



Probation in Europe

Estonia

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The European Organisation
for Probation

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Estonia

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1. Introduction

1.1 Probation organizations

Since the creation of the Estonian probation system, there have been several significant changes and developments in the organizational structure and practice. However, probation officers have always remained to be in a governmental structure. Probation work falls under the coordination of the Ministry of Justice since its establishment.

The Prisons Department of the Ministry of Justice is a central body of the Prison Service with relevant administrative power. Prisons Department is led by a Deputy Secretary-General, who is also acting as a Director of the Prison Service. The department has four divisions with heads of divisions acting as deputy heads of the Prison Service in relevant field. Probation issues are dealt by the Social Rehabilitation Division of the Prisons Department.

Probation service providers - probation departments of prisons and regional divisions thereof – cooperate within the structure of the Prison Service. Four regional probation departments function in the structures of three regional prisons. Prison Governor is responsible for both – enforcement of custodial and non-custodial sanctions and measures in respective region.

1.2 Probation activities in a nutshell

Probation service was in the beginning years more oriented on the social work activities and support of offenders. In today's practice the risk-assessment is forming a cornerstone of the probation officers' work and therefore the focus is on the management of risks with aim to prevent criminal behaviour of offenders and to protect public safety. This development has shifted the focus of probation practice during the relatively short history of probation in Estonia.

Probation officers are responsible for implementing all CSMs (community sanctions and measures) in Estonia. The activities involve pre-sentence reports, community service, probation order (supervision of conduct), probation order as a measure for juveniles, supervision of parolees and electronic monitoring schemes. None of the services are outsourced, but different organizations can participate in the process providing their services to respective client groups. Nowadays probation officers are also working more and more in the prisons to deliver risk-assessments and group work programmes.

Probation officers everyday work in general has two major parts: control and assistance. Probation officers base their control and assistance activities on the results of the risk and needs assessment, which is carried out in the beginning of the sentence and periodically during serving the sentence. Risk and needs assessment is developed into core methodology guiding practitioners in their everyday decisions and being a tool for profiling offenders for courts and other relevant authorities. Therefore it can be also seen separately as a third core direction of probation work.

The basis for the activities is the court's decision or ruling, which sets the framework for the probation officers practice. The content of the work varies in details dependant

on the type of sanction or measure. As a rule only courts have authority to change the sanction or obligations attached to them and continuous communication with judges is inevitable.

The methods used by officers vary from individual face to face contacts with offenders to different group work techniques. Mostly the group work techniques are used in relation to the delivery of social rehabilitation programs (e.g., anger management etc.). The cooperation with different partners at local and state level is an important part of the daily practice and is usually organized locally.

Although the list of CSMs implemented by probation officers is relatively diverse, the internal organisation of probation is not such a complex one as it seems to be in some other countries. Probation officers and senior probation officers are dealing with offenders on everyday basis. Some of them are specialized to deal with some distinct groups of offenders or sanctions. The everyday management of staff is carried out by head of regional Probation department.

1.3 General remarks about the implementation of the European Probation Rules

Estonian Probation system has from its creation developed in compliance with the values and principles defined in the Council of Europe Probation Rules. The recent European Rules on Probation are therefore fully implemented by existing legislative framework, practice and values. Some comparative examples are given below.

The Probation officers are civil servants under jurisdiction of the Department of Prisons and are carrying out all the tasks in accordance with national law. The outsourcing of this service has not been considered despite the fact that there is a limited history of engaging third parties on a contractual basis (delivery of interventions etc). There are some special provisions in the Probation Supervision Act (§ 21 and 22), which state the possibility to outsource probation work to non-governmental organisations if such wish would arise. It has to be mentioned that the regulation itself is out of date and does not comply with some other respective legal acts.

Probation officers must have higher education in social sciences, law or corrections. In addition to that in-service training programme is provided in order to comply with everyday tasks. According to the annual training plan the probation officers participate in two kinds of training programmes. First, the training programmes which are aiming at the improvement of general skills and knowledge. Secondly, training programmes according specialisation (including different group work programmes). Main target groups for specialisation are juveniles and young offenders, offenders on community service, sex-offenders, ex-prisoners, offenders under electronic monitoring scheme. Needs for training are assessed regularly at the end of every calendar year and provided annually.

Community service is regulated by the Penal Code (§69), Code of Criminal Procedure and a regulation of the Minister of Justice. According to the law, community service is a sentence imposed only with the consent of the convicted offender. Other community sanctions and measures (with exception of substitution of imprisonment

by addiction treatment and interventions before guilt has been finally established) do not need consent of the offender and are imposed by the court on the basis of the circumstances of the concrete case. Community service hours have to be done bearing in mind the compensation of the damage caused by offender to the victim or society in general. There are no monetary requirements or obligations attached to the sanction and everything is based on principle of voluntariness and public good.

Offenders are consulted regarding possible workplaces and decision is made by a probation officer according to offender's skills, knowledge and obligations imposed on the convicted offender by the court.

According to the Data Protection Act every person is entitled to have access to all data which state has in different databases about him/her. This general rule applies also to probationers. The file of probationer is kept confidential as it includes delicate private information and is shown to the judge or prosecutor by their lawful request.

Offender is consulted in the process of writing reports or making decisions regarding probation period. There is a possibility to challenge the decision of a probation officer by filing a motion to the supervisor. In that case decision is made within 30 days and offender has a right to appeal on it to a court. If there is a hearing on the violation of probation terms in the court which may result with imprisonment, offender must be present. There is also a possibility to write a complaint to ombudsman, Ministry of Justice or directly to a court.

2. Historical Development of the Probation System

2.1 History from the origins to 2008

Due to the large number of convicts in prisons after regaining independence from the Soviet occupation there was a need to start search for new techniques and methods to guarantee the security of society. Evidently also the fact that the system of punishments was not sufficient to meet new situation caused the need for changes. The wish to decrease the number of prisoners became one of the main arguments in justifying the need for the creation of the probation system.

In 1991 under the leadership of the Ministry of Justice the penal law reform was started, in the framework of which there were plans for substantial amendments of legislation concerning the Criminal Code, criminal procedure and execution of criminal punishments. In 1993 at the request of the Ministry of Justice the initial visions of the possible Estonian probation service were discussed.

In 1996 the Ministry of Justice began with drafting the Probation Supervision Act, preparing in parallel all the legal acts relating to the implementation of the Act and also preparing an implementation plan and the budget. The Probation Supervision Act was adopted in 1997 and entered into force on 1 May 1998. In drafting the Act, laws of other countries regulating similar systems were used as a basis. The probation service started to work all over the Estonia on 1 May 1998.

Throughout Estonia 13 probation departments started to work at county and city courts. Counties and larger cities were divided into districts having separate probation offices each. 35 offices employed 110 people who had been trained by the Ministry of Justice in cooperation with foreign experts. The second stage was launched in 1999 when 54 more officials were hired and trained and were appointed to office on 1 October 1999. After that one more recruitment campaign has been organized without organizing a special preliminary training programme for the newly started profession.

Since the creation of the probation system, there have been several changes in probation organisation and practice. The penal system of Estonia has been in continuous development during past decade, which also meant changes in the sanction system. Probation officers started in 1998 to prepare the pre-trial reports and to implement court decisions regarding parole and probation order, in 2002 community service was added to probation officers tasks and in 2007 the electronic monitoring commenced.

Probation departments are currently in the structure of the prisons. The organisational changes were aiming at the improvement of the management of criminal executive system and at the better implementation of penal sanctions and measures. However, comparing with significant changes in its tasks, the inner administrative structure of probation system remained pretty much the same as it was before.

2.2 Recent history from 2008 to 2011

Since 2008 many aspects have been changed in terms of the probation system.

First and somewhat of continuous change took place regarding the target groups of the probation system. The effective implementation of electronic monitoring of parolees brought widening of the target groups. Electronic monitoring is since 2011 applicable also for remand prisoners and as an alternative to detention before and during trial. Since 1 January 2011 electronic monitoring is also applicable as a substitute for short (up to 6 months) prison sentences and can also be added to a probation period as a supplementary obligation. Probation officers deal mainly with home curfew scheme, but GPS-tracking is also used in cases of some high-risk offenders.

Since April 2011 another group of offenders was added to the list of tasks of probation officers – drug addicts placed on rehabilitation scheme. According to the changes in the Penal Code it is possible to apply the state funded drug-rehabilitation treatment as a substitute for imprisonment (from 6 months up to 2 years). During the treatment the person is placed under supervision of probation officer. Nowadays the discussions about medical treatment as a substitute for imprisonment of sexual offenders are going on and respective act is in the process of drafting. If that Act will be adopted links between the medical treatment and probation practice become more and more evident.

In April 2011 the new Probation Standards were introduced, which renewed former standards from the year of 2003. The Standards itself are more precise and

emphasize the risk-assessment related practice. The beginning phase of probation period is intensive, minimum interval is set to report once a week at the probation supervision department up to the approval of probation plan. After that the intensity of contacts is lower in low risk cases.

One novelty in the probation work introduced by current standards is the informing of victims of more serious crime about their possibility to inform probation officers about their concerns. In the beginning of probation period the probation officer is responsible to contact a victim with aim to receive victim's feedback. This is a first attempt in probation to start to work with victims. It must be mentioned that victim-offender mediation scheme is run by social welfare specialists not by probation workers.

There is also a development towards improvement of exercise of the control tasks of probation officers. Since 2009 there are major improvements in the information exchange between probation officers and police, e.g., probation, receives regularly information about the offences committed by probationers outside the country.

Also the standards regarding interpretation of the fulfilment of different obligations and requirements by a probationer has been amended. Started in 2010 as a pilot nowadays alcohol breathalysers are used daily to monitor offender's compliance with the obligations. In case of violation the case is sent to the court for assessment and resentencing if necessary.

One of the priorities is the concentration on the quality of the work done with juveniles and young offenders. All probation officers dealing with offenders between 14-21 years work under the management of the Viru Prison Juveniles Unit where juvenile prisoners serve their sentence. This direction of work is since 01.03.2012 managed separately across Estonia, one could even say that within the Prison Service separate structure for dealing with young offenders is functioning. As a result every young prisoner has a probation officer at their original place of residence. Probation officers dealing with young offenders have less cases and higher pay, their task is also to participate actively in the local crime prevention network.

3. Legislative Basis of the Probation System

§ 1 of the Probation Act describes the mission statement of the probation service as follows: *“In probation supervision, the behaviour of probationers and their performance of obligations imposed on them by a court or prosecutor are monitored and probationers are assisted in social adjustment with a view to deterring them from committing criminal offences.”*

According to the § 4 of the Probation Act state agencies and local government agencies shall provide probation supervisors with social welfare assistance necessary for the performance of probation supervision functions.

Chapter 4 of the Probation Act allows involvement of volunteers in the probation work. According to the regulation one probation officer can supervise up to five volunteers and each volunteer probation officer is allowed to supervise not more than five probationers.

