

Chapter 1

European Probation Service Systems

A comparative overview

***Anton M. van Kalmthout
Ioan Durnescu***

1 HISTORICAL DEVELOPMENT

1.1 Origins of probation in the 19th century

European diversity is generally regarded as one of the greatest charms of living in this part of the world. The linguistic, social, religious, cultural and political differences between European countries determine the way national and regional societies manifest themselves and the way life is given its style. Not surprisingly, both the history and the current form of probation¹ within Europe display the same diversity.

When reviewing the current developmental phase of probation service systems and how they arrived at that phase, it is striking to see how much the development of probation as well as the turning points it has taken, are influenced by and embedded in the general societal development of the European national states and jurisdictions. In some cases (e.g. Belgium, Germany, Spain and Switzerland), even the regional level is too important to neglect. Although groups of countries or nation-states with rather similar probation developments can be distinguished (e.g. the former Communist countries, the group of countries with Roman law jurisdictions, and the group with common-law traditions), there are sometimes large differences within these categories too.

At the same time, when we study and compare the origin and development of probation in the various European countries, we see a lot of similarities. For many countries, the seeds of probation work were sown in the first part of the 19th century, when charitable and religious institutions started to take the fate of detainees and former detainees to heart by giving them material and immaterial support (Germany, Ireland, Luxembourg and Switzerland).

In the Netherlands, the first probation service organization, called “the Society for the Moral Improvement of Prisoners”, stems from 1823. The founders were merchants who, inspired by John Howard, tried to improve prisoners’ behavior by providing them with education and religious guidance in prison, and by giving them moral and some material support after their release. In France, in the second half of the 19th century, a number of “clubs” and “societies” with a Christian charitable background were the only organizations officially trusted to work with criminals, both during and after their detainment. These organizations became independent and received state funding by Governmental Act as early as 1885.

Such rudimentary forms of probation work can also be found in Scandinavia. In Denmark, for example, private organizations have been assisting released prisoners since 1843, and probation work with offenders released on specific conditions was performed as early as 1905. In Finland, private organizations financed by Christian charities were already working in prisons in 1870 (while

¹ The concept of “probation” is applied as what in sociology is termed a “sensitizing concept”: a rather broad or open concept which acquires its meaning in the context in which it is used. In this volume, the term “probation” refers to all probation activities in the criminal justice field (writing social enquiry reports, early intervention work, activities in the field of community sanctions and measures, activities in penitentiary institutions, supervision, probation as a sanction, crime prevention activities, et cetera).

Finland was still a part of the Russian Empire), using volunteers who helped the prisoners survive their sentence in a reasonable way, and who tried to cure released criminals by means of religious instruction and education. In Norway, a state commission was formed in the first decades of the 19th century to take the first steps towards developing probation activities; this resulted in the establishment of private probation organizations around the mid-century.

In England, the birth of the probation service can be dated to 1876, when a donation of the Church of England Temperance Society (CETS) led to the appointment of several “police court missionaries” who, acting as “missionaries in their own land”, assisted in diverting offenders away from the evils of drink by helping them find work and a place to live. Some thirty years later, this voluntary pioneering became a statutory responsibility.

In some of the new EU member states, the roots of probation activities also date back to the 19th century (e.g. the Czech Republic, Bulgaria, Hungary, Slovenia).

1.2 The influence of the “modern movement” in criminal law

The first rudimentary forms of probation activity had a strong religious and moralizing character, and consisted, almost without exception, of volunteers offering support to prisoners during and after their detention. This image changed drastically from the beginning of the twentieth century, when the so-called “modern movement” in criminal law started to exercise its revolutionary influence on the way society deals with offenders, criminals, delinquents and prisoners.

A fundamental shift took place, away from the view originating in medieval times, in which criminal law focused primarily on the criminal act and not on the criminal offender, and in which reprisal, retaliatory measures and deterrence, with imprisonment as the main penalty, were the key concepts. Criminal law became more individualized, and began to pay more attention to the rehabilitation and remobilization of offenders, as well as to specific preventive measures directed at the individual offender. This important movement, which had national offshoots all over Europe, paved the way for the development of the modern sanctions system, in which new sanctions and execution modalities arose and flourished: conditional and suspended sentence, conditional release and parole, bail, house arrest, and withdrawal or restriction of certain rights. The international “crusade” against the rigidity of the classical penitentiary system not only led to the introduction of new sanctions, but also to the creation of a separate sanctions system for juveniles, and to the development of a “double track” sanctions system with special penal measures for serious and/or mentally ill offenders.

These renewals were of overriding importance to the further development of probation. In many countries, the start of probation is linked to the reform of the sanctions system at the end of the 19th and the beginning of the 20th century. In Belgium, for example, the introduction of the suspended sentence (in 1888) went hand in hand with the establishment of supervising patronage committees, consisting of volunteers. In Bulgaria, the foundations of the legislative system were laid in the late 19th century, when a set of “Prison Rules” was adopted. These

rules, still current today, describe principles for the humane treatment of offenders, and formed the basis for social work in prisons. Conditional early release was introduced into the Bulgarian penal code in 1904.

The introduction of the conditional sanction and execution modalities also forced Catalonia (1908-1917), Croatia (1922), Czechoslovakia (1918), Latvia (1918-1940) and Lithuania (1928) to establish supervising bodies. In contrast to most other countries, in Latvia and Lithuania, supervision and guidance of offenders was not organized by special supervising bodies but by the police (Latvia) and the court itself (Lithuania). However, when a sentenced person in Lithuania was placed under guardianship, the court could assign this task to persons of reputation and those enjoying the confidence of the public. The concept of rehabilitating offenders was introduced in Romania and Moldova (being part of Romania between 1918 and 1940) under the influence of Italian positivism. Ideas like suspended sentence, conditional release and after-care were incorporated for the first time in the criminal code of 1936.

In a number of countries, such as Hungary (1908) and Poland (1919), the first probation-like activities were restricted to juvenile offenders. In Poland, these activities consisted of gathering information for the courts, providing care for juveniles under parental supervision and supervising juveniles with a suspended sentence. These tasks were performed by case workers, appointed and paid by the courts. The provision of supervision, help and assistance was not extended to adult offenders until decades later. During the first period of independence in Estonia (1918-1940), there were no centralized probation activities; social welfare was organized through local governments, and there were a few associations using volunteers.

In countries where the rudimentary forms of probation already existed in the 19th century, the introduction of the new sanction and execution modalities meant a strengthening of the position of organizations working with detainees and former detainees. Together with the expansion of their field of activity, now covering care for conditionally sentenced or conditionally released offenders as well as for mentally ill offenders and juvenile offenders, came a legal foundation. This had a strong influence on the nature of the activities: support evolved from "charity" into social casework. The voluntary social workers became professionals, educated according to the social work methodology.

1.3 Probation as a public task and responsibility

Another consequence of the reform of the sanctions system during the first decades of the 20th century was that national governments became more and more responsible for the execution of sanctions. Therefore, higher demands were made on the quality of the information given to the courts and the public prosecutor, to the quality of help and assistance to offenders, and to the way in which supervision, after-care and inspection of compliance with the imposed conditions were performed.

In a number of countries (e.g. England and Wales, and the Netherlands), the execution of probation tasks was completely trusted to private organizations, which carried out the assigned probation activities alongside their self-defined general educational and social work tasks. In countries where this approach was

taken, probation as a work field has flourished. In countries where trust in private initiatives was non-existent or existed to a lesser extent, the leading role had to be taken by the government: it became necessary to establish public organizations to carry out probation work. This generally resulted in the proliferation of probation activities being slower and less extensive.

