had been established in Romania, all of them coordinated by a probation department within Ministry of Justice (since September 1998)¹.

1 Durnescu, I. (2008), 'A History of Probation in Romania', in: Schiaucu S. and Canton R. (eds),

The general progress of the experiments led in September 2000 to the approval of a Governmental Ordinance no. 92/2000 regarding the organisation and functioning of the services for social reintegration and supervision of offenders (probation services). This stage of the probation development in Romania focused on the development of the infrastructure around the country. In the same year the government adopted the Government Decision no. 1239/2000 regarding the methodological norms of the Government Ordinance 92/2000. This document prescribes the specific activities of the probation counsellor, terms and conditions of the probation practice.

A turnover of organisational mission but also a major change of strategic directions of the service has been determined by the law no. 211/2004 regarding victim protection in Romania. This law has added new demands to probation system for which it had not been prepared: to offer psychological counselling and other forms of assisting to a certain type of victims of crime (for more information see the section 3.2 – *Mission and mission statement* and section 3.4 – *Victim assistance*).

Another major challenge in this period was determined by the revision of article no. 482 of Penal Procedure Code in 2007. According to this article an evaluation report had become mandatory for all cases with minors on pre-trial phase, during the crime investigation, at the request of police or prosecution. The consequences of this provision were significant. On one hand, the philosophy behind the evaluation report had been changed being no longer just a helping instrument for the court and sentencing, but a tool for the investigation conducted by police or prosecution. On the other hand, the number of requests had increased so consistently than the activity of probation services was oriented mainly on drafting evaluation reports on the context of a chronicle lack of resources. The delays in delivering evaluation report had caused in sequence delays of penal procedures at police and prosecution level. Helpfully, this provision was changed in 2008 when the evaluation report has been left mandatory for the judge in all the cases with minors but optional at the request of the police or prosecution.

In these years the probation counsellor profession has been consolidated due to legislative basis and performances either. In 2006 the status and the rights of probation personnel has been regulated by the law and highlighted the position and the role of profession in Romanian judicial system. In the same time, the police, the prosecution and the court had the occasion to establish a close professional contact with probation services, to understand better the role of them and to gather confidence in their work. This fact has been reflected in the increasing numbers of evaluation report requested and supervisions assigned to probation services.

2.2 Recent history from 2008 to 2012

This period is marked by the new Penal Code which has been enacted in 2009 but which has not entered into force. The new Penal Code involves a reformation of probation, including a new philosophy, new tasks, new procedures, new organisational needs and resources. In this respect, the last years were focused on the preparation of the whole probation system for the impact of the new code. Representatives of probation system contributed to drafting two new laws: one regards the execution of non-custodial sanctions and measures and the other one regards the organisation and the activity of probation system according to the new

Criminal Code, which are mentioned above. The provisions of these future laws and of the new Penal Code were appraised in regional training sessions for local probation staff. The new law regarding reorganisation of national probation system provides a significant development of probation system which mainly supposes attaining the autonomy, creation of specialised departments and functions at central level, increasing the number of offices at local level, recruitment and specialising the personnel (for more information see section 10 – *Developments to be expected*). In the same time it has been estimated the needs related to human, administrative and financial resources.

Besides these preparations many other measures and actions have been adopted in order to improve the probation activity at national level. Implementing new programs and techniques of working with offenders, improving the inspection methodology, introducing and revising different regulations and procedures, developing staff appraisal in probation services, consolidating the strategic management etc. should be mentioned here.

3. Legislative Basis of the Probation System

Relevant Probation Rules

Both sets of legislation – the current and the expected one – state that the aim of probation system is public safety through reducing reoffending. Although control and care are mentioned as parts of the probation supervision the latter could be more strengthened. For instance, there is no express regulation mentioning that probation counsellors should develop positive relationship with offenders. However, there are other regulations mentioning that supervisions should be conducted in the light of human rights or avoiding discrimination on any ground. Furthermore, there are also norms referring to the continuous support that should be given to offenders by the probation staff.

The professional competencies and the links with other organisations or institutions are fully described in the primary and secondary legislation. The involvement of volunteers is regulated in the law and it takes place especially in the large cities. The participation of probation services in the local crime prevention strategies is possible but takes place on an ad hoc bases (for more information see the section 3.5 – *Volunteers involvement* and section 3.3 – *Crime prevention*).

Probation service in Romania is one of the few that provide direct services to victims (psychological assistance) therefore the place of victims is well recognized. The new legislation provides that in some circumstances the victims shall be informed about the measures or the obligations imposed on the offenders (for more information see the section 3.4 – *Victim assistance*).

3.1 Legislative Basis

The base for the main probation activities is ensured by certain provisions of Penal Code and Penal Procedure Code. For adults, Penal Code provides suspended sentence under supervision as alternative to the execution of the sentence in prison. During this period the defendant has to respect certain measures and obligations

and the supervision of these is included in the tasks of probation service. The Penal Code entitles the sanctions for minors which are related to probation also. In this respect, probation service has to supervise the compliance with three obligations which could be imposed to the minors (including unpaid work) when they receive the educative measure of supervised liberty or suspended sentence under control or supervision. On the other side, Penal Procedure Code makes provisions for the request of evaluation reports. The evaluation reports (in this case pre-sentence reports) could be requested for adults only by court and are mandatory for minors at the request of prosecution or court, when there is no a report which had been asked by prosecutor.

The legislative milestone for Romanian probation system is Law no. 129/2002 (approving and amending GO no. 92/2000). This law sets up the structure and functions of probation system in Romania and it comprises provisions about the organisational mission, principles, tasks and competences, organisation, coordination and control of probation services. The scheme, responsibilities and functions of Probation Department - which ensures the coordination and control of probation services - are detailed in a specific ministerial order.

The next most important piece of legislation is the Government Decision no. 1239/2000 which provides the methodological norms for the Government Ordinance no. 92/2000. This act stipulates in details when and where a specific probation service is competent, when and how an evaluation report should be written and delivered, how the supervision has to be conducted in dependence on the sanction imposed by the court and how assistance and counselling must be offered. In the annex of this regulation formats for the evaluation report and for the supervision plan are produced (see format probation documents). Being the main base for the practice of probation services this decision is the most used and popular act.

The Law no. 211/2004 comes with new tasks for the probation services regarding the victim protection. Accordingly, probation services have to provide psychological counselling and other forms of assistance to a certain type of victims of crime (for more information see the heading no. 3.4 – *Victim assistance*).

The activity of probation services in detention centres is especially regulated by the Law no. 275/2006 regarding the enforcement of sanctions and other measures imposed by judicial bodies and its methodological norms which are provided by Government Decision no. 1897/2006. These regulations stipulate tasks and special procedures related to the work of probation counsellor in detention centres (e.g. participation to the conditional release commission).

The last significant national acts that should be mentioned here are the Ministerial Order no. 2355/C/2008 which provides the procedure for the execution of unpaid work and the Law no. 272/2004 which entitles probation services to draft evaluation reports for minors who committed offences, but they don't have the age for penal responsibility (under age of 14).

3.2 Mission and Mission statement

Defining the mission of probation system it's not an easy task. Since 2001 when the probation system has been established in Romania till now diverse responsibilities and categories of offenders have been written little by little on the accountability list of probation.

At the beginning of probation in Romania the organisational mission was relatively simple. According to Article 1 of the Government Ordinance no. 92/2000: "In order to achieve the social reintegration of those persons who offended, maintained in liberty, as well as the supervision of their compliance to the obligations imposed by the court, services concerning the social reintegration of offenders and the supervision of non-custodial sentences, called further on social reintegration and supervision services, shall be set up under the authority of the Ministry of Justice, as specialised agencies that shall not have legal personality". Article 3 of the same act emphasizes the caring role of the service: "Upon request of the persons mentioned by article 1, the social reintegration and supervision services may provide assistance and counselling towards their correction and social rehabilitation." These two articles describe the concept of social reintegration in the light of the probation law: a mixture of surveillance and assistance. The amendments which have been brought to the Government Ordinance no. 92/2000 by Law no. 129/2002 include also referrals to the mission of the organisation. According to the Article 1¹ probation services should aim to social reintegration of pardoned offenders (minors and adults). These mentions could be valued partly as a mission statement since it covers the aims of this service in relation to its beneficiaries: "to achieve the social reintegration of offenders".

Even it's not expressly mentioned in any regulation, probation services had become a significant support in sentencing by providing valuable information to the courts / judges through evaluation reports on trial stage.

The major turnovers of the mission have been caused by two main regulations. The first one is Law no. 211/2004 regarding some measures to ensure the victims' protection which places the victims alongside the offenders. Anyway the initial mission statement has implicitly been changed and the message "victims' assistance" has been added to the first ones: "social reintegration of offenders" and "sentencing support". The second turnover is represented by the amendment of the article no. 482 of Penal Procedure Code. Accordingly, an evaluation report had become mandatory for all cases with minors on pre-trial phase, during the crime investigation, at the request of police or prosecution. As a result, the evaluation report had become more than a sentencing support as has been consecrated. For the police and prosecution the evaluation report was seen more like a social enquiry report for minors in order to comply with a legal procedure than used and valued in taking a legal measure on pre-trial phase. In 2008 the situation has been changed and the evaluation report has been left mandatory only for the judge in all the cases with minors but optional at the request of the police or prosecution.