Work with victims is not among the core tasks of the probation system. However, relevant changes about the victim's right to be informed about enforcement of the sentence by a probation officer are currently prepared and discussed in the Parliament. According to that bill a victim will have a right to be informed about the stage and the results of the offender's rehabilitation and behaviour during sentence.

Probation officers play a role in the local and regional level crime prevention actions and have a wide collaboration network. Probation officers and experts are also regularly involved in the process of defining and implementing strategic development plans of the ministry of Justice. At the level of Penitentiary Service the Probation Officers Council is established with purpose to advise senior management about of the probation officers work and its quality.

3.1 Legislative Basis

The fundamental principles of the operation of the Estonian probation system have been defined in the Penal Code¹ (hereinafter PC), the Code of Criminal Procedure² (hereinafter CCP) and the Probation Supervision Act³ (hereinafter PSA).

3.1.1 The Penal Code

PC (entered into force 1 September 2002) establishes the system of alternative sanctions implemented by the probation system and the set of supervision measures and obligations applicable to the probationers and parolees during the probation/parole period; and by that defines the main aspects of the probation officers work during probation period.

1 Penal Code, Official Gazette, RT I 2001, 61, 364 as amended by RT I, 04.04.2012, 1. Available: <https://www.riigiteataja.ee/akt/13326359?leiaKehtiv> (4 July 2012). Translation into English available: <http://www.legaltext.ee/et/andmebaas/tekst.asp?loc=text&dok=X30068K8&keel=en&pg=1&ptyyp=RT&tyyp=X&query=penal+code> (4 July 2012).

2 Code of Criminal Procedure, Official Gazette RT I 2003, 83, 558, as amended by RT I, 17.04.2012, 4. Available: <https://www.riigiteataja.ee/akt/117042012006?leiaKehtiv> (4 July 2012) Translation into English available: <http://www.legaltext.ee/et/andmebaas/paraframe.asp?loc=text&lk=et&sk=en&dok=X60027K6.htm&query=kriminaalmenetluse&tyyp=X&ptyyp=RT&pg=1&fr=no> (4 July 2012).

3 Probation Supervision Act, Official Gazette RT I 1998, 4, 62, as amended by RT I, 23.02.2011, 2. Available: <https://www.riigiteataja.ee/akt/123022011021?leiaKehtiv> (4 July 2012). Translation into English available: <http://www.legaltext.ee/et/andmebaas/tekst.asp?loc=text&dok=X2010K2&keel=en&pg=1&ptyyp=RT&tyyp=X&query=ooldusse> (4 July 2012).

3.1.2 The Code of Criminal Procedure

CCP (entered into force 1 July 2004), defines the functions of a probation officer in pre-trial and court procedure. According to the present regulation the first function of a probation officer in pre-trial procedure is to draw up a pre-trial report to assess the pros and cons of the possible punishments on the request of a judge or a prosecutor. The second function is to organize the implementation of community service in case of termination of criminal proceedings in event of lack of public interest in proceedings and in case of negligible guilt.

The other functions of the probation officers are regulated in the Probation Supervision Act

3.1.3 The Probation Supervision Act

PSA (entered into force 1 May 1998) regulates the organisational make-up of the probation system, requirements for probation officers, and sets forth the activities of probation officers in exercising probation supervision. PSA provides in principle for all work-related functions of a probation officer and the general organisation of the probation supervision system, being thus one of the most important legal acts for the probation supervision system.

3.1.4 Other legal acts

In addition to the above-mentioned acts, the Ministry of Justice has issued several secondary legal acts in the form of regulations of the Minister of Justice which regulate the activities of probation officers in more detail than laws. The most important of them are:

Statutes of the Tallinn Prison, Tartu Prison and Viru Prison⁴ (approved by the Minister of Justice regulations no. 23 of 16 May 2008; no. 26 of 26 May 2008; and no. 24 of 19 May 2008) – define the location and structure of the probation supervision departments and the functions and responsibilities of probation staff;

Rules of Procedure for the Prearrangement, Implementation and Supervision of Community Service⁵ (approved by the Minister of Justice regulation no. 49 of 25 June 2004) – defines probation officers powers and duties in implementation of community service, including choice of jobs, designating the convicted persons to certain jobs, as well as the principles of supervision and means of reacting to violations and its consequences.

4 Official Gazette RTL 2001, 133, 1929 as amended by RT I, 27.04.2012, 1. Available: <https://www.riigiteataja.ee/akt/127042012007?leiaKehtiv> ; Official Gazette RTL 2001, 133, 1924 as amended by RT I, 27.04.2012, 1. Available: <https://www.riigiteataja.ee/akt/127042012005?leiaKehtiv> ; Official Gazette RT I, 08.12.2010, 4 as amended by RT I, 27.04.2012, 1. Available: <https://www.riigiteataja.ee/akt/127042012009?leiaKehtiv>

5 Official Gazette RTL 2004, 89, 1406, 4 as amended by RTL 2008, 90, 1262. Available: <https://www.riigiteataja.ee/akt/13067721?leiaKehtiv>

Rules of Procedure for the Implementation and Supervision of Electronic Surveillance of Convicted Offenders⁶ (approved by the Minister of Justice regulation no. 15 of 22 February 2007) – defines process of implementation of the electronic surveillance of offenders and responsibilities of the probation officers;

Statutes of Probation Register⁷ (approved by the Minister of Justice regulation no. 51 of 1 July 2004) establishes a register for gathering, storing and processing data regarding probationers.

Additional Qualification Requirements⁸ (approved by the Minister of Justice regulation no. 37 of 7 May 2004) establishes the requirements for education, experience and skills of probation officers. Probation officers are required to have practical (equal to bachelor in Bologna model) or academic (equal to master in Bologna model) education in one of the following disciplines:

- 1) psychology of social pedagogy;
- 2) psychology;
- 3) social work;
- 4) organization of social work;
- 5) special education;
- 6) social pedagogy;
- 7) social pedagogue – vocational trainer;
- 8) teacher training;
- 9) corrections.

Or have practical or academic education including at least 480 hours of education in social work theory and methods, law and psychology of communication.

Day-to-day work of probation officers is governed by the Probation Standards⁹ adopted by the meeting of the directors of prisons on 22 February 2011.

6 Official Gazette RT I 2007, 20, 334 as amended by RT I, 12.01.2011, 5. Available: <https://www.riigiteataja.ee/akt/112012011007?leiaKehtiv>

7 Official Gazette RTL 2004, 95, 1491 as amended by RT I, 29.03.2011, 15. Available: <https://www.riigiteataja.ee/akt/129032011020?leiaKehtiv>

8 Official Gazette RTL 2004, 63, 1048 as amended by RT I, 06.12.2011, 1. Available: <https://www.riigiteataja.ee/akt/106122011002?leiaKehtiv>

9 Available: <http://www.vangla.ee/orb.aw/class=file/action=preview/id=53802/Kriminaalhoolduse+standardid+2011.pdf>

3.2 Mission and Mission statement

The probation system deals mainly with persons sentenced to suspended imprisonment and persons released on parole. The age of criminal liability in Estonia begins from the age of 14, probation deals with both, adults and juveniles. Probation commences with receipt of a court decision by a probation department or receipt of a request for drawing up a pre-trial report or a plan for serving a sentence.

Probation system in Estonia is within the area of administration of the Ministry of Justice. Probation Departments are organized in prisons and are managed by the directors of prisons.

PSA § 1 states that probation service's mission is to supervise the behaviour of probationers and their performance of obligations imposed on them by a court or prosecutor and assistance of probationers in social adjustment with a view to deterring them from committing criminal offences.

The main challenge associated with probation service in the criminal policy field is responding to the problem of high number of offenders. The Estonian imprisonment rate is one of the highest ones among European countries and this problem is addressed by different measures including wider use of probation through the better use of alternatives and parole. The major strategic objectives concerning probation service are the development of the system of risk assessment of offenders and probation and prison rehabilitation programmes aimed at the prevention of reoffending. Since 1 June 2008 probation service is a part of prison service improving the administrative capacity of criminal justice system.

3.3 Crime Prevention

Crime prevention on the national level has been organised in Estonia by means of cooperation of six ministries – the Ministries of Justice, Interior, Social Affairs, Culture, Finance, and Education and Research. The Ministry of Justice plays the coordinating role. The responsible structural unit in the Ministry of Justice is the Criminal Policy Department. With the aim to bring together different interest groups to establish priorities for crime prevention the Government has convened the Crime Prevention Council (CPC) the aim of which is to increase the security of the population through organisation of crime prevention on national, local and grassroots level. The CPC meets four times a year and at its meetings it discusses topical problems in connection with crime. Council offers its opinions and makes proposals to the Government in the field of formulation and implementation of criminal policy.

The Crime Prevention Council acts as an advisory committee to the Government of the Republic since 1993. During its existence the Council has functioned as a committee of experts, involving all levels of society related to crime prevention: the state (relevant ministries), the local government (representatives of local authorities), and the population (non-profit sector, private sector, representatives of stakeholders).

If various ministries in their crime prevention activities have focused mainly on primary level prevention, the mission of the probation supervision system includes prevention of repeated offences, according to which probation supervision

departments through their daily work deal mainly with the prevention of reoccurring crime, i.e. tertiary prevention. In addition to direct work with clients the probation supervision system carries out various crime prevention projects for different risk groups of crime. However, the success of such projects depends first of all on finding of financing sources and therefore the proportion of the projects within the probation supervision system has remained insignificant.

The probation officers are active in arranging local level cooperation including organising and attending seminars on local level, organising information days and lectures at schools, participation in local committees, etc. The main cooperation partners of the probation supervision system in crime prevention are the police, local governments and education establishments. There is also close cooperation with the non-profit sector.

3.4 Victim assistance

Probation service is not in charge of applying mediation or dealing with victim support, which is within the area of administration of the Ministry of Social Affairs. The mediation is organized through the system of professional mediators and victim support has been organised through the involvement of church organisations and the non-profit sector. However, in their work probation officers cannot ignore the victims of crimes; in some cases a probation officer needs to cooperate with the victim, approach of mediation can be used as the part of probation work. Since the adoption of renewed Probation Standards (22.02.2011) probation officers notify and inform victims of crime against persons, victims of sexual assault about the possibility to inform probation officer about their possible concerns and views regarding probationer and probation period. Probation officers notify about such possibility also those who have applied for restriction order for probationer. Close cooperation in that respect is carried out with victim support services.

The assistance to victims is guaranteed by the Victim Support Act¹⁰. Victim support service is regarded as a public service aiming at maintaining or enhancing the ability to cope of persons who have fallen victim to negligence, mistreatment or physical, mental or sexual abuse. Victim support services consist of providing counselling and assistance to victims in communicating with state and local government authorities and legal persons. Victim support services are provided in every county of Estonia and as telephone services via a national short code as emergency care. Information concerning the possibilities of using the victim support service is available at local government, police, rescue, health care and social welfare and other relevant authorities. The provision of victim support services are ensured by the Social Insurance Board in accordance with the principle of regionality. The Social Insurance Board co-operates with state and local government authorities and legal persons in providing victim support services, involve and supervise victim support volunteers and organise training for such volunteers. The Social Insurance Board may transfer the provision of victim support services to a legal person or local government in part or in whole by a contract under public law.