In some countries, supervision and guidance of offenders and sentenced persons has always been a state matter, examples being the Czech Republic (since the beginning of the 20th century), Spain, Ireland (since 1922) and Sweden (since 1918). But in most European countries, the government has taken over the probation activities of private organizations in the course of the 20th century. In some countries, this occurred quite early, for example in Luxembourg (1884) and in Spain (1908). In Italy, the intention to organize probation for juveniles as a state matter was pronounced in a decree in 1934; probation for adults followed in 1975. In Germany, a national system was not set up until after World War II. (Although early examples of local probation services appeared in various cities during the first decades of the 20th century, these initiatives were discontinued during the 1933-1945 National Socialist period.) Portugal nationalized probation activities in 1956, Malta in 1961, Belgium in 1964, Denmark in 1973 and Norway in 1980.

Only in a small number of countries, private organizations still take the lead in probation. In the Netherlands, for example, probation stems from private initiatives in the 19th century; it has been executed by non-governmental organizations ever since. However, since World War II, the Ministry of Justice plays an increasingly important role in steering and controlling probation-related tasks. In England and Wales, an interesting model exists. Traditionally, probation is firmly in the hands of private services with very diverse organizational structures. Over the years, these private initiatives have received growing interest from the government, culminating in the recent National Offender Management System (NOMS), under the authority of which all local probation services are now operating. The situation in Switzerland is peculiar in that probation organizations are closely linked to the highly independent cantons yet enjoy complete financial independence from the justice and police departments of these same cantons.

In Austria, where probation work dates back to 1957, when private initiative fuelled its development, the dispute over the best way of organizing probation work (i.e. private or public) has been going on for many years, with the main actors in the field repeatedly changing position. The organization carrying out probation was left for years in an unsatisfactory in-between position. After many reforms and many years of discussion, it was finally decided that probation services should be provided by a private organization, falling under the jurisdiction of the federal government. Since 2001, NEUSTART is the only organization in Austria entrusted with probation, mediation and social work. In the current situation, the Ministry of Justice has a principal-subcontractor relation with the private organizations that carry out the work.

The situation in France needs to be described separately. Here, public and private sectors have both been heavily involved in probation activities since the end of World War II. Until then, since the middle of the 19th century, the private sector had been the main actor. After the war, the French probation service,

being part of the penitentiary administration, started to cooperate closely with the private project agencies that carry out part of the work. In 1999, the Committee for Probation and Assistance to Released Prisoners (CPAL) and the old socio-educational services were restructured and transformed into a new service, the Rehabilitation and Probation Prison Services (SPIP). The SPIP has a regional structure and is attached to the prison service.

1.4 The probation service as a key player in the field of criminal justice

The influence of the modern view has had a profound influence on the development of probation towards a public task and responsibility. However, in the process of transforming probation into one of the key players in the field of criminal justice, the importance of the community sanctions and measures developed during the past decades should not be underestimated.

Traditionally, the main actors in a criminal action are the suspect and his/her lawyer, the police, the judge and the public prosecutor; the victim, witnesses and experts play important supporting roles. For a long time, the role of probation was limited to providing help for detained delinquents, and to supervising offenders during their suspended sentence, conditional release and parole. However, since the introduction of the community service and other community sanctions and measures, probation activities are increasingly shifting from inside penal institutions to the outside world. In almost all European countries, mainly during the last two decades, there is a noticeable tendency towards a more prominent role for probation in supervising and enforcing non-custodial or semi-custodial sanctions and measures in different phases of the criminal procedure. The criminal procedure is a process of continuous selection, starting with the arrest of the suspect and ending with the imposition of sanctions and the execution of a sentence. This process of selection assumes and requires the provision of socio-psychological, socio-economic and cultural background information with respect to the offender, as well as the provision of other data relevant to the offender and the prosecutor, for example information about the crime committed and the concomitant circumstances. In which phase this information is gathered, and to which authorities it is handed over to, depends on the structure of the country's criminal procedure and on the diversity of the available sanctions and other penal interventions.

It is especially the growing interest of prosecutors and courts in non-custodial sanctions that has upgraded the importance of probation services in the criminal justice process. Since the introduction of community service in England and Wales in 1971, almost all other European countries have inserted this new sanction into their arsenal of sanctions. The success of this new sanction paved the way to the development of many other ways of dealing with offenders than the traditional response with imprisonment, fine or suspended/conditional sentence. What all these community sanctions have in common, is the commitment of society. Stimulated by the recommendations of the Council of Europe and by the support of non-governmental organizations such as Colpi, the Soros Foundation, CEP and Penal Reform International, the European countries are moving towards a more community-oriented criminal justice system that assigns the community an explicit role in the enforcement of penal sanctions by

emphasizing the reintegration of offenders into society as well as the needs of crime victims. This emphasis on the offender's inclusion, rather than exclusion from society, presupposes the involvement and commitment of the community, in particular the local community. It also implies the existence of an organization that can organize, prepare, enforce, supervise and monitor community-oriented sanctions and measures in close co-operation with private, semi-public and public organizations or institutions. It is mainly the introduction of this new category of sanctions and measures that has generated an increase in possibilities for probation services to enhance their societal profile and to become important players in the field of criminal justice.

In almost all European countries, during the last decade(s), the set of penal sanctions has been expanded with a large variety of non-custodial sanctions and measures. The organization, preparation, execution and implementation of these sanctions - including supervision and monitoring - has become one of the core tasks of the probation service. Consequently, the activities and commitment of most probation organizations have shifted increasingly from inside the penal institutions to the community outside.

1.5 Probation in the new EU member states

The development of probation in the new EU member states needs special mentioning. Although some rudimentary forms of probation already existed long before World War II (for example in Czechoslovakia, Bulgaria, Hungary, Lithuania and Slovenia), its further development stagnated during the cold war period. After World War II, all Central and Eastern European countries were under Soviet influence until the late 1980s and early 1990s. In the Soviet Union, professional social work (in the Western sense) did not exist. Consequently, during the period of Soviet dominance, alternatives to imprisonment and probation activities were not highly developed, although some of the countries did introduce such measures into their penal practice; others developed a criminal code (Bulgaria, Czechoslovakia, Estonia and Latvia). However, the Soviet doctrine did not allow any community movements or organizations apart from those sponsored by the Communist party.

Already before World War II, countries like Bulgaria, Croatia, Czechoslovakia, Estonia and Poland were accustomed to suspended sentences and/or conditional release. But in contrast to the Western European countries, in most cases, these were not monitored by specialized probation workers, but by police organizations under a totalitarian regime in an entirely controlling, even repressive manner.

After the fall of the Iron Curtain and the re-establishment of democracy in the early 1990s, most of the former Soviet satellite states started to reform their criminal justice systems, supported by numerous international governmental and non-governmental organizations that vigorously promoted the concept of probation, the importance of community sanctions and measures, mediation and victim support. The first country to introduce the concept of probation was the Czech Republic; in 1991, it started with the experimental "Out of Court Alternatives for Juveniles", designed to resolve criminal cases involving young people through the use of mediation. The experiment combined the "classic model" of probation work (a combination of assistance and supervision) with the concept of "restorative justice". In 2001, this pilot program resulted in the establishment of the National Probation and Mediation Service (PMS). Unlike in most Western European countries, PMS's clients are not only offenders - juveniles as well as adults - but also crime victims and affected communities. Other Central and Eastern European countries have included mediation and victim support in their recently established probation services as well. Examples are Hungary (2003), Slovenia and Romania (2002).

Looking at the current situation in the new EU member states and in Moldova, one can conclude that - with the exception of Croatia and Slovenia - most countries have succeeded in setting up a probation service within a remarkably short period. In Croatia, the implementation and enforcement of the various tasks, mentioned in the special Supervision of Suspended Sentence and Community Service Act (1999), have not been integrated into one service system. The same goes for Slovenia.

As in the majority of Western European countries, almost all of these recently established probation services are state-funded government bodies. In some cases, control and repression still prevail over support (Bulgaria). In Estonia, the risk-assessment approach is now the cornerstone of probation work, but in most

countries, the current criminal policy is still strongly being determined by the concept of restorative justice, with its emphasis on community sanctions and the interests of victims and society.