The most comprehensive mission statement is found in the law regarding the status of probation staff. The Article 6 of this law asserts: "The scope of probation counsellor occupation is increasing the public safety through counselling of victims

of crime, promoting alternatives to detention, crime prevention, reducing the risk of reoffending and social reintegration of the persons who broke the law". Even if the counselling of victims doesn't contribute to the public safety, the accomplishment of this mission is given by the effort to bring together different activities and to focus organisational mission.

Nowadays the mission is changing. The new Penal Code brings a new philosophy especially due to its new provisions related to supervision. The control side of supervision is much more combined with assistance of offenders, which it's not seen anymore as a separate activity. From this point of view the supervision process supposes a more integrated approach.

The main principles which came to complete the mission statements of probation in Romania are settled down for the first time by the Government Decision no. 1239/2000:

- a. complying to the law and sentences;
- b. observing the human rights and non-discrimination;
- c. encouraging and assisting convicted persons to obey the law.

Other principles provided by specific regulations are confidentiality, self-determination and respect for the dignity of offenders.

These principles are reaffirmed and enforced by European and international recommendations and rules regarding both custodial and non-custodial sentences, minor and adult offenders and victims (e.g. Europe Probation Rules).

At high level the priorities and strategic directions of probation in Romania are given by government policy through Minister of Justice but the Probation Department has gained sufficient autonomy in this respect. Every year Probation Department proposes to the Minister a national development plan. This plan is followed by probation services in their process of development the local action plans.

3.3 Crime Prevention

Crime prevention could be approached at different levels: primary (by criminal law), secondary (by specific activities delivered in order to prevent the committing of an offence) or tertiary (by measures which limit the risk of reoffending). In this respect, primary and secondary levels of prevention are not covered by probation activities but the probation services have the mission to contribute to the public safety through the control and assistance interventions supposed by the supervision process. Nevertheless some probation services deliver occasionally secondary crime prevention programmes in cooperation with the police or other public institutions or NGOs in account of local partnerships and projects. These interventions take place especially in public schools. Due to high level of workload which has been registered in the recent years at national and local level, secondary crime prevention it is not established as a priority for Probation Department and probation services.

3.4 Victim assistance

As mentioned above, according to Law no. 211/2004 regarding victim protection probation service is required to provide “psychological counselling and other forms of assistance” (rom: “consiliere psihologica si alte forme de asistenta”). These services are available free of charge upon request for the victims of following crimes: attempted murder, bodily harm and grievous bodily harm inflicted upon a family member, rape, sexual intercourse with a child, sexual corruption of a child, bad treatment upon a child and human trafficking. Another peculiar provision of this law is that the psychological counselling is limited in time - up to three months for adult victims and up to 6 months for children - but the law provides for the probation service the possibility of cooperating with NGOs for offering other forms of assistance to victims. Although the procedure is not defined for all kind of victims, these NGOs could apply for grants to the state budget. Apart from this form of assistance, victims are entitled to receive information, financial compensation and free legal aid from entities mentioned in the law.

The police officers, prosecutors and judges provide information regarding the rights of victims and the criminal procedure. Free legal aid is provided for the victims of a restricted category of violent crimes (attempted murder, bodily and grievous bodily harm, rape and sexual intercourse with a child) and depends upon the income of the victim.

Financial compensation is available for the victims of the same categories of violent crimes and can consist of up to ten times the minimum salary per month. Free legal aid and financial compensation are approved by a special commission of the county court and are available also to the dependents and relatives of the victim whose death is caused by a violent crime.

In order to encourage victims to report crimes the last two services are available only if the victims report the crime within 60 days from the crime date. Apart from this law there are other laws regulating different services available for different categories of victims (ex. domestic violence, human trafficking etc.). All these services are delivered by independent government agencies which should cooperate in this respect. In the end victims are entitled by the law to benefit from a number of services but there is not one single agency or organisation to represent their rights.

At that time of implementation and even nowadays the capacity of the service to respond to these requests was limited in terms of competences and resources (e.g. a lack of staff with psychological or social work background or a lack of offices). Probation staff has not been specialised in delivering psychological counselling because this activity is strictly regulated by Romanian Psychological Association but has been trained on inter-agency cooperation at local and national level. On the base of the same national projects, workgroups have been established locally (at county level) and centrally (at inter-ministerial level) in order to implement the provisions of this law. These working groups have been coordinated by probation services / Probation Department. Nevertheless, in the absence of a psychological training, probation services have avoided offering psychological counselling to certain victims of crime and have tried referring victims to proper agencies which have resources and competences. This solution highlighted the need of a coherent and integrated

approach of all kind of victims in Romania. In this respect, Ministry of Justice has invited to a debate all agencies involved in this issue in order to find a proper solution for the victims in Romania and is expected that regulatory framework to be revised on the medium run.

3.5 Volunteers involvement

Romanian probation system has developed a close relationship with volunteers and volunteering has been seen as a way to involve community in probation activity since the beginning of its organisation. According to the provisions regarding volunteering and volunteers, which can be found in the most important regulations of probation activity in Romania, the social reinstatement of offenders involves community and probation counsellors might cooperate with volunteers in delivering programmes for convicted persons.

In 2002, based on a ministerial order, volunteering had become a way to train the future candidates alongside special training courses and master programs held by the main public universities from Romania. Gradually, volunteering had become the most facile, practical and straight path to train the future applicants. After 150 hours of volunteering in a probation service (which included a theoretical course) the volunteer would receive a certificate that conferred him or her right to participate to future contests. Due to a lack of eligible applicants for the hiring contests this condition had been eliminated and the number of volunteers had significantly decreased. In spite of this fact the volunteering has remained an attractive activity for citizens. In 2010 a number of 118 volunteers were registered in probation services (approximately one volunteer for two probation counsellors, excluding chiefs). In the recent years probation services had celebrated “Volunteers’ Days” through organising diverse events.

Volunteering in probation services is generally regulated by the Law no. 195/2001 which provides definitions and principles of volunteering, prohibitions, rights and obligations of volunteers and other norms. But the conditions and procedures of working with volunteers in probation activity are provided by a specific guide drafted by Probation Department. This guide comprises settlements regarding relevant national and international regulations, recruiting, selection, training and assessing of volunteers, limits of responsibility and competence etc.

Volunteering in Romania has certain advantages. The high workload that has registered by probation services has permitted to transfer some tasks to volunteers and to involve them in activities which request low competences and risks, especially administrative ones. Recruiting and training of the future candidates could be improved also because it offers to volunteers the chance to see directly how the work with offenders is and to develop a set of knowledge and abilities through practice. Volunteering is as well a way of promoting a clear public image of probation services and to involve community in probation activity too.

On the other side volunteering meets some disadvantages and difficulties. Because probation services have no control of finance there is no possibility to reimburse the expenses which had been made by volunteers (e.g. transportation, lunch, social insurances). Another issue is related to the training of volunteers. Some volunteers have no background in law or social sciences and they don't know much about

probation. In this situation an intensive training is required even for individuals. The duties of volunteers are also limited because the high responsibility supposed by probation activities which are entitled by law only for professionals.

4. The Organization of Probation Services

Relevant Probation Rules

Overall, probation service in Romania complies with the requirements set out in the EPR. Staff is recruited following a contest among five categories of educational background: law, social work, psychology, sociology and pedagogy. After being appointed, they follow one year of supervised practice and also induction training that take place according to the existing resources. During their career probation officers are expected to attend different courses that would enhance their professionalism. However, most of these courses were organized and delivered within different European programs and Ministry of Justice has no distinct budget for training of probation counsellors (apart from co-financing). Looking at the workload one could estimate that at the national level the staff/activities ratio is a reasonable one. Yet, at the regional or county level this ratio could be better balanced. For instance, there are services with 120 supervised offenders per one staff and there are other services with 50 cases per one staff. Cooperation with the court is considered to be very good.

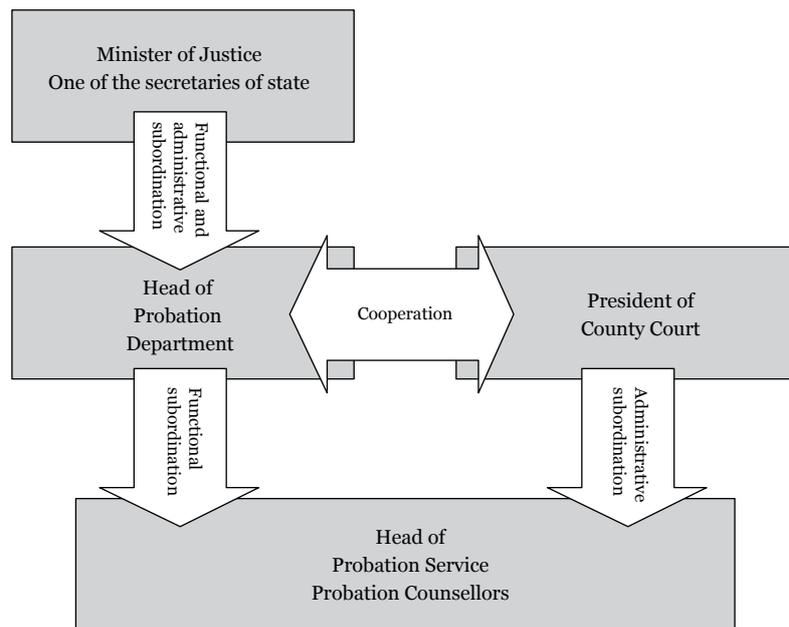
Nor the current legislation nor the future one includes special provisions on working with foreign nationals because the same procedure is applicable for foreigners too. However, the non-Romanian speakers have the right to use the services of the court interpreters free of charge.