10 *Official Gazette*, RT I 2004, 2, 3 as amended by RT I 2010, 22, 108. Available: <https://www.riigiteataja.ee/akt/13318673?leiaKehtiv> (in Estonian). Translation into English available: <http://www.legaltext.ee/et/andmebaas/tekst.asp?loc=text&dok=X80012K1&pg=&tyyp=&query=&ptyyp=&keel=en>

Officials of the Victim Support Department of the Social Insurance Board serve as conciliators. They have received special training for the assignment.

The conciliators contact the victim and the suspect or the accused and the legally incompetent person's legal representative. The mediator checks the parties consent to conciliation and explains the parties the objective and procedure of conciliation and there rights in the procedure and effects of the breach of conciliation agreement. The first meeting of the parties is organized within one month.¹¹

The purpose of the conciliation procedure is to reach an agreement between the suspect/accused and the injured party to achieve conciliation and to remedy the damage caused by the offence. Conciliation allows increasing the involvement of the injured party in the decision-making process and reducing the stress, fear, anger and similar feelings entailed by an offence. The conciliation procedure is carried out with due respect to the interests of the injured/victim. Conciliation enhances the value of the injured/victim and increases his/her involvement. Conciliation deals with both parties to the offence.¹²

A conciliation agreement between the parties is concluded in writing within two months.¹³

3.5 Volunteers involvement

According to the PSA § 17 the Probation Service can use voluntary probation assistants who perform the functions of probation in their spare time and without pay. A voluntary probation assistant is supervised by probation officers. As a voluntary probation assistant can serve any person who has expressed the desire and is suitable for probation work. To assess the suitability of an applicant documents are examined and an interview with the applicant is conducted to examine the personal characteristics, education, CV and professional activities of the applicant. Probation Department provides voluntary probation assistants training before they take up their probation tasks. Voluntary probation assistants costs related to probation work are reimbursed in an amount not exceeding 10 per cent of the remuneration paid to a probation officer.

4. The Organization of Probation Services

Probation officers required educational background and competences are foreseen in the Probation Act and secondary legislation issued accordingly. Recruitment process is following the rules established by the Public Service Act. Usually every new probation officer gets a personal supervisor from senior staff right after appointment. As a rule practical training regarding risk-assessment, sentence planning and probation standards will follow. The test period for a probation officer is six months after which evaluation is made by line manager. After that appraisal interviews are conducted at least annually.

11 Conciliation Procedure Regulation, § 3.

12 Social Insurance Board. Victim support and conciliation service 2012

13 Conciliation Procedure Regulation, § 4.

There are several possibilities for specialization. Every direction has slightly different focus and therefore also a training package. The case load is monitored regularly and is dependent on the expected weight of the cases of specialization. There aren't many probationer of foreign nationality, but if such case appears then at the appointment of probation officer the issue of language skills is one important criteria.

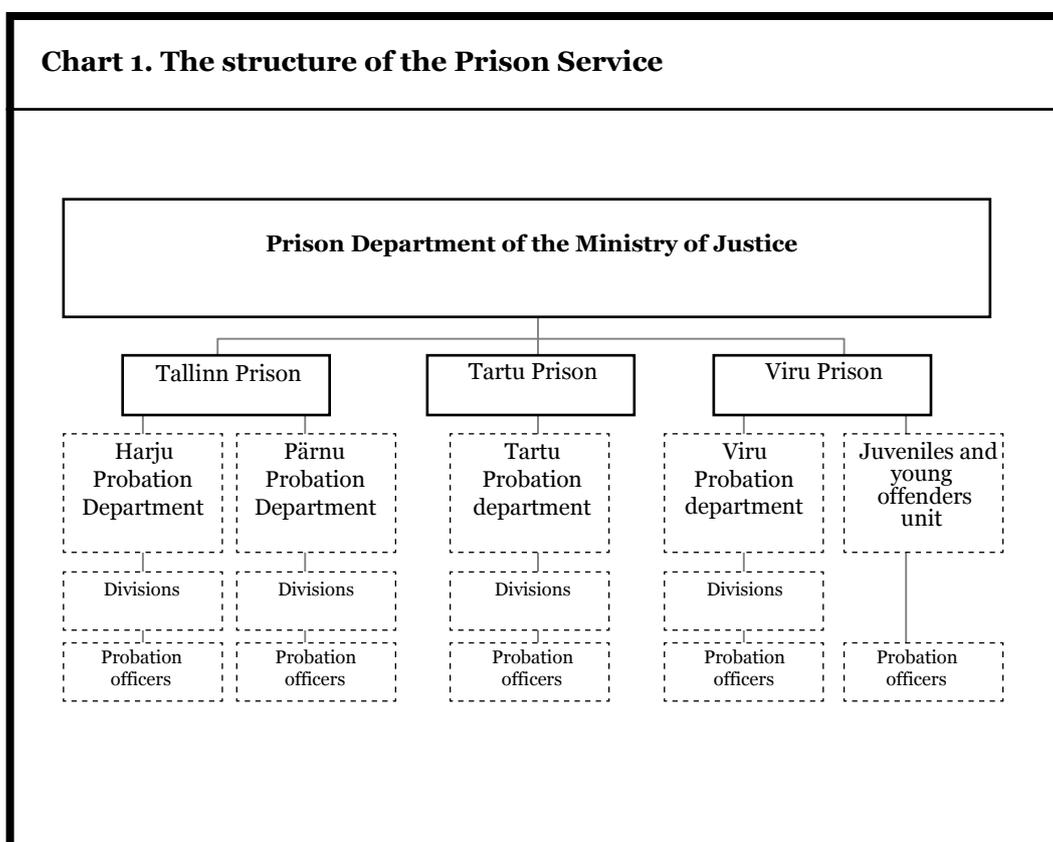
4.1 Main characteristics

The Estonian probation system is a centralized national structure which has been incorporated into the Prison Service and the coordination and development of its activities is in the competence of the Ministry of Justice. In the Ministry of Justice the Prison Department is responsible for the development of the probation service.

The Prison Department of the Ministry of Justice is a central body of the Prison Service with relevant administrative power. Prison Department is lead by a deputy secretary general, who is also acting at the same time as the Director of the Prison Service. Department has four divisions with heads of divisions who are acting as a deputy head of the Prison Service in respective field.

Main responsible division for probation activities is the Social Rehabilitation Division. The division was reorganized from social welfare and probation division in the beginning of 2008 when probation officers moved from courts to prison structure. Since then the unit deals with CSMs implementation and case management and rehabilitative interventions throughout criminal executive process including imprisonment and probation.

Chart 1. The structure of the Prison Service



There are altogether four probation departments in three regional prisons. Each probation department is divided into smaller units according to the specialization (Harju) or on the basis of regional presence (Tartu, Pärnu and Viru). Probation officers dealing with juveniles and youth (up to 21 years) are united into one centralized countrywide structure under juveniles and youth unit of Viru Prison.

4.2 Internal organization

Probation departments are employing 225 probation officers who supervise over 7,000 probationers. The caseload is regulated by the Probation Standards, which state that up to 50 cases per Probation officer is considered to be appropriate. In addition to that pre-sentence reports and parole reports are prepared by probation officers.

Probation standards require the heads of divisions to have a caseload, which is in smaller units equal to probation officers average, in the units with 11-14 probation officers 2/3 of general caseload and in the units with at least 15 probation officers at least half of the probation officers average caseload. The Head of a Probation department can, but is not required to, have 1-2 probationers' cases to work with.

A probation department is administered by a head that manages the work of probation officers and a secretariat. Departments are divided into smaller divisions and reception points that are necessary for guaranteeing the availability of service throughout the country.

Specialization to certain target groups or activities is possible and promoted. There are specialized probation officers dealing with pre-sentence reports and juveniles, community service implementation, electronic monitoring, sex-offenders, parolees etc. There is also a group of probation officers who have a task to provide group work programs (e.g. anger management, drunk-driving prevention etc) throughout the system.

Probation departments also have voluntary probation workers, currently there are around 15 volunteers all over Estonia.

4.2.1 Probation workers

Probation staff is divided into following categories:

- Probation officer - 159
- Senior probation officer – 31
- Senior probation officer (methodology) 10
- Head of a Probation Division – 15
- Head of a Probation Department – 4
- Administrative staff - 17,3

Probation officers are working directly with probationers and also prisoners, they may specialize to some category of probationers or programmes, but it's not compulsory. Senior probation officers are more experienced workers who are able to develop probation practice and programmes and advise others as well. To become a senior probation officer one has to meet higher educational requirements, has to have worked in probation service for at least two years and has to be specialized to certain group of probationers.

There is a special new category of senior probation officers who deal with quality assurance issues. Their task is to support management in assessing and improving the probation and prison officers work. Their main task is to examine on-going practice in terms of meeting the existing standards and quality requirements, to assist officers in fulfilling their tasks. They are also requested to train officers in the use of different working methods like risk-assessment, sentence planning, reporting etc.

Head of a probation division is responsible for administration of a smaller structural unit of a probation department. By definition of the Probation Supervision Act, they are probation officers who are also having some responsibilities of administration and coordination in certain field or regional district.

Head of a Probation Department is responsible for coordination and supervision of a probation department and officers work in relevant region. Probation departments are supported by administrative workers who assist probation officers in paperwork, registration of documents etc.

4.2.2 Education, training requirements and opportunities

At the creation of probation service in 1998 and 1999 probation officers were appointed to office on the basis of the implementing provisions of the Probation Supervision Act, which allowed to hire people with secondary education. Such implementing period was necessary as in the given time period Estonia lacked the possibility to find immediately a large number of suitable social educators or social welfare workers with higher education.

All officers hired in 1998 and 1999 received basic training that lasted for two months and that was the first introduction to the topic of probation and helped to unify knowledge in the field of law, social pedagogy, psychology. Since 2000 only persons with higher education in social work, social pedagogy, psychology, pedagogic, law or corrections are hired. Probation officers recruitment follows the procedures and principles of the Public Service Act. This act regulates requirements, recruitment processes and working conditions and procedures for entire civil service. The Probation Act supplements the Public Service Act and adds the requirement of suitable educational background and testing period of six months. Also, the in-service training programs regarding specific working methods are followed after appointment.

At present Additional Qualification Requirements¹⁴ (approved by the Minister of Justice regulation no. 37 of 7 May 2004) establishes the requirements for education, experience and skills of probation officers. Probation officers are required to have practical (equal to

14 Official Gazette RTL 2004, 63, 1048 as amended by RT I, 06.12.2011, 1.
Available: <https://www.riigiteataja.ee/akt/106122011002?leiaKehtiv>

bachelor in Bologna model) or academic (equal to master in Bologna model) education in one of the following disciplines:

- 1) psychology of social pedagogy;
- 2) psychology;
- 3) social work;
- 4) organization of social work;
- 5) special education;
- 6) social pedagogy;
- 7) social pedagogue – vocational trainer;
- 8) teacher training;
- 9) corrections.