1.6 From voluntary work to professionalism

As already mentioned, probation work initially started with the involvement of volunteers and charitable organizations, which were gradually and partly replaced by professionals, government-funded organizations and governmental executive organizations. The voluntary work tradition and its background and philosophies played a major role in shaping the current probation systems in Europe; in fact, these factors are still contributing - even increasingly - to the development of the field, to its mission and to the work itself. Interestingly, in some countries (such as Finland and the United Kingdom), the partial transition from voluntary to professional work occurred at a very early stage in the history of probation.

Generally speaking, one can say that, in the Western European countries, probation remained the field of individual volunteers and volunteers from charitable organizations for a long time. In the Netherlands, although probation activities performed by non-voluntary workers started quite early (1910), the Salvation Army has always been responsible for a good part of all the work done in the entire Dutch probation field. Further north, in Sweden and Finland, probation work has always been carried out in close cooperation with volunteers from ecclesiastical organizations and leisure organizations (e.g. sporting circles). In Denmark, however, the long tradition of voluntary work has not held in the area of probation. The voluntary element has gradually diminished and today is only present to a very small extent. In Norway, probation work was the realm of volunteers until as late as 1980.

Moving towards the centre of Europe - in 19th-century Germany, probation was entirely a volunteer business, and although the first moves towards professionalization occurred in the first decades of the 20th century, the evolution into professional organizations only took place in the 1950s. In Luxembourg, the primacy of voluntary work lasted right up to the beginning of the 1950s. As late as 1961, Austria still had only one professional (i.e. paid) probation worker; the first Austrian law on probation (for juveniles), issued that year, did not cater for paid probation workers and only mentioned voluntary workers. Of course, the involvement of volunteers alone proved to be insufficient very soon after, and this influenced Austria to move in a new direction. However, volunteers are still playing an important role in the area of probation. With some exceptions - sexual offenders and clients with multiple problems are excluded - volunteers perform the same probation work as professionals.

Moving further west, to Ireland, where voluntary probation work is as old as the nation-state itself. Ireland had its first paid workers between 1940 and 1950. In Southern Europe, we see the same picture: In Italy, the old, well-respected ecclesiastical and socialist volunteer infrastructure is still dominant in the field, although also paid professionals performed probation work with juveniles at a relatively early stage; probation activities with adults did not involve paid workers until 1975. A similar situation is seen in Portugal, where the voluntary

sector has been involved in probation work for a very long time, although the state has increasingly exerted its influence since 1956. In Spain, where - compared to other Western European countries - probation might be considered to be in a fairly rudimentary phase of development, voluntary workers play a major role in certain probation projects.

In other countries, the involvement of volunteers was limited and overtaken by professionals and state-paid workers very early on. In Belgium, a professional probation service was set up during World War I; England and Wales have had paid probation workers since the first decades of the 20th century (although the probation service still closely cooperates with a wide range of voluntary organizations and part of the probation budget is spent on these organizations). In Finland, the need for paid staff was recognized as early as the late 1800s.

Switzerland and France are special cases in this respect. In Switzerland, probation work started as a volunteer business with, for example, "ladies committees", caring for prisoners and the convicted. In the extremely decentralized union of cantons (provinces), many local initiatives have arisen. These are different in design and manner of implementation, and locally steered and financed; consequently, they show enormous differences: in some cantons, probation is exclusively a non-volunteer work field, while in others the role of the volunteer is predominant. In France, there are no specific voluntary probation workers, although the probation structures do cooperate intensively with the volunteer sector involved in social care and addiction care. The role of volunteers in supporting crime victims is especially important.

Moving towards the central and eastern parts of Europe, one can observe that, in most countries, there is little or no tradition of voluntary work; probation activities have always been carried out by paid workers. An example of this is the Czech Republic, where social curators employed by the Ministry of Labor and Social Affairs started to undertake probation-related activities in the 1970s at the same time as prison social workers embarked upon several forms of probation work. In contrast to the Czech Republic, in Estonia, the Probation Supervision Act provides for the involvement of probation volunteers, one of the main aims of which is to give members of the public the chance to help in the resettlement of offenders. In Latvia, Lithuania and Romania, the law also provides ample opportunities to recruit volunteer probation workers.

2 LEGISLATIVE BASIS AND MISSION

2.1 Legislative basis

In almost all European countries, legislative provisions existed as prerequisite before probation services were set up. Judges and prosecutors were long before able to impose measures like suspended sentence, freedom on recognizance and deferred sentence, but the absence of a rigorous enforcement system prevented a significant use. The increased concern for human rights and the new phenomenon of prison overcrowding put pressure on governments to establish a dedicated infrastructure for implementing community measures and sanctions. Since their set-up, the use of these measures and sanctions has increased on a

continuous basis.

In the last 10 to 15 years, the European probation field has experienced crucial moments of development: countries that did not have a probation system started to develop one (Romania, Bulgaria, Moldova, Slovakia, the Czech Republic, etc.) and countries with a long history of probation decided to redesign and recalibrate the system to better fit into the public agenda (England and Wales, Finland, the Netherlands). Although there is still no probation system as such in Croatia or Slovenia, the legislation in these countries assigns real probation competencies to social care services, especially with respect to juvenile offenders.

In almost all European countries, the substantive legislation (the sanctioning system) relevant to probation activities is prescribed by the criminal code (Belgium, Estonia, the Czech Republic, France, Hungary, Latvia, Moldova, the Netherlands, Norway, Sweden, Switzerland, Romania) or by criminal justice acts (Ireland, England and Wales). In the vast majority of countries, the position of the probation service within the criminal justice system and its concrete role are described in the criminal procedure code. Functional and organizational aspects of the probation systems are provided in different acts such as the enforcement law (Bulgaria, Denmark, Lithuania, Norway and Spain) and special probation laws or decrees (the Czech Republic, Catalonia, Austria, Estonia, France, Latvia, Romania, England and Wales, etc.). In terms of concrete probation activities or daily practice, most of the countries use circulars (Denmark, Romania), standards (the Czech Republic, Estonia), instructions (Catalonia, Spain) or ministerial orders (Estonia, Bulgaria and Latvia).

In some countries, the probation service is in charge of probation activities with both juveniles and adults (Austria, Bulgaria, the Czech Republic, Estonia, Finland, Latvia, Lithuania, Luxembourg, Moldova, Northern Ireland, Portugal and Romania), but in others the probation service rarely deals with juveniles (Denmark, Scotland) or exclusively with adults (the Netherlands, Sweden). Most countries treat juvenile offenders in a different way than adult offenders; they either have specialized divisions within the probation service (Ireland, Italy) or specialized staff dedicated to probation work with juveniles. In some cases, the probation service cooperates intensively with child protection agencies when supervising juveniles (Bulgaria, Germany). Special regulations are in place concerning juveniles on community service. In countries like Bulgaria, Latvia and so on, the law explicitly stipulates the minimum age for imposing this measure or obligation (sixteen in Bulgaria and eleven in Latvia).

The common continental and Anglo-Saxon origin of probation is reflected in the substantive law of probation. Countries with long Roman traditions use suspended sentences as a means of probation or as additional elements added to alternative measures or punishments (Austria, Belgium, Croatia, Estonia, France, Lithuania, the Netherlands, Romania, Malta, Sweden, Switzerland). Countries with an Anglo-Saxon tradition, however, use probation as an order (Ireland, Malta, Scotland, England and Wales). Bulgaria is an exception to this rule. Although Bulgaria fits into the continental tradition, the penal code defines probation as a penalty replacing imprisonment for up to three years.