Regarding the use of community sanctions for Romanians committing offences in other countries, Romania runs an European project together with Ireland and Italy to find ways to enhance the application of the Framework Decision JHA/947/2008.

4.1 Main characteristics

The probation activity in Romania is coordinated at national level by a specialised department within the Ministry of Justice. Probation Department it is not an autonomous organization being functionally, financially and administratively coordinated by the head of Ministry of Justice and reliant on other departments, without legal personality, distinct budget and specialized departments and personnel to ensure the organizational management. Roughly, Probation Department is responsible for coordination and controlling of 42 probation services, one in every county and in the capital city. Probation services have been assigned to every county court (tribunals) but haven't got legal personality being administrative reliant on tribunals (payments, consumable items etc.). Every service has a bureau (secondary office), most of them near a local court within the concordant county.

Figure 1:



4.2 Internal organization

Probation Department and probation services form together the probation system. Probation Department ensures the human resources management, coordination and control of probation services and it has a director appointed by the minister. The other staff is composed by legal advisers, probation inspectors and public servants. Probation services (42) are assigned to every county court. The personnel of probation services are composed by a chief, appointed for a four years mandate after a contest, and probation counsellors. Chiefs are recruited among probation counsellors and ensure the management of probation services. Probation counsellors work effectively with offenders and victims.

The feeble establishment of probation in Romania in 2001 was reflected on internal organisation, characterised by formal lack of specialisation both at central and local level. As is mentioned above, especially because the small number of staff, Probation Department have no sub-departments and specialists for different kind of management functions (e.g. human resources) and probation services have no administrative staff or staff with narrow duties and responsibilities (e.g. staff specialised in supervision of offenders). But the fast organisational growth which has been registered in the last 10 years has determined the requirement of changing the present institutional structure into a new one, more adapted to the present and future organisational needs. The draft law regarding reorganisation of national probation system provides a significant development of probation system (for more information, see the heading no. 10 – *Developments to be expected*).

4.2.1 Probation workers

The Law no. 123/2006 regarding the professional status of probation personnel defines the categories of probation staff. According to it at central level probation staff is represented by probation inspectors, which are in fact probation counsellors who had applied for this position and had passed a contest, and by director of Probation Department, who might be recruited among probation staff. At local level probation staff comprises chiefs (one for every service) who are probation counsellors that had applied and had won a competition and probation counsellors who are appointed by the Minister after a national contest. Within Probation Department there are 7 probation inspectors (including the Director who is in fact probation inspector at the moment) and in probation services work 243 probation counsellors and 42 chiefs. The director ensures the management of probation system and has under its direct subordination probation inspectors who assess the activity of probation services and chiefs who manage the probation services and local teams.

Even at local level probation counsellors are not formally specialised in delivering a single task (e.g. supervision of offenders), in fact they are appointed by chiefs to respond to certain duties and responsibilities as coaching, informational management, public relations, delivering different types of programs, developing functional relations with public institutions or NGOs etc.

Probation services have no support or administrative staff and Probation Department has 2 employees (public servants) with administrative or secretarial duties.

Table 1. The staff structure

Number of staff	294
Management staff	43 (head of Probation Department and chiefs of probation services)
Executive staff	249
Supporting staff (e.g. secretary, bookkeeping staff, ICT staff etc.)	2

In order to become a probation counsellor one should meet the following requirements:

- to have the Romanian citizenship or to be citizen of European Union having residence in Romania;
- to have a complete capacity of exercise;
- to be able to read and write in Romanian language;
- to be medically and psychologically able to carry out their responsibilities, as certified by a specialised medical and psychological expertise;
- to not have been convicted for an offence that will make them incompatible to the exercise of any probation positions and to have a good reputation;
- to have an academic degree in Social Work, Psychology, Sociology, Pedagogy, Law;
- to win the contest for the position he or she applied for.

Probation counsellors who would apply for an inspector or a chief position should

meet certain conditions regarding experience, professional rank, remarkable achievements or results and good conduct.

4.2.2 Education, training requirements and opportunities

Recruiting, selection and training of probation staff are a matter of strategic management. Probation Department has an “Educational and Professional Development Strategy (EPDS)” which is based on cooperation with universities and is revised annually. Because the applicants for a probation counsellor position have no longer the need to meet special conditions (as graduating a master program or attending to a special course or training) Probation Department cooperates with academics in order to adapt the educational curricula of courses held in universities to the real educational needs of the candidates and future probation counsellors. Also the student might practice within a probation service and the trainers of probation system are available for the preparation of students based on seminars held at universities.

For new incomers intensive induction training is usually delivered. This training focuses on the main activities of probation: drafting evaluation reports, supervising the offenders in community and assistance of convicted persons. This induction training is completed during the first year by coaching and appraisal activities delivered by chief or an experienced appointed counsellor as staff supervisor. The continuous training comprises various courses delivered accordingly with the training needs identified according to the annually assessment. These training sessions suppose a specialisation in the field of probation (e.g. delivering different types of programs for working with offenders).

Many training sessions were delivered within international programmes (especially through PHARE and MATRA projects) by foreign experts but in the last years this fact has become to change. Romanian probation system prepared trainers in the unstructured and structured intervention (e.g. motivational interview or individual and group programmes for offenders) and the sessions are delivered with the financial support of Ministry of Justice and county courts.

4.2.3 Other organizations involved in probation work

Probation system is the main organisation in charge with writing evaluation reports or supervision of offenders but certain tasks are based on cooperation with other agencies. As an example, the direct supervision of minors to whom had been imposed the obligation of unpaid work is ensured by employees appointed by the head of the public institution in which the unpaid work is deployed. Probation services cooperate also with police offices, penitentiaries, centres for drug addicted persons or with mental health issues, local social services and others especially for the supervision of offenders or assistance of victims and convicted persons.

Probation in Romania is promoted and supported by two professional organisations – National Union of Probation Counsellors within Probation Services and Romanian Association of Probation.

4.3 Probation and offenders abroad

Probation services supervise few offenders of foreign nationality and it's supposed that Romanian offenders are supervised by probation services from abroad². However in the light of Framework Decision 2008/947/JHA (FD), Romanian probation system initiated and applied for an European grant in order to facilitate implementation of its provisions based on cooperation with probation services from Ireland and Italy. This partnership was especially justified by the high number of Romanian nationals which have been convicted in Ireland and Italy and served their sentences under the probation supervision. In the same time Romanian Ministry of Justice has drafted the law for transposing the provisions of FD in the national legislation. This draft is under public debate now³ and it is expected to enter into force in 2014.

5. Different Stages of the Criminal Justice Process⁴

Relevant Probation Rules

Apart from delivering the evaluation report (similar to pre-sentence report in other jurisdictions) probation service makes no intervention prior to establishing the guilt. The evaluation report is submitted for all juveniles in conflict with the law. Prosecution or the court could also demand an evaluation report for adult offenders. The offender's consent to this activity is not required. If he or she does not consent to the evaluation report, the probation service will still draft the document mentioning the lack of cooperation from the accused or defendant. In this situation, the report does not contain the information regarding the factors which might influence the offender's behaviour and regarding her / his social reintegration perspectives. If the offender cooperates, his/her views are reflected within the report. The report's content may be challenged in front of the court. Community sanctions and measures are imposed through the suspended sentence mechanism (for adults and juveniles) and supervised liberty (for juveniles). The consent to community sentence is rather assumed. If the convicted person will not execute the community sentence (including community service), the initial prison sentence could be activated. For the juveniles who do not comply with the requirements set out in the supervised liberty, the court could impose the next educative measure – the internment in the re-educative centre. Community service can be implemented in public institutions or in NGO's with no profit orientation. Activities are selected among the ones that are adapted to the characteristics of the offender. There is no electronic monitoring yet in Romania. In the light of the new Penal Code, probation services are required to cooperate with prisons in order to prepare some categories of inmates for release and also to provide pre-release supervision. Currently, due to the lack of resources the aftercare activity is not a priority for the probation service in Romania.

² No statistical data are available in this respect.

³ May, 2012.

⁴ Working with suspects and offenders, this includes actions with regard to mediation schemes and victim support schemes.

5.1 Pre-trial/remand/trial stage

The Criminal Procedure is based on due process principles including rights like: assumption of innocence, right to defence, guarantee of freedom and so on. Broadly speaking, the criminal procedure comprises three main stages: pre-trial, trial and enforcement stage.