Or have practical or academic education including at least 480 hours of education in social work theory and methods, law and psychology of communication.

The Ministry of Justice allocates funds for in-service training programs for probation officers. The annual training plan is drawn up and implemented largely by the Correctional College of the Estonian Academy of Security Sciences. The Correctional College deals with both – the education of correctional workers and delivery of annual training programs for the whole Penitentiary Service. Probation departments, as sub-structures of regional prisons, are involved in drawing up the annual training plan. There are also training programs available from other sources.

4.2.3 Other organizations involved in probation work

Probation officers cannot carry out their duties without cooperation. Probation officer has a responsibility to offer the offender information about resources available and to motivate the person for using them.

Other state agencies and local municipalities are responsible for providing relevant services to offenders on the same grounds as services are available for other target groups. For example the accommodation has to be provided by the local municipality, dealing with the problems of unemployment is the task of labour board. From governmental services police, local municipalities and labour board can be named as main partners.

Several NGOs are active in the field of crime prevention and social welfare. Probation officers cooperate with the NGO sector regionally on the basis of a need. NGOs usually work on a project basis and therefore the cooperation depends on mutual interests, needs and resources.

4.3 Probation and offenders abroad

There is not any distinction on the basis of nationality. Probation standards are applied to all categories of probationers in the same manner. Main prerequisite for probation is a living place in the territory of Estonia. Permissions to leave the country for probationers are given only after careful considerations. There is a plan for legislative amendment to ban any kind of international travel without permission from a probation officer. Currently a probationer may leave his/her place of residence for up to 15 days without notifying probation officer.

There have currently been no cases where national offenders convicted to probation or alternative sanctions have been transferred to the country of residence. However, when Councils Framework Decision 2008/947 will be applied then after prescribed procedures probation officers are responsible for dealing with carrying out the probation period of transferred persons.

5. Different Stages of the Criminal Justice Process¹⁵

According to the Code of Criminal Procedure interventions before guilt has been finally established aren't possible without the offenders' informed consent. For example in case of mediation both parties need to confirm that they agree with such option.

The role of the probation agencies in the criminal procedure is mostly aimed at preparation of pre-sentence report about accused behaviour and social circumstances. During that process cooperation in the form of information exchange with relevant state and local authorities is at place. Offender's views and cooperation are reflected in such report and its findings and suggestion to the prosecutor or the court are presented to the offender before it is submitted to the prosecutor or the court.

Community Service has since its start in 2002 found its place in the family of CSMs. According to the national legislation the community service is a community sanction or measure which involves organising and supervising of unpaid labour for the benefit of the community as real or symbolic reparation for the harm caused by the offender. Probation officers must look for jobs where offender's personal skills could be an asset. There are hundreds of jobs in the database and in each case suitable options together with probationers are selected.

None of the CSMs implemented by the probation officers involves personal monetary contribution or a risk to be fined. Probation Service is funded from the governmental budget.

Probation period can be combined with the electronic monitoring scheme. In that case electronic monitoring is additional measure and does not substitute social

¹⁵ Working with suspects and offenders, this includes actions with regard to mediation schemes and victim support schemes.

rehabilitation work carried out as an integral part of the supervision. Electronic monitoring includes as the other CSM-s the relevant visits to the probation agency and/or other locations in order to reintegrate probationer.

Probation service as a part of the Prison system is working in close collaboration with prison staff. It starts with mutual exchange of information and ends with regular joint implementation of group work programmes. Probation officers are more and more involved with prisoners already during imprisonment, for example young offender's imprisonment is carried out with involvement of their probation officer.

As a rule the offender's active involvement during the probation period is expected. Offenders are made fully aware of what is required of them, of the duties and responsibilities of the probation staff and of the consequences of non-compliance right at the first meeting with officer.

5.1 Pre-trial/remand/trial stage

Legislative base—Code of Criminal Procedure provides the rules for the pre-trial procedure and court procedure for criminal offences.¹⁶ The involvement of the probation officer is mainly through pre-sentence report, but probation service has the role also in case of termination of criminal proceedings.

¹⁶ Code of Criminal Procedure, Official Gazette RT I 2003, 83, 558, as amended by RT I, 17.04.2012, 4. Available: <https://www.riigiteataja.ee/akt/117042012006?leiaKehtiv> (4 July 2012) Translation into English available: <http://www.legaltext.ee/et/andmebaas/paraframe.asp?loc=text&lk=et&sk=en&dok=X60027K6.htm&query=kriminaalmenetluse&tyyp=X&ptyyp=RT&pg=1&fr=no> (4 July 2012).

Table 1. 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	X		
Conditional waiver by the public prosecutor	X		
Conditional suspension of the pre-trial/remand detention	X	X	<p>Electronic monitoring as an alternative to pre-trial detention:</p> <p>If a preliminary investigation judge or a court has received an application for substituting electronic monitoring for an arrest he/she has to ask a probation officer to offer his/her opinion concerning applicability of electronic monitoring.</p> <p>Before a court can order electronic monitoring he/she has to present the opinion of a probation officer concerning possible application of electronic monitoring.</p> <p>If a suspect or an accused does not obey the rules of electronic monitoring a preliminary investigation judge or a court substitutes arrest for electronic monitoring on the basis of the proposal by a probation officer.</p>
Pre-trial/remand detention	X		

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	X	<p>At the request of a probation officer or bailiff, a judge in charge of execution of court judgments may arrest a convicted offender who has not been taken into custody if the offender evades or may evade execution of the judgment of conviction and the court has sufficient reason to believe that:</p> <ol style="list-style-type: none"> 1) the conditional sentence will be enforced; 2) the part of the punishment which was not served due to release on parole will be enforced; 3) the sentence of imprisonment substituted by community service will be enforced; 4) the pecuniary punishment will be substituted by detention, imprisonment or community service; or 5) the fine to extent of assets will be substituted by imprisonment. <p>(2) In the cases provided for in subsection (1) of this section, a convicted offender may be kept under arrest until the entry into force of a ruling on the enforcement or substitution of the punishment</p>
Bail	X		
Caution			
Surety			

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)
House arrest			
Electronic monitoring	X	X	<p>Electronic monitoring as an alternative to pre-trial detention:</p> <p>If a preliminary investigation judge or a court has received an application for substituting electronic monitoring for an arrest he/she has to ask a probation officer to offer his/her opinion concerning applicability of electronic monitoring.</p> <p>Before a court can order electronic monitoring he/she has to present the opinion of a probation officer concerning possible application of electronic monitoring.</p> <p>If a suspect or an accused does not obey the rules of electronic monitoring a preliminary investigation judge or a court substitutes arrest for electronic monitoring on the basis of the proposal by a probation officer.</p>
Community service	X	X	<p>There is a strong recommendation for prosecutors for analysing each person's suitability before ordering community service. In this case it can be made through ordering the pre-trial report from Probation Service or after completing short suitability test together with consultation of probation officer.</p>
Treatment order	X		
Training/learning order	X		

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)
Drug/alcohol treatment program	X	X	An investigative body or Prosecutors' Office may request Probation Department to provide their opinion on the applicability of addiction treatment on a suspect or an accused person.
Compensation to the victim	X		
Mediation	X		
Semi-detention			
Attending a day centre			
Liberty under judicial control			
Interdiction to leave the country	X		

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)
Interdiction to enter different cities/places	X	X	<p>A probation officer prepares a pre-trial report on a suspect, the accused, which contains a summary of the personal characteristics and social circumstances of a suspect, the accused, and an opinion on the probationary period and selected obligations (including interdiction to enter different cities/places) to be applied with regard to a suspect, the accused.</p> <p>A pre-trial report contains biographical facts and a psychological-social prognosis of a suspect, the accused.</p> <p>A probation officer meets the suspect, accused, persons close to him or her, and other persons to collect information necessary for the preparation of a pre-trial report, examines the information from state and local government agencies on the suspect, accused, and shall request that the legal representative, head of the educational institution and employer of the suspect, accused submit information on the behaviour and academic progress of the suspect, accused.</p> <p>Biographical facts of a suspect, the accused are based on verified information and contain references to sources which confirm the information presented in a pre-trial report.</p> <p>Pre-trial report is approved by a head of probation supervision department.</p>
Interdiction to carry out different activities			Same as above

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)
Interdiction to contact certain persons			Same as above
Psychiatric treatment			Same as above
Deferment of sentence	X		
Fine	X		
Other financial sanctions	X		

5.1.1 Pre-trial/pre-sentence report

A prosecutor or judge can order the pre-trial report. In accordance with the Code of Criminal Procedure (§ 213) the prosecutor decides the issue whether to engage a probation officer to prepare the pre-trial report. At the request of a prosecutor, a probation officer will ascertain the facts relevant to the assignment and submit a pre-trial report to the prosecutor that will be included in the materials of the file. Appointment of a probation officer and ordering of a pre-trial report is compulsory in the case of criminal cases involving minors. In accordance with the Code of Criminal Procedure (§ 264) also the judge has an authority to engage a probation officer during the phase of judicial pre-proceeding. If necessary, a judge shall assign the head of the probation supervision department with the duty to appoint a probation officer. Also the judge shall verify whether a pre-trial report has been prepared in the criminal matter of the accused who is a minor. At the order of a judge, a probation officer shall amend a pre-trial report and submit to the court a pre-trial report that shall be included in the materials of the criminal matter.

The head of the probation department shall appoint on the application of a court or prosecutor a probation officer to whom he or she assigns the task of preparation of a pre-trial report and submit it to the court or prosecutor within the period specified by them. A probation officer shall prepare a pre-trial report, which is basically the assessment of risk of recidivism and dangerousness of the person. In the process of completing the report a probation officer shall meet the suspect, accused, persons close to him or her, and other persons to collect information necessary for the

preparation of a pre-trial report. When drawing up the pre-trial report, the probation officer must meet the defendant or accused; on the request of a defendant or accused who is less than 18 years old a legal representative of the minor has to be present during the meeting.

A probation officer must guarantee that the data used for drawing up the pre-trial report are relevant and based on verified facts. If possible the probation officer will meet with the family members, friends, close ones, colleagues, school mates and legal representative of the defendant or accused and will familiarise himself or herself with the data held by local government agencies about the defendant or accused and gather information from the educational institution or workplace. The pre-sentence report itself contains also the overview of the person, his or her characteristics and social circumstances. Taking into account the results of risk-assessment, the probation officer will form an opinion about possibility for using some from the existing alternatives and will also point out necessary obligations to be applied with regard to the person. If the probation officer, on the basis of the facts, finds that it is not advisable to use probation with regard to the defendant or accused, he or she will explain it and submit recommendations for further action. When drawing up the pre-trial report the probation officer is in essence already planning the probation time. Drawing up of the pre-trial report is therefore in essence the preparation of probation supervision.