Apart from supervising offenders upon whom some form of suspended sentence has been imposed, in some countries, probation services also work with parolees (Austria, Estonia, Finland, Latvia, Lithuania, Moldova, the Netherlands,

Portugal, Scotland, England and Wales) and inmates (France, Luxembourg, Moldova). More and more, probation services are involved in diversionary measures: services in the Czech Republic, Hungary, Slovakia, etc. are also responsible for mediation programs; services in Scotland, England and Wales are delivering bail advice and supervision.

In terms of offences and offenders, most of the probation services across Europe deal with less serious/non-violent crimes and offenders with no criminal record. Exceptions to this rule are the England and Wales, and the Netherlands, where the probation services are increasingly targeting high-risk/dangerous offenders in order to downsize the number of prisoners. Although, as a rule, certain types of offences are not explicitly excluded from being dealt with by probation services, the law usually prescribes in which cases the court can suspend the execution of a prison sentence—ranging from six months (Croatia) to four years (Romania)—or impose an order (for so-called “non-mandatory crimes”). In order to prevent the excess use of the probation service system (to limit the “net-widening” effect), some countries have explicitly excluded less serious offences or misdemeanors from probation service involvement (e.g. Norway).

2.2 Mission statements

The outlines of the various European probation policies as laid down in their respective mission statements are described in general terms and cannot be viewed separately from the specific jurisdiction in which each probation service operates. In a rather large number of countries, the mission statements also have a political background; they reveal a picture of the priorities defined by the political and penal climate at a certain moment in time. A closer examination of the more concrete and detailed strategic objectives reveals that the tasks and activities of the various probation services do not differ in essence. The differences mainly lie in the priorities attached to certain activities. In some countries, strong emphasis is put on public protection, risk assessment and the effective enforcement of sentences (England and Wales, Estonia, the Netherlands), while, for example, in the mission statement of the Czech Republic high priority is given to “offering alternative methods of dealing with offenders subject to criminal proceedings, by enabling effective use of community sanctions and measures, and providing an appropriate response to crime”. In working towards this goal, the Czech Probation and Mediation Service provides supervision and mediation, and seeks to resolve conflicts between offenders and victims, and to promote confidence in the rule of law and the criminal justice process. In the second place, the mission statement underlines the importance of the Probation and Mediation Service in preventing crime and in reducing the risk of re-offending.

In contrast to the Czech probation service’s mission statement, the mission statement of the Romanian probation service does not make any reference to the role of probation in the pre-trial phase, nor to other substantial probation activities such as early help, prevention and after-care. This is mainly due to the fact that, like in many other countries, the probation service in Romania has been set up in order to reduce prison overcrowding. In the Netherlands instruments

cited specifically aimed at reducing the risk of re-offending are: efficient supervision, result-oriented community service sanctions, goal-oriented counseling programs and other necessary measures. In other countries (Sweden, England, Wales), the mission statement has been derived from the general mission statement of the service or department under whose jurisdiction the probation service falls.

Some probation services have mission statements explicitly formulated either in the law (France, Switzerland, England and Wales) or in policy/strategic documents (Bulgaria, the Czech Republic, Denmark, Estonia, Latvia, Lithuania, Malta, Moldova, Northern Ireland, Norway, Portugal, Scotland). The other probation services do not have such explicit statements, but their missions may be identified implicitly by looking at the services' objectives. Depending on its nature (independent or closely cooperating with the prison service), a probation service can either have its own mission statement (Bulgaria, Catalonia, the Czech Republic, etc.) or share it with the prison service (Denmark, Finland, Luxembourg, Malta, Northern Ireland, Norway, etc.).

In Sweden, the prison service and the probation service have a uniform mission statement (i.e. to reduce criminality and protect citizens from crime) and the primary task of the probation service is to implement court decisions. In England and Wales, the implicit mission statement is part of the general target of the government's criminal policy: to deliver justice through effective and efficient investigation, prosecution, trial and sentencing, through support for victims, and to effectively execute sentences so as to reduce re-offending and protect the public. These objectives appear in the probation mission statements of almost all European countries; either in an explicit way or rather implicitly. Interestingly, in almost all countries, there is a tendency towards a lesser alignment of probation work with traditional social work concepts and values; instead, activities and goals are increasingly being adjusted to the starting points and the goals of other criminal justice agencies.

In Finland, the probation service and the prison service have a joint mission statement, adopted in 1998, that defines the common goals, values and principles of the two organizations as well as the means of achieving the following goals: 1) to contribute to security in society by maintaining a lawful and safe system of enforcement of sanctions; and 2) to assist in reducing recidivism and the development of social exclusion maintaining criminality. This is reflected in the mission statements of almost all European probation services. Strong emphasis is put on public protection, risk assessment and the effective execution of sentences (e.g. in the Netherlands, and England and Wales). In the chapter on England and Wales, it is stated that this could be seen as the logical consequence of an ever-growing prison population and of the need to ensure safe supervision of released prisoners in the community. It is also a consequence of each government's need to raise public confidence in community sentences, thereby reducing the costs associated with imprisonment.

In many mission statements (e.g. that of the Netherlands, the Czech Republic, Estonia), high priority is given to community sanctions and measures, sometimes in connection with sanctions that focus on the needs of the victim and on repairing the damage caused by the offender (the Czech Republic). In Estonia, the development plan for the justice sector up to 2008 describes the following

priorities for the probation system: 1) to improve the implementation of community service by creating better pre-conditions; and 2) to establish and run probation programs for high- and medium-risk level probationers.

Common starting-point is that no more control should be exerted than is strictly necessary and that the offender should be supported and motivated to live a crime-free life by encouraging his/her personal, social, vocational and educational development: control and security versus support and motivation. This is also reflected by the mission statement of the Finnish Probation Association, which mentions as its primary task the implementation of community sanctions and other activities related to non-custodial measures. In other countries, mission statements have other emphases. In France, the general aim of the SPIP (Service Pénitentiaire d'Insertion et de Probation) is "to provide offenders with more continuous and efficient support, care and rehabilitation services". In the Dutch mission statement, the prevention of re-offending is a central point as well, along with the social settlement/resettlement of those who have come into conflict with criminal law.

Summarizing, one can conclude that, generally speaking, most mission statements reflect the traditional ethos of probation: to protect the public by effectively enforcing community measures and sanctions. These two ideas form the core of probation work in Europe nowadays: to protect the public and to promote social inclusion of offenders. Some services go beyond this aim and include the victim as a probation service beneficiary (Austria, Bulgaria, Catalonia, Romania and Scotland). In other countries, the probation service has been incorporated in the restorative justice paradigm (the Czech Republic, Hungary, Slovakia), not only providing services to victims, but also helping to resolve the conflict between victim and offender. In all common-law countries, the probation services are involved in bail advice and supervision. Finally, the Dutch mission statement also defines early intervention during police custody as one of its tasks.

2.3 Principles and ethics of probation work

In addition to the mission statements and strategic targets, more and more emphasis is being put - either in the mission statement, probation rules or standards, or in rules or ethical guidelines for social workers - on explicitly stating the principles and ethics on which the work of probation services should be based. The values and principles of probation are the same in almost every probation service. Most are related to social work in general (the belief that every person can change, normalization, equal opportunities, etc.), but some are specific to probation (early intervention, moderation of intervention, etc.) or to modern management methods (effective use of resources, commissioning or local delivery). A comparison of the principles and ethical guidelines reveals many similarities amongst European probation services. This especially applies to the common underlying principles, such as:

- respect for the client, his/her human dignity, integrity and privacy;
- fairness, openness and responsibility, and respect for the autonomy of the client;

- voluntarism: it is up to the offender to decide whether he needs support and to request for help;
- realism: realistic goals should be set given the client's situation; the client should be prepared for the difficulties that might arise after having served the sanction;
- legality: probation and mediation activities should be undertaken in accordance with relevant laws;
- the principle of minimum intervention and normalization: no more force or restraint should be used than strictly necessary and, wherever possible, the conditions for clients in prisons, on probation or other imposed non-custodial sanctions should correspond to the conditions outside the criminal justice system;
- the principle of timely intervention: in order to ensure an efficient reaction to offences and to adequately deal with specific cases, probation officers should be able to contact clients from the early stages of criminal procedures;
- the principle of continuity of intervention;
- the readiness to cooperate with other organizations;
- transparency: relevant bodies in the criminal justice system should be kept updated on the progress of work with the client; clients should be provided with accessible information about the system and the circumstances in which they find themselves as a result of their offence;
- motivation: the active participation of clients in redressing the effects of crime should be secured.