The pre-trial stage is divided into the preliminary phase and the investigation phase. The police under the prosecution supervision conducts the preliminary phase. In Romania police has the right to retain someone up to 24 hours for investigations. After 24 hours prosecution could ask for a remand order (preventive arrest) from the court. After the police has ended the preliminary inquiry and has decided that there is a case the file goes to the prosecution. That is the moment when the investigation phase starts. At this stage prosecution deals with suspects and could ask the court to take the following preventive measures: obligation not to leave town or the country and preventive arrest. In order to avoid preventive arrest one could ask for temporary release under judicial control, which means that he or she has to comply with some obligations and for temporary release on bail. The measure of preventive arrest could last up to 30 days and after that the court could prolong that period of time if the prosecution could prove that there is a case and some specific conditions are met. During the pre-trial and trial stage there are some other measures available to the prosecution or to the court. Such measures are: protection measure (if one is on remand and has in his or her care children or others the judicial institution which took the remand measure has to inform the competent institutions), safety measures (medical treatment or hospital treatment), assurance measures (distract of movables and seizure of real estate), return of objects and rehabilitation of the situation anterior to crime.

After the prosecution service has finished the investigation phase one of the following main decisions are available: cessation of criminal investigation (for procedural reasons like there is no complaint from the victim and that is required by the law), exemption from criminal investigation (for reasons like there is no defined offence by the law or offender is someone else or the offence is not serious enough to be considered an offence) and to submit the file to the court. At this stage mediation⁵ could diminish the number of cases going to the court and save people from the labelling process of being a convict.

5 In Romania mediation it's a distinctive profession which has been introduced in 2006.

According to the Romanian Criminal Procedure Code, the investigation and the trial when the minors are suspects or defendants is the ordinary one with some exceptions. According to article 99 Criminal Code, “any juvenile who is under 14 years old is not subject to penal responsibility. Any juvenile who is between 14 and 16 years old is subject to penal responsibility only if his action proved to have been committed with discernment. Any juvenile who is 16 years old at least is subject to penal responsibility”. If the minor is under 16 and whether the investigative body considers necessary for all the hearing or confrontations the tutelary authority or the parents or the probation service could be summoned. The trial is not public and there are special judges nominated by the president of the court who deal with these cases. In Brasov County there is also a Family County Court that deals with all civil or penal cases when juveniles are involved. In this court is not only the judge specialised in juvenile cases but all the procedure is juvenile centred (ex. CCTV, specialised prosecutor, specialised police officers, special room etc.).

According to article 484 of Penal Procedure Code, probation service is also summoned in the cases with minors. The probation counsellor has the right and the duty to point out various accounts, to make certain requests or proposals to the court. Despite these provisions, the presence of the probation counsellor in the court meeting is not mandatory.

Probation counsellor could participate in some cases when the hearing with victims or the plaintiffs takes place at the prosecution or the court level. The court has the duty to inform the victims or the plaintiffs about the right to request the presence of a probation counsellor when the testimonial is given and to ask for his / her participation.

Table 2. Sanctioning system and probation involvement in the pre-trial/trial stage

Sanctions/Measures/ Penalties/Conditions attached to a conditional decision or sentence	Provision in legislation	Probation service involvement	Main characteristics of the probation activity (e.g. supervision, coordination, reporting, referral, help & support)
Unconditional waiver by the public prosecutor			
Conditional waiver by the public prosecutor			
Conditional suspension of the pre-trial/remand detention			
Pre-trial/remand detention			

Sanctions/Measures/ Penalties/Conditions attached to a conditional decision or sentence	Provision in legislation	Probation service involvement	Main characteristics of the probation activity (e.g. supervision, coordination, reporting, referral, help & support)
Police custody	x		
Bail	x		
Caution			
Surety			
House arrest			
Electronic monitoring			
Community service			
Treatment order			
Training/learning order			
Drug/alcohol treatment program			
Compensation to the victim			
Mediation	x		
Semi-detention			
Attending a day centre			
Liberty under judicial control	x		
Interdiction to leave the country	x		
Interdiction to enter different cities/places	x		
Interdiction to carry out different activities	x		
Interdiction to contact certain persons	x		
Psychiatric treatment	x		
Deferment of sentence			
Fine	x		
Other financial sanctions			

5.1.1 Pre-trial/pre-sentence report

When the prosecution or the court needs more information about the defendant an evaluation report is asked from the probation service. For minors the report is compulsory and the absence of this document from the judicial file leads to the sentence nullification. In the cases with minors if the prosecution did not ask for a evaluation report the court must to request one from the probation service. According to the Law no. 272/2005 regarding child protection the court could also ask for an evaluation report in cases of children under the age of 14. Looking to the structure of this document and the way it is used by judiciary this last type of evaluation report is de facto a social inquiry report.

Therefore the evaluation report is a tool for sentencing and not a vehicle for promoting community measures and sanctions as in other countries. The report could be required for all kind of offenders and offences. Within 14 working days that report has to be delivered in order to assist the court in making an informed decision about the most effective sentence. The main parts of this report are: introduction, the sources of information about the defendant, factors which influence upon the defendant's behaviour and an evaluation of reintegration perspectives. Basically the evaluation report is a criminological evaluation of the defendant, his/her social and psychological circumstances and circumstances of the offence.

In the chapter referring to the defendant the report is expected to provide information about: criminal history, family and social environment, the level of education and professional qualification, the offender's behaviour before and after the offence, trigger factors and how he or she responded to previous sanctions. In juvenile cases, the report should also include issues regarding parenting. When necessary, a probation counsellor could consult specialists to assess the mental and physical health of offender.

In the chapter referring to the factors influencing the offender's behaviour, the probation counsellor has to present the ones supporting the criminal behaviour and also the ones inhibiting it. In the last chapter – an evaluation of the reintegration perspectives – probation counsellors are expected to estimate the reintegration perspectives.

The evaluation reports for adults are not submitted if the offenders couldn't be contacted. When the adult indicted person did not cooperate the report is based on available data collected from the secondary sources, with the special mention of his/her refuse. In the cases with juveniles, when the minors couldn't be contacted or does not want to cooperate, the evaluation report is written but it doesn't contain the chapters related to the factors which influence the defendant's behaviour and reintegration perspectives. Although the evaluation report should be confidential once it is submitted to the court it goes to the court file and becomes accessible for all parties involved in the case.

The structure of the report can be found in Annex no.2.

5.2 Enforcement stage

The court has on-hand three categories of penalties: main penalties, complementary penalties and accessory penalties (art. 53 Penal Code).

- a. main penalties: life sentence, 15 days-30 years imprisonment and fine;
- b. complementary penalties: 1 year - 10 years interdiction of certain rights (the right of elect and being elected in public authority or public elective positions; the right of filling a position involving the exercise of the state authority; the right of filling a position or of practising a profession which holds the nature of the one by means of which the convict committed the crime; parental rights; the right of being a tutor or guardian) and military degradation;
- c. accessory penalties: Interdiction of one or more rights presented above, but for a different period.

In individualizing the penalties the court has to consider the penalty limits provided in the law, the seriousness of the offence, the offender and the circumstances that mitigate or aggravate the criminal responsibility. In case of fine or imprisonment the court could suspend the penalty's execution. There are two forms of suspension: the conditional suspension and the suspension under supervision. According to Article 81 of Penal Code the courts could request conditional suspension of the penalty's execution over a certain period of time if the following conditions are met:

- a. the applied penalty is up to three years imprisonment or fine;
- b. the criminal has not been previously convicted to more than 6 months imprisonment, except for when the previous convictions are from the childhood or are pardoned or the offences done and convicted for are not included in the law any more or were not done with intention;
- c. the purpose of the penalty can be reached without its execution.

The duration of the conditioned suspension of the penalty's execution constitutes a test for the convicted and it is made up of the applied imprisonment penalty plus 2 years adjoined to that. If the penalty which execution was suspended is a fine, the test term is one year. During this period the only obligation of the offender is to not commit another offence.

The suspended sentence under supervision was introduced in the Criminal Code in 1992 and is regulated by art. 86 Penal Code. The application of this article is possible if the following conditions are met:

- a. the applied penalty is up to four years imprisonment;
- b. the criminal has not been previously convicted to imprisonment more than one year, except for the cases in which the conviction makes the object of one of the cases provided above at letter b from the conditioned suspension;

- c. considering the convicted, his or her behaviour after the perpetration of the crime, the pronouncement of the sentence may constitute a warning and, even without the execution of the penalty, the convicted will never perpetrate a crime.

The probation period in the case of suspension of the penalty's execution under supervision is made up of the applied imprisonment penalty, to which an interval between 2 and 5 years are added, according to the court's decision. During the probation period the court must impose upon the convict the following supervision measures (art. 863 Penal Code):

- a. to come, at the fixed dates, to the judge appointed with the supervision or to probation service;
- b. to announce, in advance, any residence change and any travel which exceeds 8 days, as well as the date of coming back;
- c. to notify and justify the change of the job;
- d. to communicate information which could enable the control of the means of existence.

The court could also impose upon the convict one or more of the following obligations:

- a. to perform an activity or to attend a training or academic course;
- b. to not change the address or residence or not exceed the established territorial limits but under the terms fixed by the court;
- c. to not attend certain established places;
- d. to not contact certain persons;
- e. to not drive any vehicles or certain vehicles;
- f. to comply with the treatment or assistance, especially in the case of detoxification.

Regarding the first obligation in line some judges interpret it as a community service.