5.2 Enforcement stage

The role of probation service is to deal with criminogenic risks and prevention of re-offending of offenders without duplicating the services of the social welfare system. The local municipalities are responsible for providing general social welfare services like housing, counselling etc. The grounds for granting such services are the same as for the general population. Their activities cover also those who have been released from prisons or serving their sentence in the society. However, in case of some services (for example unemployment issues) the social welfare agencies define ex-prisoners or offenders as a special target group. This means that by dealing with their problems the social workers are able to approach them more individually, and if needed, in close contact with supervising probation officer. The basis for the application of probation supervision period is a court decision that has entered into force. The probation officers are enforcing following alternatives:

- community service;
- supervision of conduct;
- supervision of conduct as a sanction applicable for minors;
- electronic monitoring as alternative to imprisonment;
- release on parole;
- electronic monitoring combined with the release on parole.

In certain cases supervision of conduct by probation officers after service of prison sentence can be applied. A court imposes supervision of conduct of a person after service of sentence pursuant to the provisions of Penal Code as probation is applied if:

- 1) the person has been punished for an intentionally committed criminal offence by at least two years of imprisonment and he or she has served in full the imprisonment imposed;
- 2) prior to the commission of the criminal offence specified in clause 1) of this section, her or she has been also punished for an intentionally committed criminal offence by at least one year of imprisonment and
- 3) taking into consideration the circumstances relating to the commission of the criminal offence, the personality of the convicted offender, his or her previous personal history and living conditions and conduct during the service of the sentence, there is reason to believe that he or she may commit new criminal offences.

(2) If a person has been punished for an intentional criminal offence specified in Divisions 1, 2, 6 and 7 of Chapter 9, Division 2 of Chapter 11 or Divisions 1 and 4 of Chapter 22 or an intentional criminal offence specified in another chapter of the Penal Code, which necessary elements of a criminal offence include use of violence, by at least two years of imprisonment, the application of supervision of conduct after service of the sentence does not require the prior conviction specified in clause (1) 2) of this section.

(3) The supervision of conduct after service of the sentence is imposed for the term of twelve months to three years.

(4) If a convicted offender fails to comply with supervisory requirements or perform the obligations imposed on him or her, the court may, on the basis of a report prepared by the probation officer, extend the term of supervision of conduct by up to one year at a time or impose additional obligations pursuant to the provisions of subsection 75 (2) of this Code.

(5) On the basis of a report prepared by the probation officer, a court may mitigate or annul the obligations imposed on the convicted offender for the period of supervision of conduct.

(6) Supervision of conduct after service of the sentence expires before the expiry of the term in the following cases:

- 1) commencement of the service of imprisonment or ordering of coercive psychiatric treatment or
- 2) application to new supervision of conduct pursuant to the provisions of § 74 of this Code.

Table 2. Sanctioning system and probation involvement in the enforcement stage

Sanctions/ Measures/ Penalties/ Conditions attached to a conditional sentence	Provision in legislation	Or probation service involvement	Main characteristics of the probation activity (e.g. supervi- sion, coordination, reporting, referral, help & support)
Imprisonment	X		
Suspended sentence	X		
Conditional sentence	X		
Affidamento in prova			
House arrest			
Electronic monitoring	X	X	<p>Electronic monitoring as an alternative to imprisonment:</p> <p>A sentence of electronic monitoring is enforced by sending the court ruling to the probation supervision department of the residence of the convicted offender.</p> <p>The head of a probation supervision department which receives a court ruling appoints a probation supervisor for the convicted offender and the duty of the probation supervisor is to exercise supervision over compliance with the obligations set out in the court decision.</p> <p>If possible, the head of a probation supervision department appoints the probation officer who prepared the opinion concerning release before the prescribed time.</p> <p>If a person violates the conditions of electronic monitoring, the probation supervisor immediately submits a report on failure to perform the obligations to a court.</p> <p>The procedure for the execution and supervision of electronic monitoring shall be established by a regulation of the Minister of Justice.</p>

Sanctions/ Measures/ Penalties/ Conditions attached to a conditional sentence	Provision in legislation	Or probation service involvement	Main characteristics of the probation activity (e.g. supervi- sion, coordination, reporting, referral, help & support)
Community service as sanction	X	X	<p>A sentence of community service is enforced by sending the court judgment or ruling to the probation supervision department of the residence of the convicted offender.</p> <p>The head of a probation supervision department which receives a court judgment or ruling appoints a probation supervisor for the convicted offender and the duty of the probation supervisor is to monitor the community service and exercise supervision over compliance with the supervisory requirements and obligations set out in the court decision.</p> <p>If possible, the head of a probation supervision department appoints the probation officer who prepared the pre-trial report as the probation supervisor for the convicted offender.</p> <p>If a person evades community service, the probation supervisor immediately submits to a Prosecutor's Office a report on failure to perform his or her obligations.</p> <p>If a convicted offender evades community service or fails to comply with the supervisory requirements or to perform the duties imposed on him or her, the probation officer submits a special report for the enforcement of the sentence of imprisonment imposed on the convicted offender to the court.</p> <p>The procedure for the preparation, execution of sentence and supervision of community service is established by a regulation of the Minister of Justice.</p>

Sanctions/ Measures/ Penalties/ Conditions attached to a conditional sentence	Provision in legislation	Or probation service involvement	Main characteristics of the probation activity (e.g. supervi- sion, coordination, reporting, referral, help & support)
Drug/alcohol treatment program	X	X	In supervising probation, probation supervisors monitor the performance of obligations specified in court orders (including participation in a drug/alcohol treatment program), assist and advise probationers in the performance of such obligations and provide assistance in the social adjustment of probationers. If, during a period of probation, a convicted offender fails to comply with the supervisory requirements or to perform the obligations imposed on him or her, the court may, on the basis of a report prepared by the probation officer, impose additional obligations, extend the period of probation by one year or enforce the punishment.
Educational measures	X	X	Same as above
Compensation to the victim	X		
Mediation	X		
Attending a day centre			
Interdiction to leave the country	X	X	Same as above
Interdiction to enter different cities/places	X	X	Same as above
Interdiction to carry out different activities	X	X	Same as above
Interdiction to contact certain persons	X	X	Same as above
Fine	X		Same as above
Day fine	X		Same as above
Other financial penalties	X		Same as above

Sanctions/ Measures/ Penalties/ Conditions attached to a conditional sentence	Provision in legislation	Probation service involvement	Main characteristics of the probation activity (e.g. supervi- sion, coordination, reporting, referral, help & support)
In/out patient order (psychiatric treatment)	X	X	Same as above
Security measures			
Combined order			
Community punishment			
Conditional release / Parole	X	X	
Automatic release			
Open prison	X		
Penitentiary program outside the prison			

5.2.1 Probation and suspended sentence

A court may order suspension of a sentence on probation, if the court, taking into consideration the circumstances relating to the commission of a criminal offence and the personality of the offender, finds that the service of the imposed imprisonment for a specified term by the convicted offender is not reasonable. In such a case, the court will order that the imposed imprisonment will not be enforced in full or in part if the convicted offender does not commit a new intentional criminal offence within the period of probation of eighteen months to three years and complies with the supervisory requirements and obligations imposed on him or her for the term of supervision of conduct provided for in s. 75 of this Code. Section 75 provides for the following requirements for the probationer for the term of supervision of conduct (obligatory for all persons under probation supervision):

- to reside in a permanent place of residence;
- to report at intervals determined by the probation department;
- to submit, in his or her place of residence, to the supervision of the probation officer and provide the probation officer with information relating to the performance of the offender's obligations and his or her means of subsistence;
- to obtain the permission of the probation officer before leaving the place of residence for longer than fifteen days;
- to obtain the permission of the probation officer before changing residence, employment or place of study.

In addition to such control requirements the court may impose additional duties on the probationer for the term of probation supervision:

- 1) to remedy the damage caused by the criminal offence within a term determined by the court;
- 2) not to consume alcohol or narcotics;
- 3) not to hold, carry or use weapons;
- 4) to seek employment, acquire general education or a profession within the term determined by the court;
- 5) to undergo the prescribed treatment if the offender has previously consented to such treatment;
- 6) to perform the maintenance obligation;
- 7) not to stay in places determined by the court or communicate with persons determined by the court;
- 8) to participate in social assistance programmes;
- 9) to submit to electronic surveillance if the offender has previously consented to such surveillance.

5.2.2 Substituting the punishment with community service

A court may substitute imprisonment of a convicted offender who is sentenced to up to two years of imprisonment by community service. One day of imprisonment corresponds to two hours of community service.

Imprisonment is substituted by community service only with the consent of the convicted offender. The term of performance of community service may not exceed twenty-four months and during the time of performing community service the person is subjected to supervision of conduct (see above). In addition to the substitution of imprisonment, pursuant to the Penal Code it is possible to substitute a fine by community service in accordance with the procedure indicated above. Subjecting to supervision of conduct in essence means the role of a probation officer as an organiser of community service and exercising of supervision over the work performed by the

client at different locations.

Community service is usually performed at local government institutions or in partnership with the non-profit sector. Probation service has the list of partners (NGOs, local governments etc.) where community service can be served. Offender's skills and wishes are considered if possible. The schedule for serving community service hours has to be agreed between 3 parties: probationer, probation officer and the partner institution. Probation service is responsible for supervising the CS, reporting to prosecutor and reacting to any violations by the probationer. The institution offering a workplace has to provide agreed work and information about progress at any time. The probationer is obliged to follow agreed plan and to complete work as required.

5.2.3 Release on parole (with and without electronic monitoring)

Section 76 of the Penal Code stipulates that if a person has been convicted of commission of a criminal offence in the second degree or a criminal offence in the first degree through negligence, the court may release the convicted offender on parole if he or she has actually served at least half but not less than six months of the term of the imposed punishment. In case of applying for electronic monitoring the minimum period of served imprisonment is $1/3$. If a person has been convicted of intentional commission of a criminal offence in the first degree, the court may release the person on parole if the convicted person has actually served at least two-thirds of the term of the imposed punishment. In case of applying for electronic monitoring the minimum period of served imprisonment is $1/2$. A period of probation will be set to the extent of the un-served part of the term of the imprisonment but for not less than one year. During the period of probation, the person will be subject to supervision of conduct provided for in s. 75 of this Code (see above). The maximum time for electronic monitoring is one year, after EM period probation supervision period will continue according to the rules of supervision of conduct until the initial prison sentence is served. If a person has been sentenced to life imprisonment, the court may release the person on parole if the convicted offender has actually served at least thirty years of the term of the punishment, the term of probation period in that case is five to ten years.