3 PROBATION ACTIVITIES

3.1 The changing role of probation in the criminal justice system

The tasks of the probation service in each European country depend largely on the structure of the country's criminal procedure, and on the nature and variety of its sanctions system. In recent decades, both fields have seen developments that have enormously affected the positioning of probation and its place and task in the criminal justice system. These developments have not been limited to only a few countries, although they occurred sooner and perhaps were more powerful in some countries (e.g. England, Wales, France and the Netherlands). Although the national jurisdictions differ tremendously from each other, in the field of sanctions and measures, national boundaries are fading away at an increasing rate. This results in countries adopting, sooner or later, other countries' newly developed sanctions and measures. What differs, however, is what these sanctions and measures are called, their position in the various sanctions systems and criminal procedures, and the conditions under which they are applied.

When comparing the sanctions and measures in which probation services play a major role, it is best to stress their material characteristics and to more or less ignore their names or formal characteristics. For instance, community service can be found under different designations and in various modalities such as a special condition attached to conditional/suspended sentences, as a conditional waiver or conditional pardon, as a sanction in its own right, or as a substitute for fine default detention.

Another example is the probation order. In England and Wales (where it was renamed "community rehabilitation order" in 2000) as well as in the Czech Republic, Portugal and Sweden, the probation order is an independent sanction in the criminal justice system. This is in accordance with the definition given by the United Nations², which states that probation as a sentencing disposition is a method of dealing with specially selected offenders and consists of the conditional suspension of punishment while the offender is placed under personal supervision and given individual guidance or treatment. A broader definition of probation is used by Cartledge³: "A method of punishment with a socio-pedagogic basis characterized by a combination of supervision and assistance. It is applied under a free system (no fee) to offenders selected according to their criminal personality, the type of crime, and their receptiveness, in relation to a system whose aim is to give the offender the change to modify his/her approach to life in society and to take a place in the social environment of choice without the risk of violating a social penal norm again." Seen from this rather materialistic point of view, the probation order has a very broad palette of appearances in the pre-trial phase (e.g. conditional waiver, transaction, conditional suspension of pre-trial detention), in the trial phase (e.g. suspended or conditional sentence with supervision, conditional deferment of sentence or punishment, and conditional

² UNICRI, Handbook on Probation services, Guidelines for Probation Practitioners and Managers, Rome-London 1998, p. 13.

³ In: Harris, Probation Round the World, 1995 pp. 3-4.

discharge) and in the post-trial phase (e.g. conditional release, parole and assignment to the probation service (in Italy)).

3.2 Probation activities during the different phases of the criminal procedure

For a long time, the activities of probation services in most countries mainly took place in the trial and enforcement phase, during which most of the probation services were responsible for writing social enquiry and pre-sentence reports, for giving support and guidance to the offender during or after his detention, or for supervising him when he was subject to one or more conditions attached to the imposed sentence. This could be a conditional, suspended or deferred sentence, a conditional release, or a non-custodial penalty or measure such as an in-patient or out-patient order, a treatment or training program, community service, etc.

In the pre-trial phase, the role of the probation service was usually very restricted, with the exception of a few countries where the process of helping and supporting the offender and his family started immediately after the offender's arrest. In Catalonia, England and Wales, the Netherlands and Scotland, this type of "early help" is still offered by the probation service. Apart from these examples, in most countries, the involvement of the probation service during this phase was limited to the rendering of support to pre-trial detainees and to the preparation of social enquiry reports and pre-sentence reports. However, the concept of diversion and restorative justice, aimed at developing and introducing other ways of dealing with offenders than the traditional ones, has had an enormous impact on the pre-trial phase; it has led to the development of new process modalities geared at avoiding, if possible, the need to go to trial. This need for alternatives is stimulated by two factors: 1) the rapid increase of criminality in many countries, mainly due to less serious (property) crimes, which has resulted in an overburdening of the criminal justice and penitentiary systems; and 2) the relatively large number of pre-trial detainees - in some countries (Estonia, France, Greece) amounting to about 25-30% of the total number of detainees, in others (Belgium, Croatia, Malta, the Netherlands, Northern Ireland, Switzerland) to 30-40% or (Luxembourg and Italy) even 40-60%.

As a consequence, many countries have introduced formal or informal ways to reduce the pressure on overcrowded prisons and the overburdened judicial apparatus, and to divert offenders away from the stigmatizing and incriminating criminal procedure and/or pre-trial detention. This development is strongest in countries where, on the basis of the expediency principle, the prosecution service (and in some cases even the police, e.g. in the Netherlands and the Czech Republic) has the discretionary power to settle cases. In many countries, the public prosecution service or the examining magistrate now has sentencing powers that were formerly considered to belong exclusively to the courts. The public prosecutor or (examining) judge can decide to waive or defer the prosecution (un)conditionally, to arrange a financial settlement (transaction), to conditionally discontinue the prosecution, to renounce from pre-trial detention or to conditionally suspend it (Austria, Catalonia, the Czech Republic, Denmark, Germany, Hungary, Latvia, Luxembourg, Malta, Norway, Portugal, Scotland). These decisions are frequently accompanied by restrictive measures such as bail,

supervision (by the police and/or the probation service), a ban to visit certain places, contact certain persons or practice a certain profession, or the obligation to report to the police on a regularly basis. The conditions that can be attached to these decisions do not substantially differ from the sanctions and conditions that can be imposed by the court after trial.

The endeavor to minimize the damaging effects of a prison sentence and reduce the actual period spent in prison has led to a wide variety of back-end sanctions and measures. They mark the transitional stage between the enforcement phase and the (post-) release phase. Many of these modalities are simply modifications of such existing judicial sanctions and measures as semi-liberty, electronic monitoring, semi-detention, conditional/anticipatory release, penitentiary programs, assignment to the probation service and community service. There is, however, an essential difference: the decision to apply these sanctions is not taken by the trial judge, but by the prison authorities (e.g. the Netherlands) or a specialized sentencing judge after the trial (e.g. Italy, France, Portugal, Spain). Their powers can be so extensive that a custodial sanction imposed by a trial judge can be transformed into a non-custodial sanction or measure of a completely different nature than the trial judge had in mind when passing sentence. In most countries, probation activities stop after the offender has completely served his sentence. Only a small number of probation services provide post-release after-care (Austria, Germany, Switzerland), post-release supervision (France) or family support (Luxembourg). In England and Wales, Hungary and Scotland, probation service users can attend day centers during the post-release phase, supervised and supported by the probation service.

Special mention should be made of the involvement of probation services in amnesty or pardon procedures (Denmark, Germany, Luxembourg, Moldova, the Netherlands, Scotland). The possibility of amnesty or pardon exists in almost all countries. Usually, the head of state, the government or the minister for justice has the power to grant such an amnesty or pardon. Here, probation services can have a twofold task: to report to the authorities, and to provide guidance and supervision in order to ensure that any conditions attached to the pardon or amnesty are met. Basically, a pardon or amnesty can take one of three forms: a complete or partial remission of the punishment, a commutation or replacement with another - lighter - sanction, or a pardon under conditions that can be removed or deferred. The involvement of the probation service is limited to the two last-mentioned conditions, and depends on the nature and modality of the new sanction as well as on the imposed conditions.