The sanctions available for minors are punishments and educative measures. The punishments are imprisonment and fine. The minimum and the maximum term for that offence perpetrated by the child is half and the sanctions are executed in special places, separately from adults. The imprisonment could be also suspended.

The educative measures are: warning, supervised liberty, confinement (or internment) to a re-educational centre and confinement to a medico-disciplinary institute.

Supervised liberty consists in leaving the child one year of freedom, under special supervision. The supervision can be given, depending on the case, to the child's parents, to the foster parents or to the tutor. If they cannot ensure satisfactory supervision, the court may request temporary appointment to a reliable person, preferably to a close relative, upon this relative's request, or to an institution legally appointed for child supervision. The court may order the child to comply with one or more of the following obligations:

- a. not to attend certain places;
- b. not to get in touch with certain persons;
- c. to perform community service, with a duration between 50 and 200 hours, 3 hours per day at most, after the school, during weekends and holidays.

The educative measure of confinement into a re-educational centre is taken for the child's re-education. The juvenile is provided with study opportunities and with professional training in accordance with his aptitudes. When the physical or mental situation of the minors requests a special medical or educational regime, the court could impose the educative measure of confinement into a medico-disciplinary institute. The confinement into such centres applies in case the other educative measures are not enough.

In this stage the role of probation is to enforce the non-custodial sanctions by supervising the execution of the measures and the obligations imposed by the court to offenders (adults with suspended sentence under supervision or minors with supervised liberty or suspended sentence) and delivering assistance upon request. In order to supervise the execution of sanctions and to support the social reinstatement of offenders probation counsellors cooperate with other public institutions (e.g. Police, city councils, social services) or NGO's.

Another role of probation service during enforcement stage is to draft evaluation reports for offenders under supervision. These reports have the same structure as the reports of pre-trial / trial stage but the interest is moved on the achievements gained by offenders under supervision period and on the way in how they comply with the measures and obligations imposed by the court.

Under the enforcement stage probation services could deliver assistance to offenders with custodial sentences. This type of assistance usually takes the shape of group programmes that regards preparation of release from prison but also individual assistance can be offered.

Probation services have no legal responsibilities regarding the supervision⁶ or assistance of released offenders but based on a national project which had been developed with the National Administration of Penitentiaries they can offer support after release. This support consists mainly in assessing the needs of the offender and referring him or her to other specialised social services according

⁶ There is no supervision for released offenders. The only condition to be respected by released person is to not commit another offence.

to the identified needs. By contrast, the probation services have the legal task to assist pardoned offenders by delivering social reinstatement programmes and assistance for attaining a qualification, employment and housing. This duty is expressly provided for offenders pardoned by law⁷ but it might be accepted for offenders pardoned by presidential edict.

Table 3. Sanctioning system and probation involvement in the enforcement stage

Sanctions/Measures/ Penalties/Conditions attached to a conditional sentence	Provision in legislation	Probation service involvement	Main characteristics of the probation activity (e.g. supervision, coordination, reporting, referral, help & support)
Imprisonment	x	x	Probation services could deliver assistance to offenders with custodial sentences.
Suspended sentence	x	x	The role of probation is to enforce the non-custodial sanctions by supervising the measures and the obligations imposed by the court to offenders (adults with suspended sentence under supervision or minors with supervised liberty or suspended sentence) and delivering assistance upon request. Probation services could also write evaluation reports for offenders under supervision.
Conditional sentence			
Affidimento in prova			
House arrest			
Electronic monitoring			
Community service as sanction			
Semi-liberty			
Semi-detention			
Treatment order	x	x	Probation services supervise the enforcement of this obligation.
Training/learning order	x	x	Probation services supervise the enforcement of this obligation.
Drug/alcohol treatment program	x	x	Probation services supervise the enforcement of this obligation.
Educational measures	x	x	Probation services supervise the enforcement of these obligations.

⁷ The last law for pardoning offenders was in 2002.

Compensation to the victim	x		
Mediation			
Attending a day centre			
Interdiction to leave the country	x		
Interdiction to enter different cities/places	x	x	Probation services supervise the enforcement of this obligation.
Interdiction to carry out different activities	x	x	Probation services supervise the enforcement of this obligation (only to not drive a vehicle).
Interdiction to contact certain persons	x	x	Probation services supervise the enforcement of this obligation.
Fine	x		
Day fine			
Other financial penalties			
In/out patient order (psychiatric treatment)			
Security measures	x		
Combined order			
Community punishment			
Conditional release / Parole	x	x	Probation services could deliver assistance to offenders with custodial sentences.
Automatic release			
Open prison			
Penitentiary program outside the prison	x		
Other sanctions/ measures etc. Please name and describe them.	x	x	Probation services have to supervise the execution of one to three obligations which could be imposed by the court when this sanction is applied to a minor.
	x	x	Community service as an obligation for minors and adults. For minors this obligation could be attached to the educative measure of supervised liberty or when the punishment of imprisonment is suspended. For adults this is an obligation which could be imposed by the court in the situation of suspended sentence under supervision.

Table 4. Other probation activities in the enforcement stage

Providing support to the families of the offenders/detainees	
Coordinating volunteer prison visitors	
Preparing offenders for (conditional) release	x
Preparing prisoners for home leave and/or providing support during home leave	
Providing support to persons that have been pardoned or amnestied	x
Providing advisory report with respect to amnesty or pardon	

5.3 Care and after-care outside the criminal justice system

In the light of the law probation service has no responsibilities in relation to ex-inmates. Although some services deliver pre-release programs they are not responsible for following up the ex-prisoner after release either in terms of assistance or in terms of supervision. Sometimes when an ex-prisoner asks for the probation service's support he or she is referred to other social work agencies or to NGOs.

Based on a PHARE project, the National Administration of Penitentiaries and Probation Department has benefit from the programme "Reducing the Risk of Reoffending" which aims to facilitate the social reinstatement of offenders. This group programme starts in penitentiary, being delivered by penitentiary and probation trained staff, and ends in community, upon the request of conditional released offenders.

6. Probation Methodology

Relevant Probation Rules

In some services at the beginning of the supervision period the offender's needs are assessed using a diagnosis instrument. The assessment is flexible enough to accommodate personal circumstances, strengths, weaknesses and so on. Based on this assessment a supervision plan is drafted. The convicted person is given a copy of this document and has to sign it. The plan can be changed if the circumstances within the convicted person has modified. The interventions target both assistance and control. During supervision period, the convicted person could be obliged by the court to follow different programs or could be motivated by probation staff to do so. Quite a lot of probation counsellors had been trained in using motivational interviewing. Due to the complex nature of offender's needs sometimes other agencies are involved in providing services. Their inputs are always coordinated and monitored by the same probation counsellor who is responsible for the case. All the activities for and with the offenders are recorded into the supervision / assistance file. The head of the service is responsible for checking all the assistance files and some supervision files. The responsible judge for the penal execution can always check the progress done by the convicted persons during supervision. The activity of the probation services is inspected by the specialized inspectors within

the Probation Directorate. Their reports are not made public.

Probation in Romania might be seen like a mixture of control and assistance which would conduct to social reinstatement of offenders. On the control side probation counsellor is watching for the execution of the measures and obligations imposed by the court to the offender to be submitted. The reverse of control side is the assistance which supposes a permanent motivational approach, delivering of individual and group programs and other type of support to offenders (the last ones at request).

Romanian probation system has not been very touched by western philosophy of “managerialism and control”⁸ and is actually closer to the old “welfare” model. The national political context, the influence of social work profession on probation in terms of values and principles, professional background and training of probation counsellors or competences and working methodology are factors which contributed to a slightly anachronism with western philosophy. Despite this fact probation practice takes into account specific values and principles (e.g. principle of risk in setting the intensity of control) and the interventions are based on wide spread approaches and paradigms as cognitive-behavioural ones or desistance. These are used in daily practice (e.g. motivational interview) or substantiate the programmes for working with offenders.

Supervision of offenders might be delivered by every probation counsellors and even by chiefs in those probation services which are confronted with a high caseload or which are too small. Once the copy of the sentence had been received the head of the service allocates the offender to a certain probation counsellor according to the average caseload in that particular service. The only exception to this rule is when an evaluation report has been submitted for that offender. In this case the same probation counsellor will take over the case and will open a supervision file. The responsible probation counsellor has to decide the place and the date of the first interview with the offender and to inform him/her timely. This first meeting must take place within ten days from the date when the letter reached probation service.

The first meeting with the offender usually takes place at the probation service office. During the first meeting probation counsellor has the duty to inform the person about the aims of supervision, what it supposes, the content of sentence (including measures and obligations imposed by the court), the rights and obligations including the right to complain of treatment or to ask for assistance based on a written request. This information is included in a minute which could be found in the supervision file. The process continues with an assessment of criminogenic needs using a structured tool (called diagnosis tool and available only in some probation services) or an interview guide. The information gathered is written in an assessment form which is also part of supervision file.