Table 3. 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	There is no coordinated approach, however there are pilot projects in every prison for such involvements. Probation officers visit prisoners and provide their support in rehabilitation activities before release.
Preparing prisoners for home leave and/or providing support during home leave	Probation officers dealing with juveniles and youth are engaged in such activity. If a young prisoner is allowed to visit their home, then local probation officer is present. Also, in case of juveniles and youth since autumn 2012 a probation officer is also appointed to offender during imprisonment.
Providing support to persons that have been pardoned or amnestied	
Providing advisory report with respect to amnesty or pardon	
Other tasks that are not included here. Please add to this list and explain.	

5.3 Care and after-care outside the criminal justice system

There are some NGOs active in the field of rehabilitation of ex-prisoners or offenders, some of them are cooperating with probation officers. Neither probation system nor Ministry of Justice are currently funding aftercare services. The Ministry of Justice has concluded a framework contract with Estonian Church Council, which is taking care of organizing volunteers to the prisons. The task of those volunteers is to provide support to those prisoners who are to be released without parole after serving full sentence. Prisoner can apply for volunteers help. They conclude a contract and start with meetings already before release in the prison and continue afterwards. Project is funded through different available project competitions (incl EU support), co-funding is provided by the Ministry of Justice. Currently this possibility is available in Viru and Tallinn Prisons.

There are some project funds available, but it's more oriented on crime prevention activities outside the criminal justice system. The Ministry of Social Affairs is funding housing and counselling for ex-prisoners, but the main emphasis is on services

provided by local municipalities. NGOs are also actively using different project funds and EU means.

6. Probation Methodology

The process and the quality requirements for the probation supervision work are set by the Probation Supervision Act and Probation Standards¹⁷. Probation Standards regulate probation officers everyday work in a more detailed manner and by their status they are understood as a guidebook for practitioners. Probation Standards set the main principles for the probation supervision work:

- 1 respect to human dignity;
- 2 minimal intervention;
- 3 development of self responsibility;
- 4 protection of society.

Probation supervision activities have to be planned and carried out bearing in mind those principles. Probation supervision work is a case based activity where probation officer has extensive right to decide about actions to be taken in order to meet set standards and principles.

Every probationer is assessed individually and according to the assessment the individual plan for further activities is worked out and discussed with the probationer. Assessment is repeated annually or in case of significant events immediately. According to the changes in the assessment the plan is revised as well. All data about the probationer and his or her progress is kept in the electronic database and is by the request accessible also for the probationer.

The evaluation of the quality of probation work is a regular process and carried out by the head of department, Prison management and penitentiary department of the Ministry of Justice. In case of reoffending internal case review is initiated and feedback is given to probation officer regarding compliance with the standards and needed changes in implementation (if any) as well.

6.1. Exercise of probation supervision

The process of exercise of probation supervision period has common traits in case of all probationers. A file is opened for a probationer after the receipt of the court decision or order by the probation department, and the enforcement of the decision begins. A probation officer is appointed personally by the head of the probation supervision department for each individual case. Distribution of cases takes place on the spot by the head of a probation supervision department in accordance with the existing conditions. Following criteria are taken into account:

17 <http://www.vangla.ee/orb.aw/class=file/action=preview/id=53802/Kriminaalhoolduse+standard+id+2011.pdf>

- working experience and specialisation of probation officer;
- workload of probation officer;
- regional occupancy;
- characteristics of the case;
- risk for conflict of interest.

Cases are distributed speedily, securely and reliably after receipt of the court decision/order or request for reports. Immediate feedback has to be ensured (notification to the court, police, and the probationer) about the commencement of the enforcement of the court decision/order.

The first meeting between the probation officer and the probationer must take place within five working days of the registration of the probationer in the register. During the first conversation it is important to convey with the probationer in the way that creates a basis for trustworthy cooperation. This requires, in addition to undisturbed environment that the probation officer be accepting and open for dialogue. During the first meeting with the client the probation officer gives an overview of the probationer's rights and duties, consequences of violation of the conditions during the probation period, reception times and planning of future work, discusses the personal and social situation of the probationer, agrees on the required time of contact in the future and ascertains the need for future assistance and guidance.

The rule is that in the first months of probation supervision period the meetings are more often. As analysis shows that the most critical time in terms of reoffending is the first phase of probation period the following minimal standard regarding meetings apply:

1. Up to completing risk assessment and signing probation supervision plan – meetings are held at least once a week.
2. After signing a probation supervision plan till 6 months – once per two weeks.
3. After 6 months – meetings are planned in accordance with evaluation of risks and dangerousness, but not less than once a month.
4. Probationers who have been evaluated as highly or extremely dangerous must appear at Probation Office once per two weeks.

Further probation supervision is a dynamic process the course and substance of which has to be defined again and again. The frequency of contacts must be determined according to the mode of life of the probationer and subjective and objective needs and risks. The risks will be re-assessed after a period of one year or earlier if such need arises.

If the probationer discontinues contact the probation officer has to make several attempts to re-establish contact (e.g. invitations to appear for reception, home visits with or without advance notice). If all these fail a special report is drawn up for the court in which the probation officer makes a justified application for changing the

conditions of probation period or for the enforcement of the actual imprisonment.

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Planning is carried out in cooperation with the probationer, and as a result a supervision plan is prepared which is an action plan agreed between the probationer and the probation officer containing concrete objectives for the period of probation. The risk-assessment tool is used for identifying risks related with probationer's behaviour and overall life situation¹⁸. The tool is divided into relevant parts and measures risk of re-offending and the level of dangerousness. Risk-assessment starts with the first meeting and will be completed within first 1.5 months of signing the supervision plan. All risks rated as high have to be dealt with in supervision plan. The precondition for drawing up the supervision plan is holding of several meetings with the offender and mapping and analysing of the actual situation of the client. The probation officer cooperates with state and local government agencies and legal persons in private law in order to find resources to guarantee successful re-socialisation of the client. The supervision plan drawn up by the probation officer has to be concrete and clear and it must not excessively restrict the freedom of the probationer. When drawing up the supervision plan, the probation officer takes into account the results of risk-assessment. The supervision plan contains the plan of actions to guarantee compliance with the control requirements and duties imposed on the probationer, longer-term goals of probation supervision and the timetable for achieving them, actions for solving problems and the need and possibility to involve relevant specialists and persons close to the probationer. The plan also outlines work that is done in order to explain to the probationer the effect that the crime committed by him or her has on the victim, on himself or herself and on society, also explaining cooperation with state agencies to guarantee availability of education or employment to the probationer, frequency of meetings between the probation officer and the probationer, frequency of home visits and the form of probation supervision (individual or group work).

The probation officer in fulfilling the functions of probation supervision must make a judgement whether the probationer is likely to commit a new crime. Making a judgement means explaining the probability of committing a new crime and anticipating the type of crime. If the behaviour of the probationer manifests criminal tendencies or if there are other problems there must be immediate reaction and action must be taken according to the situation. Reacting to a violation during the probation period is regulated in the Penal Code. The Penal Code requires reaction in the case of commission of a crime or violation of conditions of the probation period, but leaves the probation officer quite extensive freedom to decide on further steps. If it has appeared that the probationer has violated the conditions of the probation period the probation officer shall require a written explanation about it from the probationer. If the violation of the conditions of the probation period was significant the probation officer will draw up a special report making a proposal for changing the

18 The risk-assessment tool is developed by the Ministry of Justice and is used also in the prisons.

conditions of the probation period or applying the actual imprisonment to the person. The court is required to review the special report within ten working days of its receipt. The judge can pass the following decisions: enforce the actual imprisonment, impose additional duties on the probationer or refuse the probation officer's request. After receiving the additional court ruling the probation officer will react in accordance with the ruling. Probation supervision ends with enforcement of the court decision or termination of the probation period. In the case of termination of the probation supervision in connection with the passing of the term the probation officer will carry out a final interview with the probationer in order to make a conclusion of the probation supervision and receive feedback from the client about the progress of the probation period.

This is done in cooperation with the probationer, and as a result a supervision plan is prepared which is an action plan between offender and the probation officer containing concrete aims for the period of probation. The risk-assessment tool is used for identifying risks related with probationer's behaviour and overall life situation¹⁹.

Risk-assessment starts with the first meeting and will be completed within first 1.5 months of signing the supervision plan. The precondition for drawing up the supervision plan is holding of several meetings with the probationer and mapping and analysing of the actual situation. The supervision plan drawn up by the probation officer has to be concrete and clear and it must not excessively restrict the freedom of the probationer. When drawing up the supervision plan the probation officer takes into account the results of risk-assessment. The supervision plan contains the plan of actions for compliance with the control requirements and duties imposed on the probationer, longer-term goals of probation supervision and the timetable for achieving them, actions for solving problems and the need and possibility to involve a relevant specialist and persons close to the probationer.

The plan also outlines work that is done in order to explain to the probationer the effect that the crime committed by him or her has on the victim, on himself or herself and on society, also explaining cooperation with state agencies to guarantee availability of education or employment to the probationer, frequency of meetings between the probation officer and the probationer, frequency of home visits and the form of probation supervision (individual or group work). The probation officer cooperates with state or local government agencies and legal persons in private law in order to find resources to guarantee successful re-socialisation of the offender.

There are several individual and group-work programmes available for probationers. Programmes currently in use are as follows:

- 1 Anger Management;
- 2 Social Skills Training;
- 3 Aggressiveness Replacement Training;
- 4 Lifestyle Training for Offenders;
- 5 EQUIP;
- 6 Traffic Safety Programme;
- 7 The Right Moment;

19 The risk-assessment tool is developed by the Ministry of Justice and is used also in the prisons.

- 8 Pre-Release Programme;
- 9 Rehabilitation Programme for Sex Offenders;
- 10 VINN programme for female offenders.

Probationers are sent to those programs by a probation officer according to their risk-assessment results. Probationer's consent for participation is sought by using motivational interviewing technique, which is a standard competence of a probation officer.

6.2 Community Service

The distinction is made between the cases of supervision of conduct and community service. In case of the community service risk-assessment and probation supervision plan aren't completed. Imprisonment is substituted by community service only with the consent of the convicted offender. The term of performance of community service may not exceed twenty-four months and during the time of performing community service the person is subjected to supervision of conduct (see above). In addition to the substitution of imprisonment, pursuant to the Penal Code it is possible to substitute a fine by community service in accordance with the procedure indicated above. Subjecting to supervision of conduct in essence means the role of a probation officer as an organizer of community service and exercising of supervision over the work performed by the probationer at different locations.

Community service is usually performed at local government institutions or in partnership with the non-profit sector. Probation service has the list of partners (NGOs, local governments etc) where community service can be performed. Offender's skills and wishes are considered if possible. The plan for completing hours has to be agreed among 3 parties: probationer, probation officer and partner.

Probation service is responsible for controlling the fulfilment of CS, reporting to prosecutor and reacting to any violations from the client. Working place has to provide agreed work and information about progress at any time. The offender is obliged to follow agreed plan and to complete work as required.