3.3 The core tasks of probation services

Table 1 presents an outline of the tasks and duties of the various European probation services. It clearly illustrates the country-specific differences. The probation services in, for instance, Catalonia, the Czech Republic, Denmark, England and Wales, Germany, Luxembourg, Moldova, the Netherlands and Scotland have a varied range of duties; most of these services are active in all phases of the criminal procedure. Estonia, Finland and Italy, on the other hand, emphasize the organization, etc. of community service, supervision of conditional release and/or conditional release, and the preparation of social enquiry/pre-

sentence reports. Certain activities are only carried out by a limited number of probation services. This is the case with tasks such as family support (Luxembourg), coordination of volunteer prison visitors (Luxembourg), the enforcement of fines (Moldova, Scotland) and supervision of pre-trial detainees (the Czech Republic, the Netherlands, Scotland).

Many activities are linked to specific sanctions or procedures and can therefore only be performed in countries where these exist. That explains why, for instance, there are so few countries where the probation service is involved in the supervision of semi-detention (Italy, Moldova, Sweden), home detention (Denmark, Italy, Norway, Scotland, Slovakia) or semi-liberty (France, Italy, Luxembourg, Northern Ireland, Poland), compulsory address registration (Bulgaria), remittal to a children's hearing (Scotland) or support during home leave (Croatia). In most countries, electronic monitoring has been introduced as a sanction in its own right, or as a condition attached to conditional sanctions or conditional release, but it is not always carried out by the probation service. On the other hand, some sanctions—such as the treatment order for specific categories of offenders—only exist as independent sanctions in a limited number of countries, whereas in many other countries they can be enforced as special conditions linked to a conditional or suspended sentence, with the probation service in a supervising role.

Table 1 Probation tasks and activities

	AT	BE	BG	CR	CAT	HR	CZ	DK	E&W	EE	FI	FR	DE	HU	IE	IT	LV	LT	LU	MT	MD	NL	N-IE	NO	PL	PT	RO	SC	SK	SI	ES	SE	CH			
Supervising/organizing, etc. community service/corrective labor	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x		x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x		
Preparing social enquiry/pre-sentence reports		x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x		x	x		x	x	x	x	x	x	x	x			x	x			
Supervising, etc. sanctions/conditions of probation		x			x		x	x	x			x		x	x	x		x	x	x	x	x	x	x		x	x			x	x	x	x			
Supervising, etc. suspended/conditional sentences	x	x	x	x	x	x	x	x			x	x	x	x	x		x	x		x	x	x		x		x	x			x	x					
Supervising, etc. drug/alcohol treatment programs or other offender treatment programs				x	x	x	x	x				x	x	x			x	x	x	x	x	x	x		x	x		x	x	x	x			x		
Supervising/organizing training/learning projects or educational measures			x	x	x	x	x	x				x	x	x	x				x	x		x	x	x	x		x	x			x	x	x			
Supervising, etc. conditional/provisional release/parole	x	x	x	x	x	x	x	x	x	x	x	x	x				x	x			x	x	x	x		x						x	x			
Providing mediation/victim support	x	x		x	x	x	x						x	x	x		x			x	x		x	x		x	x									
Primary and secondary prevention	x	x			x		x	x	x	x	x			x			x						x			x	x	x					x	x		
Assistance/support to prisoners in prison; preparation and support of prison leaves, etc.; elaboration and management of individual detention plans		x		x	x	x							x	x	x	x	x	x	x		x		x			x	x				x	x				
Supervising, etc. special measures for drug addicts					x	x	x		x			x		x	x				x			x	x		x	x		x			x	x			x	
Providing advisory reports with respect to amnesty/pardon or conditional release/parole		x		x	x	x		x				x	x	x					x		x	x				x		x				x	x			
Providing supervision assistance to offenders whose pre-trial detention has been conditionally suspended	x				x		x	x					x	x			x			x	x		x			x										
Supervising, etc. mentally ill or retarded offenders (in-patient/out-patient orders)	x				x		x	x				x										x	x			x					x	x			x	
Supervising/assisting, etc. offenders		x			x		x	x	x			x	x									x						x				x	x			x

	AT	BE	BG	CR	CAT	HR	CZ	DK	E&W	EE	FI	FR	DE	HU	IE	IT	LV	LT	LU	MT	MD	NL	N-IE	NO	PL	PT	RO	SC	SK	SI	ES	SE	CH		
whose cases have been conditionally waived																																			
Supervising, etc. electronic monitoring	x	x			x		x	x				x	x						x							x		x					x	x	
Supervising, etc. semi-liberty					x							x				x			x					x											
Providing assistance to persons who have been pardoned/granted amnesty						x		x					x						x									x			x				
Early help/intervention/social care, support and information		x			x				x																				x						
Providing assistance/support to offenders during home detention								x																				x		x					
Other activities:																																			
Post-release after-care	x				x								x																						
Day center/attendance center activities					x				x																										
Compulsory address registration				x					x														x												
Restriction of liberty or deprivation of the right to hold certain positions				x					x																										
Supervising, etc. semi-detention																																			
Supervising, etc. special treatment orders, sex offences prevention orders, risk or sexual harm orders replacing incarceration																																			
Providing supervision/assistance to pre-trial detainees								x																											
Providing family support					x																														
Supervising enforcement of freedom restriction sentence																																			
Supervising fine enforcement																																			
Coordinating volunteer prison visitors																																			
Remittal to children's hearings																																			
Preparing offenders for home leave; providing support during home leave					x																														
AT (Austria); BE (Belgium); BG (Bulgaria); CAT (Catalonia); HR (Croatia); CZ (the Czech Republic); DK (Denmark); E&W (England and Wales); EE (Estonia); FI (Finland); FR (France); DE (Germany); HU (Hungary); IE (Ireland); IT (Italy); LV (Latvia); LT (Lithuania); LU (Luxembourg); MT (Malta); MD (Moldova); NL (the Netherlands); N-IE (Northern Ireland); NO (Norway); PL (Poland); PT (Portugal); RO (Romania); SC (Scotland); SK (Slovakia); SL (Slovenia); ES (Spain); SE (Sweden); CH (Switzerland).																																			

Despite these differences, table 1 shows that there are a number of tasks and duties which can be regarded as the core business of probation. It is striking that support and guidance of prisoners during their detention is no longer included. This task, in which many probation services actually have their origin, is nowadays considered part of the probation service's field of activity in only about half of the European countries. In many countries, probation for detainees is non-existent until the preparation and supervision of the conditional release, parole or other extra-mural detention modalities (such as the extramural penitentiary programs in the Netherlands). This fact clearly illustrates the probation services' shift of attention from inside to outside the prison - in other words: from prison to community. The table also shows that the following tasks and duties must be regarded as the core business of virtually all probation services:

- 1) Providing judicial authorities and others with high-quality information (pre-sentence/social enquiry and advisory reports) and assessments in order to assist them in sentencing and other decisions (see: 3.3.1);
- 2) Enforcing sanctions and supervising offenders (see 3.3.2);
- 3) Developing, organizing and supervising community sanctions and measures (CSMs) and ensuring that these are implemented efficiently (see 3.3.3);
- 4) Providing practical, financial, social and psychological help as well as care and after-care based on social work methods at any stage during the offender's contact with the criminal justice system (see 3.3.4).

To this list, two tasks can be added that are not generally regarded as typical probation tasks; however, in those countries where they belong to the probation service's field of activity, they are considered core-business elements. The two tasks are:

- 5) Providing victim support and mediation (see 3.3.5);
- 6) Making an active contribution to crime prevention (see 3.3.6).