Using this written record the probation counsellor responsible by the case has to make a supervision plan. This plan has to be written and handed on the first meeting when the frequency of the meetings is fixed by the court and it's over one month (the

8 Garland, D. (1990), *Punishment and Modern Society*, Oxford University Press, Oxford.

exception). In the other situations the plan is handed on the next meeting which usually takes place after one month. The supervision plan is part of supervision file and comprises:

- a. an introduction (personal identification data and terms of supervision);
- b. measures and obligations imposed by the court and the ways to ensure obeying to them;
- c. social and criminogenic needs and their corresponding aims;
- d. the risk of reoffending/for the public safety and the risk of suicide or harm;
- e. intervention methods in order to cover the identified needs and to decrease the risk;
- f. the place and the frequency of the supervision meetings;
- g. description of obligation to follow an intervention program imposed by the court (if there is one);
- h. details regarding the execution of unpaid work (if there is one).

As is mentioned above the criminogenic needs are identified in some probation services using a diagnosis tool which is not disseminated at national level but the assessment of re-offending risk is only clinical and it isn't based on a structured and validated tool.

After the supervising plan is signed by the offender, probation counsellor has to ensure that the procedures provided by specific regulations are initiated and enforced in all the cases when certain obligations are imposed by the court (e.g. unpaid work procedure).

Supervision takes the shape of regular meetings, verifications based on different types of evidences, cooperation with other institutions (especially police offices) and planned or unplanned home visits. The frequency of the supervision meetings is usually set according to the principle or risk of re-offending but other types of criteria are taken into account. Some judges still decide the frequency of meetings too (e.g. every last Friday of the month).

During the meetings the probation counsellor responsible for that offender checks upon the sources of income and other potential problems the offender might have which could lead him to crime. The probation counsellor uses motivational interviewing to convince the offender to ask for assistance and counselling. If the offender asks for assistance then an assistance plan is developed. The content of this assistance plan comprises:

- a. an introduction (with the same data as in the supervision plan);

- b. the needs and problems identified;
- c. targets;
- d. a plan of actions in order to achieve the targets;
- e. resources involved;
- f. a plan of meetings;
- g. the amount of time estimated for implementing of the plan;
- h. annexes.

Most of the probation interventions are to do with getting a job, an accommodation, continuing education or other forms of practical help. In order to be effective probation services have local partnership with other agencies or NGOs able to cover these aspects.

Motivational interview is the most on-hand approach for working with offenders. Even a supervised person doesn't ask express for assistance/counselling motivational interview is the used frequently in order to determine the person to comply with measures and obligations imposed by the court to offender, to initiate the change and to ask for assistance or support. Besides motivation techniques at national level have been developed various programmes for working with offenders. The most important ones are:

- "One-to-One" – had been developed with British technical support within a PHARE project and it's an individual programme based on cognitive-behavioural approach starting from studies and techniques for working with offenders which aim to reduce the risk of offending (motivational interview, pro-social modelling, the cycle of change)⁹;
- "Developing Social Skills for Minors" – it's a group programme that had been developed with Dutch financial and technical support under a MATRA project. It's specially created for juveniles in order to develop certain social skills accordingly to their specific needs. The milestones principles for this programme could be found in operant conditioning theory of B.F. Skinner, social learning theory of A. Bandura and self-determination theory of R. Ryan and E. Deci)¹⁰.
- "Developing Social Skills for Adults" – it has the same characteristics as the foregoing but it regards the adults and their specific needs;
- "STOP – Think and Change" – it's a group programme based on cognitive-behavioural approach. In fact it's a programme developed at the beginning of 90's

9 Vlad, M. and Mihaila, P. (2008), 'One-to-One Program', in: Schiaucu S. and Canton R. (eds), Probation Manual, Euro Standard, Bucharest.

10 Apostu, A. et al. (2008), 'Developing Social Skills for Minors', in: Schiaucu S. and Canton R. (eds), Probation Manual, Euro Standard, Bucharest.

in UK and which have been adjusted to Romanian context with the help of British technical assistance within a PHARE project¹¹;

- “Reducing the Risk of Reoffending” – a programme developed by a group of Romanian and foreign experts specially designed for preparing the conditional released offenders on one hand and post-release assistance on the other hand. This programme capitalises the output evidences of some studies and combines elements of cognitive-behavioural approach with those of desistance¹².

The probation counsellor which is responsible for the case have the competence to choose the right programme for an offender based on certain criteria as offence, sanction, needs, motivation, resources or the will of offender. The program might be delivered by the counsellors itself or by other colleagues or specialists which are trained in this respect.

When the probation counsellor finds out that the offender had breached the measures and obligations imposed by the court, his / her role as professional responsible for the supervision process is to verify if the reasons presented by offender are justified. As a general rule, in the situations when these reasons are foully, the probation counsellor responsible for the case writes a report which comprises a resume of the supervision process and references to the proofs (documents) gathered in this respect¹³. The written report and the annexed documents are hand carried to the chief of the services which might notice the court when this measure is justified. Contrary, when the report it’s not argued enough, the chief could refuse to notice the court and have to inform the probation counsellor about and argue his / her decision in 30 days.

The “quality insurance” is ensured within the local teams by the chief who has the duty to periodically verify the supervision and assistance files or by the counsellor appointed for coaching and staff appraisal especially for new incomers. At least once for every four years the activity of every probation service is assessed by probation inspectors. After every inspection a report is written; it indicates the strengths, areas of improvements, instructions and recommendations related to management and practice of the service (for more information see the heading no. 7.3 – *Registration Systems and Evaluation Procedures*).

11 Nicolae, G., Badea, M. (2008), `STOP Programme –Think and Change`, in: Schiaucu S. and Canton R. (eds), Probation Manual, Euro Standard, Bucharest.

12 Durnescu, I. et al. (2009), *Reducing the Risk of Reoffending after Prison*, Lumina Lex, Bucharest.

13 This general procedure is anticipated by a particular procedure in condition of breaching certain measures or obligation (e.g. the absence to the established supervision meetings) when two warnings are formerly given.

7. Finances, Accounting, Registration Systems and Evaluation Procedures

Relevant Probation Rules

As noted above, the Ministry of Justice via the courts of appeal finances local probation services. The inspectors within the Probation Directorate evaluate the activity of the probation services (for more information see the section 7.3 – *Registration and evaluation procedure*). There is no independent monitoring body to evaluate probation activity. The same directorate that ensures the inspection is also dealing with quality management, research and so on. Currently there is an interest in developing evidence-based practice and several research projects are supported. Remuneration within probation service is well placed above the average in the public sector.

7.1 Finances

The core financial source is the state budget that covers the costs for personnel, travel, equipment and ongoing expenditure. The responsibility for budget distribution belongs to the Ministry of Justice that allocates funds every year to all the courts of appeal. A part of this budget is reallocated to county courts and includes the expenditures of assigned probation services. Therefore probation service does not have an independent budget to work on. That creates some confusion regarding the status of probation service (is it independent from the court or not?) and even some difficulties related to proper supplying of probation services.

The Ministry of Justice has the power to employ probation staff in each county court and to allocate the budget accordingly but has no direct authority over the ongoing expenditure like offices, travel, bills and other expendables. This is the attribute of the president of the county court who approves all these expenditures. The head of probation service in each county court could just ask or propose some budgetary assistance but the final decision regarding the ongoing costs belong to the president of the court. Having such a budget administration is difficult to imagine a strategy for cost-benefits analysis for probation system.

Apart from the state finances some private funds were available in the past:

- EU funds – through PHARE and structural funds supporting also training and institutional development.
- MATRA Programme – financed by the Nederland's Ministry of Foreign Affairs – which supports probation service for developing programmes, procedures and tools.

Table 5. Prison / Probation expenditure

	Probation Services	Prison System
Total current yearly expenditure in 2011	15,669,000 lei (approx. 3.5 mil. €)	776,875,000 lei (approx. 172,6 mil. €)
Average number of employed staff in 2011	299	12280
Daily average number of offenders/clients dealt with in 2011	>335 per day ² /7806 written evaluation reports and 11837 supervised persons per year	30263

7.2 Accounting

As is mentioned above the budget is allocated by the Ministry of Justice to the courts of appeal and the presidents of the courts of appeal allocate then the budget to the county courts, which includes the finance for probation services. The financial department of each county court holds bookkeeping and cost accounting for budgeting purposes.

For funding the ongoing costs of probation services Ministry of Justice could only estimate the expenditures and recommend allocation of a certain level of funding for probation activities. Decision regarding financial quota assigned to probation services belongs in the end to the presidents of county courts.

There is no correlation between performances and the budget allocation. The budget system is built up on defined and strict financial criteria (e.g. staff, investments etc.) and not on results or outcomes. In order to prepare the budget for next year Financial Department within Ministry of Justice estimates the budget for probation services and courts. The final global budget is set by Government through Ministry of Finance and it is approved by Romanian Parliament.

The presidents of the courts of appeal and county courts are responsible for the budget administration in front of the internal audit of the Ministry of Justice and also to the Romanian Court of Accounts (rom: Curtea de Conturi).

7.3 Registration Systems and Evaluation Procedures

Each offender under probation has his or her own file. The file of supervision includes the file of assistance, if it's an assistance request. The main components of the files are: the copy of the sentence, the evaluation report, the minutes/record that confirms the communication of rights and obligations to the defender (rom: Proces verbal), the needs assessment form, the supervision/assistance plan and a record keeping of the meetings and activities with the supervised person. They

also include the correspondence between the offender and the service and also the reports to the court. The role of these files is to help the probation counsellor to organise his or her work and to prove that the supervision is effective or the provisions of the law are enforced. Starting with 2012 these documents will be registered by a special computer based program called Registry which is in fact an electronic database¹⁴.