6.3 Control activities

The probation officer in fulfilling the functions of probation supervision must make an assessment whether the probationer is likely to commit a new crime. Making an assessment means explaining the probability of committing a new crime and anticipating the type of crime. If the behaviour of the probationer manifests criminal tendencies or if there are other problems there must be immediate reaction and action must be taken according to the situation. Reactions to a violation during the probation period are regulated in the Penal Code.

The Penal Code requires reaction in the case of commission of a crime or violation of conditions of the probation period, which leaves the probation officer quite extensive freedom to decide on further steps. If it has appeared that the probationer has violated the conditions of the probation period the probation officer will obtain a written explanation about it from the probationer. If the

violation of the conditions of the probation period was significant the probation officer will draw up a special report making a proposal for changing the conditions of the probation period or applying the actual imprisonment to the person.

The court is required to review the special report within ten working days of its receipt. The judge can pass the following decisions: enforce the actual imprisonment, impose additional duties on the probationer or refuse the probation officer's request. After receiving the additional court ruling the probation officer will react in accordance with the ruling. Probation supervision ends with enforcement of the court decision or termination of the probation period. In the case of termination of the probation supervision in connection with the passing of the term the probation officer will carry out a final interview and assessment with probationer in order to make a conclusion of the probation supervision and receive feedback from offender about the progress of the probation period.

7. Finances, Accounting, Registration Systems and Evaluation Procedures

Probation service is financed from the state budget in line with general procedures. The budget is revised and negotiated annually by the prison management. The use of budget and resources is monitored regularly by the Ministry of Justice and other relevant bodies as well.

The Ministry of Justice Criminal Policy Department and also Internal Auditing Department are planning performance audits in their annual working plan. According to the results of such evaluation the strategic development plan is amended. For example the regular recidivism study is measuring also the effectiveness of probation work and is one basis for further developments.

7.1 Finances

The probation system is financed entirely by the state from the state budget. Additional funding may be used from EU or other grants,.

There is a general state budget strategy, which contains state financial priorities for the next four years in respective fields. Every year the strategy is reviewed, amended and prolonged. Every institution has its own strategic plan, which is following a state budget strategy regarding funding. According to that different Ministries and other institutions are negotiating their annual budgets with the Ministry of Finance annually. After agreement on state budget, Ministries and other relevant institutions finalize their inner allocation of budgetary resources.

The Ministry of Justice plans necessary budgetary resources for the probation activities in the budget of the Prison Service. Annual budgets for each prison are negotiated for all possible needs, including probation activities. Apart from this, the Prison Department of Ministry of Justice disposes separate funds for central projects, e. g., development of new methodology, seminars, projects etc. In case of launching new alternatives or activities, additional funds and personal resources are considered already in the phase of preparing legislative amendments.

Table 4. Prison / Probation expenditure

	2009		2010		2011	
	Prison in total	incl probation	Prison in total	incl probation	Prison in total	incl probation
Annual expenditure (EUR)	36 550 387	3 092 104	37 246 851	3 297 598	36 599 583	3 224 439
Number of personnel (as at 31. Dec) ¹	1855	220	1793	229	1692	224
Number of offenders (as at 31. Dec)	3923	8490	3696	7568	3690	7224

The prison director is responsible for designated use of the budget. Prison director is guided by approved annual resources, agreed annual goals and needs. According to that a detailed budget for one year is approved. Salary conditions and benefits are regulated in a separate regulation and there is not much space for discretion by the director.

Despite the successful launching of a system of alternatives and the fact that the number of prisoners is decreasing, the improvement of prison conditions will increase prison costs during the forthcoming years much more than the budget for probation service. Building a new Tallinn prison by 2017 inevitably needs much more resources than probation developments.

7.2 Accounting

Every expense has to be well documented and bidding or procurement procedures have to be followed. Accounting Service is centralized and invoices have to pass approval procedure before payment.

Apart from a prison, the right to control the use of funds is exercised by the Ministry of Justice and the State Audit Office. The Ministry of Justice has applied an accounting system that enables to get an objective overview of the expenditure.

Data about probation expenditure is possible to review separately. Data about budget and expenditure is public. Also the data about civil servants individual salary is public and accessible via websites of respective organization.

7.3 Registration Systems and Evaluation Procedures

Since its creation the Estonian Probation system has used electronic database for keeping records of offenders, serving sentences and information about probation officers activities. The database consists of all information about each offender;

the electronic dossier is opened for each case and the process and progress of the probation period is recorded.

The database of probation system supplements the environment for completing and processing risk assessment forms and technical solutions necessary for the everyday work of probation staff. The database is used by probation staff and is not accessible for others without permission. All relevant information concerning the implementation of the probation period is recorded in the database, also all necessary documents, reports etc are formed and stored in database.

Information or statistics that is needed for management or scientific purposes is collected via special requests from database administrators or probation workers. The information from the database is mainly used for two purposes: management and research. The information is accessible for probation staff, for example the caseload of each individual probation officer can be seen in the database etc. The Probation database provides necessary data to evaluate how many probationers serving certain sanctions were completing their probation period successfully and how many were not fulfilling their obligations. The overall success rate is evaluated on a regular basis.

The Ministry of Justice requests regular statistics from the database using special web interface and at some extent publishes it regularly on the official web page of the Penitentiary Service²⁰. Penitentiary Service publishes its annual review where data from the registry is used²¹.

The information of the database is also used for scientific purposes. However in that case the justified request to the Ministry of Justice has to be made. Currently, the main analyses using the database are ordered by the Ministry of Justice. Good examples of such studies are regular reviews of the used risk assessment methodology. The data of completed risk assessments is compared with the data of Sanctions Registry. As a result the understanding of the effectiveness of measurement tool is up to date and if necessary amendments are made.

The measurement of effectiveness of implementation of probation work is carried out also as a part of the general recidivism study. The Criminal Policy Department of the Ministry of Justice is organizing it regularly. At this moment full data about criminal procedure, punishments, enforcements are digitally kept. There are several databases used for that purpose – starting with Register of Sanctions and Register of Criminal Procedure and ending with prison and probation registry. The results of the recidivism and other studies are published on web.²²

20 www.vangla.ee

21 <http://www.vangla.ee/41294>

22 <http://www.just.ee/10042>

8. Societal Support and Clients' Views

The Prison Service informs the media and the general public about the work of probation agencies through up to date webpage, press releases and answers to inquiries. Information about the work carried out by probation officers and also the results of the studies are published regularly at the webpage.

8.1 Societal Support and public opinion

Considering the short history of the probation system in Estonia it is a relatively little studied field. However, more and more students of social work and other fields have shown interest in these alternatives. There are several studies concerning criminal policy (incl. alternatives, victims, recidivism), many of them completed in various universities. The Ministry of Justice is also ordering academic studies about relevancy and effectiveness of prison and probation rehabilitation programmes.

On the local level the heads of probation supervision departments communicate with the media and on the national level it is the Ministry of Justice. Press releases are issued centrally and requests are answered when there is such request. As a rule information about events in prisons is summarized weekly and published on the webpage²³ of the Prison Service. The summary includes also all incidents with breach of rules by probationers. As web page is updated and reviewed regularly then all relevant information is accessible from there.

The idea of alternative punishments seems more accepted in society than it was ten years ago. More positive attitude is recognizable towards community service, less positive is the public opinion regarding parole. Some interest groups have only expressed occasional statements concerning their views on the alternatives. Usually the society is interested more actively about the activities of probation officers in case of problematic cases like severe crimes committed by a probationer.

8.2 Client' Views

Probation officers notify and inform victims of crime against persons, victims of sexual assault about the possibility to inform probation officer about their possible concerns and views regarding probationer and probation period. Probation officers notify about such possibility also those who have applied for restriction order for probationer. This activity needs to be evaluated in the future, but nevertheless it is a positive attempt to look for a wider engagement of different target groups.

During the probation supervision every probationer may express their views regarding process and decisions. The summary of the interviews or meetings are recorded in the diary of a probationer. Despite that there is no systematic overview about probationer's views to their punishment.

23 <http://www.vangla.ee/52700>

9. Probation Clients Rights

Probationer's involvement in the process of the probation supervision is guaranteed at every level. If there are complaints or disagreements the probationer can challenge probation officers decisions from the level of department till court. All materials regarding the proceedings are accessible to the probationer. Access to data for third parties is restricted according to the Data Protection Act.

As the activities of probation officers are directly related to the exercise of public authority and the control over enforcement of court decisions, protection of the rights of probationers is an important issue. In general according to the present legislation the convicted person has three different possibilities to challenge a decision or act of an official enforcing the punishment: 1) appeal to a higher official or body; 2) complaint to the court; 3) complaint to the Legal Chancellor (ombudsman).

Thus there is possibility of both internal and external control over the official (e.g. probation officer) enforcing the punishment. If the complaint is submitted to a higher official or body (head of the department; Ministry of Justice) automatically the mechanism of internal control is launched by the relevant institution by way of supervisory control. The complaint is verified and motivated answer is given. If the inquiry shows that complaint is grounded the decision can be reviewed and changed, which would solve the problem. If violation by the official is ascertained relevant disciplinary measures may be applied. If person isn't satisfied with the answer or decision then it's possible to turn to the court.

The further possibility for probationers is to file a complaint to the administrative court concerning an administrative act or measure of the probation officer. According to the administrative court procedure the complaint may be rejected, the administrative act or measure may be declared either fully or partially invalid or illegal, a precept may be issued or compensation may be awarded for the damage caused. In the case of not consenting with the decision the parties have the right to file an appeal to the court of appeal. If a person needs due to economical situation free legal aid for protection of his/her rights the court is authorized to make a decision about it.

The Legal Chancellor (i.e. ombudsman) is an independent official who has two major functions: 1) exercise of control over the constitutionality of legal acts of the legislative and executive power and of local governments; 2) exercise of control over the legality of activities of state agencies. The Legal Chancellor also acts as National Preventive Mechanism against torture. Everyone has the right to submit a complaint to the Legal Chancellor, incl. prisoners, probationers and other persons with restricted rights. The Legal Chancellor has free access to the necessary information and official premises (incl. prison territory). The decision of the Legal Chancellor is advisory in nature, but considering the authority of the Legal Chancellor the recommendations are usually complied with. If the recommendations are not complied with the Legal Chancellor is allowed to address the higher authorities of the state agency.

Apart from this, the Ministry of Justice in accordance with the currently effective procedures carries out regular annual supervisory control over the probation departments, the aim of which is to control the activities and efficiency of work of probation officers.

During the first meeting of the probation officer and the probationer the probation officer will introduce to the probationer his or her rights during the probation period and will obtain the client's signature about the introduction of the rights and duties using special form. Probation officers are among other characteristics selected also on the basis of their language skills in order to build up a good relationship with probationers who have other mother tongue than Estonian.

The probationer has the right to request from the head of the probation supervision department that the probation officer be replaced with another one or he/she can submit a complaint to the head of the probation supervision department or other abovementioned institution against the activities of the officer. Upon the receipt of a complaint the abovementioned control mechanisms are initiated depending on the body receiving the complaint. Also in case if probationer's violation is heard at court and a question is about sending him/her to the prison, probationer must be present.