3.3.1 Reports

In almost all countries, the main task of the probation service concerns deliverance of written, sometimes oral, reports to criminal justice authorities. These reports can vary greatly in nature—depending on the purpose, the addressee of the report and the phase of the criminal procedure in which the report is issued—and are delivered in the form of summary information reports, social enquiry reports, pre-sentencing reports, psychological reports, advisory reports with respect to decisions to be taken by a justice authority (prosecution, diversion, pre-trial detention, sentencing, pardon, amnesty, release), evaluatory and brief progress reports with regard to guidance, supervision and/or monitoring of the manifold sanction and execution modalities to which probation activities are attached. In most of the countries, these reports have a fixed format and follow a systematic and detailed structure.

In several countries, the probation service's activities are part of the general risk assessment and public protection policy. This has resulted in a new type of reports particularly focusing on the risks of reoffending, and based on risk assessment techniques such as OASys. With the help of this diagnostic

instrument, the risk assessment report tries to estimate the risk of re-offending and the risk of harm, by using and analyzing multiple sources and criminogenic factors related to the offender's behavior. Examples of the formats of these risk assessment reports can be found in the sections dealing with England and Wales, Finland, Northern Ireland and the Netherlands in the probation documents annex. This annex also offers other examples of report formats, such as social reports (Bulgaria, Poland, Portugal, Romania), supervision plans (Estonia), psychological reports (Bulgaria), pre-sentence reports (the Czech Republic, Denmark, England and Wales, Malta, Ireland, Hungary), individual plans for conditional release (Lithuania, Spain), community sentence reports (Norway) and pre-trial reports (also Norway). A special type of report exists in Ireland, where courts can request the probation service to prepare independent reports on the hurt suffered by victims and on their prognosis for recovery. This task is always assigned to an impartial probation officer, not to the officer evaluating the offender.

3.3.2 The enforcement of sanctions, including supervision of offenders¹

The second main field of probation tasks concerns the enforcement of decisions made by justice authorities. Nowadays, there are only a few sanctions in the enforcement of which probation services cannot, or will not, become involved, such as the fine and the suspended sentence without probation (Belgium, France and Luxembourg) or decisions with regard to pardon and amnesty (e.g. Ireland and Norway). The enforcement of pre-trial detention, imprisonment and other custodial sanctions doesn't belong to the probation services' tasks either. When probation services are involved in the execution of these custodial sanctions, they bear no responsibility for the execution as such; in general, their involvement is limited to the provision of assistance, guidance and support to detainees, and to the preparation and guidance /supervision/evaluation of prison leaves and conditional release (parole). In most countries, the probation service, together with the prison staff, is also involved in activities aimed at a successful return of prisoners into society. Sometimes, the probation service plays an important role in the enforcement of electronic monitoring too (Austria, Belgium, Catalonia, Denmark, England and Wales, Luxembourg, Portugal, Scotland, Sweden and Switzerland). In Catalonia, England and Wales, Hungary and Scotland, the probation services run day centers and/or attendance centers. In Luxembourg, the probation service is also responsible for the coordination of volunteer prison visitors.

In most countries, the accent of probation work is shifting from the closed prison environment to the open community. This involves a transformation of

¹ In this volume, the term "sanctions and measures" is applied in the meaning as defined by the Council of Europe (see the glossary). However, the word "sanctions" is also used in a more general sense, as a container term for all penalties, penal measures, special conditions, orders, etc. which can be imposed on the offender in the different phases of the trial process by the competent authorities (court, public prosecutor, penitentiary authorities, etc.). The term "sanctions system", for example, refers to the full range of reactions available to respond to an offense.

the probation service from an organization providing assistance to an organization that is in charge of the judicial implementation of tasks. Following the Anglo-Saxon model, in more and more countries, probation services are developing into correctional services, whose “supervision and control” task is pushing the original motto “advise, assist and befriend” to the background (e.g. England and Wales, Ireland, the Netherlands). Probation work is becoming “public protection work”, the probationer is no longer called “client” but “offender”, and the welfare approach is replaced with a risk assessment approach. Poignant signs of this development are the removal, in 2006, of the term “welfare” from the name of the Irish Probation and Welfare Service, and the transformation of “probation officers” into “offender managers” in England and Wales. The current developments do not mean that the traditional task of providing assistance has disappeared completely, but there definitely is a difference with the past. Nowadays, probation services no longer refuse to combine assistance and support on the one hand and supervision on the other into compulsory frameworks.

Supervision also includes control; it is related to all decisions taken by the competent authorities involved in the conditions with which the offender has to comply. Examples are: conditions attached to community sanctions and measures, conditional sentence, conditional release, conditional waiver, and conditional suspension of pre-trial detention. The probation service’s task is to supervise the way the offender is complying with the imposed obligations and to report the outcome to the public prosecutor, the court or other competent authorities. In many cases, this supervision goes further and also entails the implementation of the imposed condition. This means that the probation service’s tasks also include implementing and preparing the sanction, making appointments and agreements with the offender as well as with the organization in society where the sanction is to be executed, controlling the performance and fulfillment of the sanction, and reporting to the justice authorities. For a good part, these activities concern non-custodial or semi-custodial CSMs (see 3.3.3). However, probation services are also increasingly involved in the organization and implementation of custodial and non-custodial therapeutic measures, such as in-patient and out-patient orders, hospital orders, drug/alcohol treatment measures, preventive security measures, psychiatric probation orders, guardianship orders and remedial measures imposed on certain categories of offenders (alcohol and drug addicts, mentally disturbed offenders, violent or otherwise dangerous offenders and sex offenders).

3.3.3 The importance for probation services of community sanctions and measures

As mentioned before, in many countries, the probation services mainly owe their increased importance in the criminal policy and criminal justice practice to the introduction and development of community sanctions and measures. These were meant, in the first place, as a means for reducing the prison population and the costs of the penitentiary system by offering alternatives to imprisonment. In addition, there was a need for sanctions that could better contribute to the reintegration and rehabilitation of offenders than custodial sanctions. This

development started with the introduction of community service in England and Wales in the early 1970s, followed by the Netherlands (1981), Denmark, France and Ireland (1982), Portugal (1983) and Norway (1984). The results of these experiments were so promising that nowadays almost all European countries have given community service a prominent place in their sanctions system. The success of community service also gave impetus to the development of what is now called “community sanctions and measures”, i.e. “sanctions and measures which maintain the offender in the community and involve some restriction of his/her liberty through the imposition of conditions and/or obligations, and which are implemented by bodies designated in law for that purpose” (CoE, Recommendation No.R (92) 16).

In most countries, the list of penalties and measures now consists of a variety of non-custodial sanctions, for example: warning, bail, suspended sentence with supervision, probation, community service, compensation and restitution, victim-offender mediation or community mediation, withdrawal of licenses, training courses, cognitive-behavioral learning and training programs, treatment programs (especially for drug and sex offenders), supervision and attendance orders, placement in probation hostels or day centers, intensive supervision or probation orders, curfew orders, house arrest and electronic monitoring, deferment of sentence with supervision, family custody, controlled freedom, conditional release with supervision, combination orders (consisting of a combination of two or more of the sanctions listed) and many others. The conditions that can be attached to conditional waiver, conditional warning, suspended sentence and conditional release also show an impressive variety.

The true value and meaning of CSMs is that they contribute to reintegrating offenders into society. This is done by stimulating and improving their sense of responsibility and their social skills: by confronting them with the consequences of their behavior and by asking them to perform resocializing activities. Because CSMs put the emphasis on offenders’ inclusion in society, rather than on their exclusion from society, the involvement and commitment of the community—in particular the local community—is of key importance. Equally indispensable are a community-oriented infrastructure geared to the specific requirements of the sanctions and an organization whose working methods, mission statement, goals and attitude are in close keeping with the concept on which the CSMs are based.