Probation Department collects data regarding the beneficiaries twice a year for statistical and policy reasons. Most of these statistics are on paper (data are included in monthly activity reports) or on electronic format (Excel). Based on statistical data the workload is permanently monitored by the Probation Department and other important basic correlations could be made. Statistical data are synthesized within an annual report at the beginning of every year which is usually included in the general report of Ministry of Justice. At local level the outputs of probation activities are disseminated to the institutional partners (especially to the courts) and mass-media by chiefs and/or probation counsellors responsible of public relations.

The main tool of the Probation Department/Ministry of Justice to assess the quality of probation work is via inspections. Nowadays the department has six inspectors who visit periodically the local services. After each inspection an inspection report is produced and the strengths and areas of improvement found in the inspected service are listed. The local services have to cover the areas of improvements and could follow the recommendations after they are discussed and agreed. The general control of the Probation Department and probation services could also be covered by the Audit Department within the Ministry of Justice and by the Control Body of the minister of justice (only in uncommon situations).

Unfortunately for the time being there are no significant national systematic studies regarding effectiveness or confirmation rates at the national level because there is not a specialised research team within the Probation Department or Ministry of Justice. Despite of this fact the Probation Department or some local services did limited studies related to effectiveness of probation activities (e.g. the influence of evaluation reports on sentencing) and the conclusions are encouraging.

8. Societal Support and Clients' Views

Relevant Probation Rules

Every year the Ministry of Justice publishes a report that includes also the activities delivered by the Probation Directorate and its local services. Mass media is often invited to reflect its activities especially when special events take place. Other agencies and institutions have access to the annual report published by the Ministry of Justice.

8.1 Societal Support and public opinion

Probation Department has not conducted a focused study regarding societal support and public opinion but some questions related to these matters were

¹⁴ These documents had been paper based registered till 2012.

included in a wider research. Besides, some probation services or probation counsellors conducted their own researches about public view upon the probation activities.

The Probation Department has a Public Relation Action Plan that provides main directions of development at national level in this respect. The strategy is accompanied by a national action plan regarding internal and external communication of probation system for one year. This strategy is followed by probation services at local level. Every probation service has to adapt and to transpose the provisions of national strategy in a local plan for public relations and to implement it. Starting with 2010 this strategy was included in the national development strategy.

8.2 Client' Views

The clients' views (of offenders) are not usually measured. Even a structured research has not been conducted yet in this respect the clients' views have been inquired by probation inspectors during inspections or by probation counsellors in their own researches. The offenders' views are especially asked for after delivering certain programmes in order to reduce the risk of reoffending. As a general impression, the offenders are satisfied by the conduct of probation counsellors or by programmes delivered within probation services but the rate of desirability might be distorted due to the nature of professional relationship.

Because probation counsellors support the courts in sentencing by delivering evaluation reports it is appreciated that the judges are clients of probation services. In this respect the last national survey on judges' view upon the activity of probation services showed that a large majority of questioned judges are very satisfied about the quality of evaluation reports drafted by probation counsellors. Almost three quarters of questioned judges applied suspended sentences under supervision of a probation service and approximately half of them know the programmes which can be delivered by probation counsellors.

9. Probation Clients Rights

Relevant Probation Rules

The basic rights of suspects or convicts are contained in the Romanian Constitution. Such rights like right to fair trial or presumption of innocence are included also in the Code of Criminal Procedure . Some other rights are contained in other laws or regulations according to the situation in which the convicted people are. The rights of inmates are mentioned in the Law no. 275 / 2006 regarding the execution of punishments and the rights of probationers are described mainly in Probation Ordinance no. 92 / 2000 approved by Law 129 / 2002 and in the Government Decision no. 1239 / 2000 which is as it was mentioned above the methodological norms describing how the Government Ordinance 92 / 2000 is enforced.

The accused persons have the right to not cooperate with probation counsellor who should write the evaluation report. The offenders under supervision have the right to be informed about their rights and also about their obligations during the

supervision period. At the first supervision meeting with the probation counsellor every offender receives a minutes/record (rom: proces verbal) which mentions the right to ask for assistance / counselling and the right to complain to chief of the service about the misconduct of probation counsellor who supervise him/her. The minutes/record comprises also written expectations on how he or she has to behave and what to do. If the offender cannot read then the probation counsellor has to read the instructions for him in the presence of the chief or other probation counsellor. If the offender does not speak Romanian language then the offender has the right to use the service of the court's interpreters. At the same time the supervised person and their appointed or public defenders, with the persons' consent, shall have access to the assistance file.

When Probation Department has take notice by complains the director appoints a team to deal with the case. This team comprises legal advisers and probation inspectors and has the duty to verify the situation and to propose solutions. In certain situations the team could suggest different corrective measures and/or informing the competent institution.

According to the law prosecution is responsible to make sure that the "legality of the punishment" is followed in practice. Alternatively the probation beneficiaries could complain to the Romanian Ombudsman. The Ombudsman is entitled to verify the way beneficiaries rights are observed upon complaint or on his or her own initiative. In order to make sure that the rights of convicts are well protected there are some NGOs responsible for the monitoring the observance and protection of human rights within prisons and probation services.

The access to the offender's file is limited and the consultation procedure is regulated by the law. The file can be consulted by the offender and his / her lawyer, by the court or by the judge responsible for the execution of sentences and by the prosecutor. The file can also be consulted by representatives of organisation which militate for the protection of human rights, only if they have the agreement of the offender. The file must be red only in the presence of the responsible probation counsellor or in the presence of the chief of the probation service. In fact, volunteers, students or researchers might consult the file too but only with the agreement of the offender, of the representative of the probation service and only if they signed a confidentiality statement. As a rule, every consultation is mentioned in a minute signed by the representative of the probation service and the person who red the file.

10. Developments to be expected

10.1 Developments in coming years

The new penal codes (Penal Code and Penal Procedure Code) introduce a new perspective upon probation. Its provisions implicitly consolidate and strengthen the role of probation in the judicial system and introduce new challenging tasks for probation services and new approaches of dealing with offenders. For minors, the major changes consist in abolition of the punishments in the favour of educative measures and introducing new measures, more adapted to the specific of minority: civic education, supervision, weekend confinement or daily assistance (supervision). For adults, the most significant transformations regarding the sanctions panel are represented by the introduction of postponement of sanction and supervision after conditional release¹⁵.

Also new laws for the enforcement of custodial and noncustodial sanctions were drafted but these have not been enacted. Following these laws new procedures for working with offenders will be drafted and that involves radical changes in supervision process. This is also the chance to adapt and implement the provisions of European regulations in national legislation (e.g. Europe Probation Rules).

Because the new penal code gives to probation the central role in enforcement of non custodial sentence a reset of probation system is needed. In this respect a law for restructuring the probation system has drafted and promoted alongside the other laws. According with this law probation system will become a national directorate with administrative and financial autonomy, with judicial personality and under direct authority of the Minister of Justice. The directorate will be managed by a general director and two deputies and will have specialised departments managed by directors. All directors will found a Council which main role is to elaborate, monitor and assess the national strategy in probation and to take various decisions. At local level will be established probation services that coordinate the activities of probation bureaus set up near first courts.

Probation personnel should increase with 350% according to the last estimation which supposes an amount of approximately 1000 employees. The staff categories will be diversified especially by introduction of administrative staff and personnel with other professional statuses (e.g. public servants). These changes in human resources are quite challenging for probation system due to a lack of well prepared workforce on the market and difficulties related to administration of recruiting and selection process, initial training of selected personnel or organisational assimilation (e.g. in some services the number of new hired people will be much higher than the number of old employees).

Probation counsellors will become case managers and will have more power in wielding the supervision process. He or she could mint “decisions” with regulatory force for the public institutions which are involved in the enforcement of the sentence. The expertise of probation counsellor will be much more pronounced in

¹⁵ The conditional released offenders will have to enter under supervision of probation services and will have to comply with certain measures and obligations during the supervision period if the rest of the unexecuted sanction of imprisonment is for 2 years or more.

sentencing due to the opportunity of making proposals to the court regarding the measures which might be imposed to the offender.

Another strategic change regards the victims of crime. Ministry of Justice and Probation Department promotes a coherent and integrated way of dealing with victims at national level and highlights the need of a single organisation responsible for the support of all kind of victims. In this respect Probation Department is making lobby for a legislative change and is supposed that in the future probation to deal only with offenders.

10.2 Implementation of EU Framework Decision 947

Currently the law for transposing the Framework Decision JHA/947/2008 is under public debate. According to this draft, the Ministry of Justice with the county courts will act as competent authority mentioned in the FD JHA/947/2008.

11. Important Publications

Romanian Publications:

Balahur, D. (2001), *Socio-Juridical Basis of Probation*, Bit, Iasi.

The book covers the international and the national legislative framework of probation activity.

Durnescu, I. et al. (2009), *Reducing the Risk of Reoffending after Prison*, Lumina Lex, Bucharest.