Probationers' files are kept confidential and information is shared in very limited manner. Access to the special electronic database is limited and regulated with different levels of access. The limitations regarding personal data are rather strictly set by the Personal Data Protection law. In case of data protection incidents there is an obligation to report about it to the Data Protection Inspection, which starts an inquiry. If there is a sufficient ground criminal case might be initiated.

Setting up and developing the system of alternatives follow all international standards and rules. Probation officers and social workers proceed in their work first of all from the interests of the probationers and the available possibilities. For example, making of a home visit is agreed beforehand if possible, enquiries at the place of employment are not made without informing the probationer or without obvious need, etc. These principles are (despite reflections in the Probation Standards) rather informal than formal, but they are recognized by probation officers, for example: as little interference as possible in the client's private life etc.

Also some alternatives or its elements like community service, electronic monitoring, obligation to undergo the prescribed medical treatment, are requiring offenders consent before it is imposed. The probationers prior consent for certain measures during a probation period (e.g. home visit, contacts with employer) is asked only if the relevant data is accessible by other means (e.g. the person submits necessary documents) and if there are no problems in cooperation.

10. Developments to be expected

10.1 Developments in coming years

Estonian probation Service has went through relatively major reforms during its short existence. Those reforms have included organisational changes and expansion of services as well. It is expected that in forthcoming years instead of expansion of services in terms of new CSMs the main focus will be on the quality of internal processes (incl. cooperation within Penitentiary Service) and improvement of existing organisational set up and standards.

The organisational make up of probation is aiming at two directions. First major aim is to give more decision-making power to the probation officers. From the beginning years there is a practice that probation officer must go through certain approval procedure regarding their decisions and documents. This was laid down by the law with expectation to ensure level of quality in beginning years. Nowadays such arrangement is rather unnecessary. Ongoing creation of the positions of senior probation officers dealing with qualitative analysis and methods development is going to be a replacement. Also the planned reduction of the number of mid-level managers (heads of divisions) serves that purpose. This development is to be expected to be completed by 2013. As a result probation officer is a key person in terms of decision-making power and individual work in the case management process.

Secondly, the organisation of probation is developing together with prisons through the process of wider specialisation. This development includes both – national and regional level. In some prisons (Viru) former social rehabilitation department has been merged with probation department, in others this is still under consideration. The general directions²⁴ are agreed and given to prisons for following actions, please see the table below:

In terms of this development one must understand that probation develops towards greater integration and connection with prison work. Therefore the borders of prison and probation structures are not in some aspects or fields perhaps so visible anymore. This arrangement means that not only the probation officers scope of work is changing, but also that prison practice is going through significant changes. As a result certain categories of employees are engaged in the activities across region or even country under same management.

A good example of such direction is the specialisation to the juveniles and youth. Since March 2012 the probation officers and prison staff dealing with convicts up to 21 years are working under the centralized management across the country. This arrangement allows to develop and implement similar methodology, share experiences and to avoid loss of contacts and guarantee continuity in the rehabilitation process.

The main influencing factor for those abovementioned developments is the recent reform of prisons and probation. Another influencing factor was the change in the parole system and introduction of electronic monitoring and other alternatives,

²⁴ First introduced by the Ministry of Justice at Probation Officers Council meeting in Tartu as at 25.06.2012

which made involvement of probation officers easier and also evident. The joint development of working methodology like programmes and the risk-assessment tool in the Prison service may be listed as the third factor of influence. There is also a general understanding among policy makers that after closed imprisonment open prison or probation phase should follow.

10.2 Implementation of EU Framework Decision 947

Preparations for implementation of the EU Framework Decision 947 are still in progress. The draft law is planned to be discussed in the government in autumn of 2012 and it is expected that needed amendments will be incorporated into domestic legislation by the end of 2012. According to that probation officers will be engaged after revision of the case materials by the court. Central communication and coordination role is carried out by the respective department of the Ministry of Justice.

11. Important Publications

Estonian Prison Service

1.1. Estonian Prison Service Yearbooks²⁵

Prison Service yearbooks include an overview of prison and probation statistics, structure, staff and activities. Main ongoing and planned developments and projects are also described. Yearbooks are available in Estonian and English.

Researches in the area of Criminal Policy

2.1 The Ministry of Justice, Recidivism study (2010)²⁶

The study analyzes re-offending rates by sanctions and outlines influencing factors. The study includes comparison of CSMs with imprisonment. The paper is available in Estonian and English.

2.2 The Ministry of Justice (2010), Crime Victim Survey²⁷

This survey is the fifth victim survey carried out in Estonia. The previous survey "The International Crime Victim Survey in Estonia 2004" (Saar et al., 2005) was the opening edition for the series of criminal policy surveys. The paper is available in Estonian and English.

2.3 Margo Põbo, The consequences of reducing the prison population.- Juridica, 2011, nr 10, lk 768-778

The paper analyses the consequences of reducing the prison population and finds that the increase of recidivism may be a result of too frequent use of probation.

The paper is available in Estonian.

25 <http://www.vangla.ee/43684>

26 <http://www.just.ee/recidivism>

27 <http://www.just.ee/victim>

2.4 Piret Liba, Bases for assessment of reoffending risks and its implementation in the Estonian Prison System.- Juridica, 2011, nr 10, lk 779-786

The paper analyses the first steps taken in the Estonian Prison Service to assess reoffending risks.

The paper is available in Estonian.

2.5 The Ministry of Justice, University of Tartu (2012), Victims and witnesses in criminal proceedings²⁸

The study aims to map the problems faced by victims and witnesses in Estonia. 242 persons were interviewed, from whom 51% were victims and 49% witnesses. The paper is available in Estonian.

2.6 The Ministry of Justice (2012), the use of Mediation²⁹

The survey analyzes the use of mediation in criminal proceedings and makes conclusions and suggestions regarding existing practice. The paper is available in Estonian.

28 <http://www.just.ee/orb.aw/class=file/action=preview/id=56671/Kannatanud+ja+tunnistajad+s%FC%FCteomenetluses.pdf>

29 <http://www.just.ee/orb.aw/class=file/action=preview/id=52673/Lepitusmenetluse+rakendamine.+Jus tiitsministeerium%2C+kriminaalpolitiika+osakond%2C+2010.pdf>

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

Estonian Ministry of Justice

Prison department
Jaama str
741533 Jõhvi
Tel. +372 6 208 100
info@just.ee

Tallinn Prison Harju Probation Department

Tartu str 85
Tallinn
Tel/fax +372 612 77 42
talv.info@just.ee

Tallinn Prison Pärnu Probation Department

Kuninga str 22
80099 Pärnu
Tel +372 447 95 08
talv.info@just.ee

Viru Prison Probation Department

Jaama str 26
41532 Jõhvi
Tel +372 663 79 09
viruv.info@just.ee

Tartu Prison Probation Department

Kalevi 1
51010 TARTU
Tel +372 750 05 26
tartu.vangla@just.ee

Probation Officers Council

krho.noukogu@just.ee

Websites:

Estonian Ministry of Justice, www.just.ee

Criminal Policy department of the
Ministry of Justice,
<http://www.just.ee/10042>

Estonian Prison Service, www.vangla.ee

Estonian Academy of Security Sciences,
College of Justice
www.sisekaitse.ee/index.php?id=14069

Chancellor of Justice,
www.oiguskantsler.ee/en

Estonian Legal Translation Centre,
www.legaltext.ee

Official State Web Centre etc.
www.riik.ee/en/



General Information

- Number of inhabitants: 1 340 194³⁰
- Prison population rate per 100,000 inhabitants: 254
- Link to Probation Service: www.vangla.ee
- Links to websites: www.just.ee
- Member of the CEP in: 1995

Characteristics of the Probation Service

- In May 1998, the Probation Service started to work all over Estonia.
- The probation system falls under the competence of the Ministry of Justice.
- The probation system is united with prisons since 1. June 2008. The Division of Social Rehabilitation of the Ministry of Justice Prison Department is currently responsible for coordination of Probation system and social welfare of prisoners.
- The Estonian imprisonment rate is one of the highest ones among European countries, the main challenge for the probation organisation is to promote the wider use of probation through the better use of alternatives and parole.
- Internal organization:
 - four regional probation departments work at three regional prisons (Tallinn, Tartu and Viru);
 - the departments are divided into smaller units and reception points throughout Estonia.
 - probation departments also have voluntary probation workers (about 20 all over Estonia);
- The age of criminal responsibility is 14.
- Probation deals with adults and juveniles according to the applied sentence. All probation officers dealing with juveniles and youth (up to 21 years) are under centralized management of Viru Prison where juvenile prisoners serve their sentence.

30 <http://www.stat.ee/en>

Tasks

The probation system is responsible for implementing all community sanctions and measures that involve pre-sentence reports, community service (also at pre-trial stage), probation order (supervision of conduct), probation order as a measure for juveniles, parole order and electronic monitoring.

The basis for the activities is the court's decision, which sets the framework for the probation officers work. Risk-assessment is a cornerstone for probation, the same methodology is also used in prisons; the focus is on the management of risks with aim to prevent criminal behaviour of offenders.

Probation officers daily work has two major parts: supervision and assistance.

Number of staff (average numbers in 2011)

- Probation Officers:	190
- Probation Managers:	19
- Administrative support staff:	17
Total:	236

- Daily average number of offenders dealt with: **7200**

New developments

- It is expected that in forthcoming years instead of expansion of services in terms of new CSMs the main focus will be on the quality of internal processes (incl. cooperation within Penitentiary Service) and improvement of existing organisational set up and standards.
- The organisational make up of probation is aiming at two directions. From the beginning years there has been a practice that probation officer has to go through certain approval procedure regarding their decisions and documents. First major aim is to give more decision-making power to the probation officers.
- Secondly, the organisation of probation is developing together with prisons through the process of wider specialisation. This development includes both – national and regional level. Since March 2012 the probation officers and prison staff dealing with juvenile (up to 21 years) offenders are working under the centralized management across the country. This arrangement allows to develop and implement similar methodology, share experiences and to avoid loss of contacts and guarantee continuity in the rehabilitation process.
- In some prisons (Viru) former social rehabilitation department has been merged with probation department, in others this is still under consideration.
- Development and enforcement of the systematic research-based evaluation system regarding sanctions (incl. CSMs) and rehabilitation programmes.

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. sanction of probation		x	x
Supervising etc. conditional sentence		x	x
Supervising etc. special measures drug addicts	x	x	x
Supervising etc. community service	x	x	
Supervising training or learning projects		x	x
Interventions with young offenders	x	x	x
Supervising etc. suspended sentence		x	
Assistance/support of offenders in prison/detention		x	
Preparing pre-release reports, prisoners		x	
Supervising conditional release/parole			x
Supervising post custody, sex offenders			x

(Footnotes)

1 Technical personnel not included