The book describes the profile of a programme for the pre-release and after-release assistance and support of prisoners. This programme was developed in a PHARE 2006 project for Romanian probation services and penitentiaries.

Durnescu, I. (eds) (2011), *Probation. Theory, Legislation and Practice*, Polirom, Iasi.

The book offers a comprehensive view upon probation in Romania and is more like a manual for the use of the students. It presents details about the activity of probation counsellors, working tools, national and international legislation in the field of probation.

Poledna, S. and Bujan, L. (2004), *Delinquent Behaviour. Risk and Protective Factors*, Didactica si Pedagogica, Bucharest.

The book is a research report on what are the risks and the protective factors of offending behaviour among teenagers. The report is translated into English and has important policy implications.

Schiaucu, V. and Canton, R. (eds) (2008), *Probation Manual*, Euro Standard, Bucharest.

The book is the official guide for candidates and probation staff. It comprises articles regarding the main aspects related to the theory and practice of probation: evaluation report, supervision, assistance and counselling, working with drug addicts and so on.

Probation Bulletin, Ministry of Justice – Probation Department.

This is the internal publication of probation system and it comprises articles and studies written by probation staff.

European Journal of Probation - <http://www.ejprob.ro>

European Journal of Probation is a peer review academic journal aiming to promote comparative research on probation and community justice across Europe.

Foreign publications:

Burnett, R., Roberts, C. (eds) (2004), *What Works in Probation and Youth Justice: Developing Evidence-based Practice*, Willan Publishing, Devon.

Canton, R. & Hancock, D. (2007), *Dictionary of Probation and Offender Management*, Willan Publishing, Devon.

Gelsthorpe, L. & Morgan, R. (eds) (2007), *Handbook of Probation*, Willan Publishing, Devon.

Mair, G. (2004), *What Matters in Probation*, Willan Publishing, Devon.

McNeill, F., Raynor, P., Trotter, C. (eds) (2010), *Offender Supervision. New directions in theory, research and practice*, Willan Publishing, New York.

Miller, W., Rollnick, S., Conforti, K. (2002), *Motivational Interviewing: Preparing People for Change*, Guilford Publications, New York.

Van Kalmthout, A.M. Knapen, M.M., Morgenstern, C (eds), (2009), *Pre-trial Detention in the European Union*, Wolf Legal Publishers, Nijmegen

12. Main Addresses, Phone & Fax Numbers, E-mail Addresses, Home Pages

Ministry of Justice
Probation Department
Apolodor Street, No. 17
Sector 5, Bucharest
www.just.ro
dp@just.ro
Phone 004 0733737759

National Administration of Prisons
Maria Ghiculeasa Street, No. 47
Sector 2, Bucharest
www.anp-just.ro
office@anp.gov.ro
Phone 004 0212086150
Fax 004 0212420505



General Information

- Number of inhabitants: 19 million
- Prison population rate per 100,000 inhabitants: 159
- Link to Probation Service: -
- Links to websites: www.just.ro
- Member of the CEP in: august 1999

Characteristics of the Probation Service

- Probation in Romania was established in 2001.
- Probation Department it's not an autonomous organization being functionally, financially and administratively coordinated by the head of Ministry of Justice and reliant on other departments, without legal personality, distinct budget and specialized departments and personnel to ensure the organizational management. Roughly, Probation Department is responsible for coordination and controlling of probation services.
- There are 42 probation services, everyone assigned to a county court (tribunal)¹⁶, but they haven't got legal personality, being administrative reliant on tribunals (payments, consumable items etc.). Every service has a bureau (secondary office), most of them near a local court within the concordant county.
- Probation Department and probation services form together the probation system. Probation system is responsible for a various range of tasks and activities (starting with drafting pre-sentence reports and ending with psychological counselling of victims of crime / inside the community, in court or in penitentiary / individual or in partnership) and beneficiaries with different age, gender and status (minors and adults / females and males / indicted and convicted persons / with custodial and non-custodial sentences / conditional released or pardoned persons etc.).

Tasks

- writing evaluation reports (rom: "referat de evaluare"). An evaluation report could be a pre-sentence report required by the prosecution or by the court during the trial or an after-sentence report required by the court during the supervision period. First type of evaluation report consists mainly in a social and criminological analysis of the offender and his or her crime and its aim is to assist the prosecutor or the court in personalising the measure or the sanction that should be imposed on the offender. The second type of evaluation report borrows certain elements from the first one but the accent is putted on the achievements and the behaviour of the offender during the supervision period.
- supervising the offenders in the community (rom: "supravegherea persoanelor condamnate in comunitate"). This is a process of monitoring the

¹⁶ Including the capital - Bucharest.

way convicts obey the supervision measures and fulfil the obligations imposed by the court. The main methods of doing that are meetings with the offender at the probation office, asking for different types of documents that could prove the real condition of the offender, cooperation with police and other public institutions, home visits, etc..

- providing upon request assistance and counselling for convicted persons (rom: “asistenta si consilierea persoanelor condamnate”). This is a process of offering support for social reintegration of offenders. The philosophy behind it is that control without care is not effective and once the criminogenic needs are covered the offender is more likely to stop offending. Assistance and counselling could be provided upon request to offenders under probation supervision, to inmates during detention and also to under parole or pardoned convicted persons with their consent.
- offering psychological assistance and other forms of assistance to certain types of victims of crime (especially for the victims of violent crimes). Although in theory this is one of the main activities, in fact it’s very poor represented statistically at national level.
- participation to the parole commission in detention places. The probation counsellor has the duty to analyse periodically the personal files of inmates proposed for parole together with the members of the commission and to check if the conditions for release are fulfilled. Even it’s not a specific activity it consumes a lot of resources.
- participation in court upon request when minors are subject of criminal cases. The court must to subpoena the probation service in the cases with minors but the presence of a counsellor into holding court it is not mandatory.
- providing reports for minors in conflict with the law but not legally responsible (under the age of 14). The court asks for this kind of report in all the cases when a special measure of protection is needed.
- participation in some cases when the first hearing with victims or witnesses in danger takes place at the prosecution level.

Number of staff (average numbers in 2011)

- Probation Officers:	243
- Probation Managers, all grades:	43
- Administrative support staff, all grades:	2
- Other staff:	10
- Community Service Supervisors:	-
Total:	285 (at local level) + 13 (at central level) = 298

- Daily average number of offenders dealt with: > 335

New developments

- The new penal codes (Penal Code and Penal Procedure Code) introduce a new approach of the evaluation report and new noncustodial measures especially in what regards the educative measures for juveniles. Also new laws for the enforcement of custodial and noncustodial sanctions were drafted. Following these laws the procedures for working with offenders will be changed.

- According to a draft law probation system will become a national directorate with administrative and financial autonomy, with judicial personality and under direct authority of the Minister of Justice. At local level will be established probation services that coordinate the activities of probation bureaus set up near first courts.
- Probation personnel should increase with 350% according to the last estimation which supposes an amount of approximately 1000 employees. The staff categories will be diversified especially by introduction of administrative staff and personnel with other professional statuses (e.g. public servants).
- Probation counsellors will become case managers and will have more power in wielding the supervision process. He or she could mint “decisions” with regulatory force for the public institutions which are involved in the enforcement of the sentence. The expertise of probation counsellor will be much more pronounced in sentencing due to the opportunity of making proposals to the court regarding the measures which might be imposed to the offender.
- Probation Department is making lobby for a legislative change and is supposed that in the future probation to deal only with offenders.

Probation during the different stages of the criminal procedure

	Pre-Trial Phase	Trial and Enforcement Phase	Post Release Phase
Preparing pre-sanction report	x	x	
Supervising etc. special measures drug addicts		x	
Supervising etc. community service		x	
Supervising training or learning projects		x	
Interventions with young offenders		x	
Supervising etc. suspended sentence		x	
Assistance/support of offenders in prison/detention		x	



ANNEX 2 – The structure of evaluation report

MINISTRY OF JUSTICE
Probation Service ...
Strict confidential after completion

EVALUATION REPORT

I. INTRODUCTION:

Name and surname of accused/convicted person/minor:
Data and place of birth:
Address:
The offence/offences for which the subject of evaluation report is accused/ convicted/sanctioned with an educative measure:
The court/prosecution which asked for evaluation report:
The number of penal subpoena/sentence:
Court day:
The number and the day of the request:
Supervision period:
Name and surname of responsible probation counsellor:

II. Sources of INFORMATION:

III. INFORMATION REGARDING THE PERSON FOR WHICH THE EVALUATION REPORT HAS BEEN REQUESTED:

IV. THE FACTORS WHICH INFLUENCE OR CAN INFLUENCE THE GENERAL BEHAVIOR OF THE PERSON FOR WHICH THE EVALUATION REPORT HAS BEEN REQUESTED:

V. PERSPECTIVES OF SOCIAL REINSTATEMENT:

Data of completion and signing of the report:

Written by

Probation Counsellor,

.....

Chief of the service,

.....

(Footnotes)

1 The estimation is based on a 4.5 lei for 1 Euro.

2 In fact the number is higher because some chiefs work with offenders and write evaluation reports, especially in the small teams. This number regards only assessment meetings for evaluation reports and supervision meetings.