For many years and in many countries, probation services had already been guiding, supervising and monitoring offenders undergoing the forerunners of community sanctions (such as the probation order, the conditional or suspended sentence, or conditional release or parole). In that sense, it is self-evident that when it came to extending the package of new CSMs, the probation services were assigned a major role. This role goes way beyond the original tasks of the probation service: its work is no longer limited to producing suitability reports and providing counseling, support and supervision, but now also includes the responsibility for preparing, organizing and enforcing community sanctions in close cooperation with private, semi-public and public organizations or institutions.

If we look at the sentencing practice, we can conclude that especially community service, compensation and some training/learning programs seem to play more than a marginal role in reducing the number of short-term prisoners.

In many countries, performing unpaid work for the community is third on the list of alternatives to imprisonment (after the fine and the suspended sentence/probation), and the number of community service orders is increasing each year. This is especially the case in England, France and the Netherlands, where many tens of thousands of community service orders or combination orders/community penalties are imposed on adult offenders every year, either as a principal sanction or as a special condition attached to a suspended sentence. In the other Western European countries (Belgium, Catalonia, Denmark, Ireland, Luxembourg, Northern Ireland, Norway, Portugal, Scotland, Sweden and Switzerland), where - with the exception of Denmark, Ireland and Norway - the introduction of community service and other community sanctions took place much later, we can also observe that these new community sanctions are gaining more and more ground.

In the Central and Eastern European countries, the introduction of community sanctions and the establishment of a probation service usually took place as part of a fundamental reform of the criminal justice system. In most cases, this reform process has not been finished yet. Nevertheless, one can conclude without any reservation that, as in most Western European countries, particularly the suspended sentence, suspended prosecution, community service and mediation seem to gain firm footing in the sentencing practice. This especially holds true for the Czech Republic, where community service was introduced in 1996. In 2005, this sanction was imposed 11,990 times (18% of all convictions). The conditional suspension of prosecution has increased from 1,600 in 1996 to about 7,000 in 2005 (10% of all convictions). The number of suspended sentences with and without probation supervision (about 40,000) is still very high compared to the number of unconditional prison sentences imposed in 2005 (10,253). Hungary, Latvia, Poland, Romania and Slovenia also report an increasing application of suspended sentences and other community sanctions.

3.3.4 Guidance, help and support

Closely related to the above-mentioned is the fourth field of tasks: support of and care for offenders. In general, these activities are aimed at enabling the client to socially function in a way that is acceptable to both himself/herself and society. Probation service interventions include a wide range of activities, for example: providing information and advice, helping to resolve material and immaterial problems, arranging provisions, creating contacts, mediating, referring to other bodies, guiding, offering therapeutic sessions, et cetera.

From the detailed overviews given in this volume, it is clear that the task of providing guidance, care and assistance is still the most important work area of probation services. These tasks can be regarded as the binding factor of all probation work and cover a large number of material issues (in the fields of housing, work, income, the spending of time) and immaterial problems (psychic, social, relational, justice-related and emotional). Probation service interventions are adjusted to the character of the problem, the nature of the offence committed (with special attention to drug offenders, sexual offenders and violent offenders) and the client category (offenders with mental disorders, detained offenders,

addicts, ethnic minorities). Guidance, support and care can basically be provided in all stages of the criminal procedure.

The work inside prisons deserves special mention. Although, in many countries, part of the probation service's traditional task has been taken over by special social services within prisons (for example in the Netherlands), some probation services still consider their activities inside prisons a core task. In Scotland, for example, these activities are related to involvement in sentencing (by coordinating social work activities together with prison staff); to the assessment of risks and the degree of danger; to the provision of action plans, program supervision and coordination in order to prepare prisoners for release and furloughs as well as to assist resettlement; to supervision in the community on release; and to family work to assist reintegration. In a limited number of countries, special forms of guidance, assistance, support and care are provided. For example: early help or early intervention during police custody (e.g. the Czech Republic, Finland, Germany, Malta and the Netherlands), assistance and support to detainees abroad (England and Wales, and the Netherlands) and assistance to inmates within the framework of so-called "reward leave permits" (Portugal).

In some countries (England and Wales, Austria, Ireland and Luxembourg), providing guidance, help and support to prisoners after their release still is a very important task of the probation service. In others (e.g. the Netherlands, Finland, Italy, Malta, Norway and Scotland), this task - if it stills exists - is not carried out by the probation service, but by the regular local social services. However, a problem in this respect is that these services do not have enough resources or expertise to meet the special demands of released prisoners. If some form of after-care does still take place, this is generally on a voluntary basis. It can comprise (as in Austria) counseling and support, provision of accommodation and housing, family counseling, provision of meaningful daily activities, employment counseling and work training. A special form of after-care is the Spanish release grant; it is made available as part of the assistance provided while reintegrating the prisoner into the community. This grant (equivalent to 75% of the minimum wage) is awarded to all offenders who have been imprisoned for more than six months, and is paid during a period of six months (extendable to a maximum of 18 months).

3.3.5 Victims of crime

Traditionally, probation services work with offenders, not with victims. In recent years, however, there has been a tendency to also involve the victims of crime. Although this involvement does not go as far as direct support or care for victims, probation services do consult and collaborate with organizations for victim support and specialized victim-support schemes. In the past decade, the pressure of victims' organizations and the development of victimology as a science have contributed to a significant relocation of the victim's position within the justice system. Some years ago, the victim was just a source of information in the state-offender confrontation; nowadays, in some jurisdictions, the victim has almost a co-decision role in parole cases. Obviously, this movement is noticeable inside the probation services and, even more so, inside probation practice. It is almost

unanimously accepted that a good practice in rehabilitating offenders is to confront them with the consequences of their behavior and to motivate them to restore, repair or compensate the damage or the loss suffered by the victims. This type of victim awareness is increasingly present in report writing and supervision.

In some countries (Austria, France, Hungary, Italy, Lithuania, Malta, Scotland, England and Wales, and others), the probation service is responsible for implementing measures, sanctions or obligations the offender has, for instance: to avoid contact with the victim, to repair damages or compensate the victim and so on. In Lithuania, the number of compensations and restitutions rewarded are performance indicators for the correctional service. In a number of countries, these responsibilities have prompted probation services to develop restorative justice practices (Belgium, Catalonia, the Czech Republic, some of the German Federal States, Ireland, Italy, Moldova, Northern Ireland, Slovakia, Slovenia).

In an increasing number of countries, victim support is offered in the form of mediation in the pre-trial and/or trial phase. The term "mediation" has several definitions; here, we understand it to mean: finding a solution to conflict situations by way of an alternative method of intervention by judicial authorities. The obvious advantages are that mediation offers rapid compensation for the damages suffered by the victim; it accelerates the reaction to petty crimes; it provides a social reaction rather than a judicial one; and it stimulates the inclusion rather than the exclusion of the offender. Experiences with mediation vary enormously from country to country. In Austria, mediation is the most important and most frequently used diversionary measure; in other countries (e.g. the Netherlands), it is rarely used. In England and Wales, probation officers are required, whenever an application for parole is made, to inform the victim or his/her family, to give them an opportunity to discuss the possible consequences, and to establish how they feel about the prospect of the offender being paroled; this information serves as relevant feedback for the parole unit. In many countries (e.g. Belgium and the Netherlands), special justice assistants or volunteers from victim support schemes support victims and their families; the assistants call on them when necessary, and provide information and support during all stages of the criminal justice process. In other countries (e.g. Norway, Finland and Austria), mediation is carried out by special mediators or special municipal mediation boards.

In report writing, most of the probation services are encouraged to include the victim's point of view. Furthermore, in some countries (Ireland, Malta), the probation service has to submit to the court a victim impact statement on the hurt and trauma, damage and loss suffered by the victim. In Ireland, in some cases, the victim report stands for itself apart from the probation report. In Scotland, England and Wales, the probation service is part of a wide protection network which evaluates and manages the risk attached to released prisoners with a history of violent or sexual offences. These multiagency public protection arrangements (MAPPAs) help in protecting the existing and potential victims of these kinds of crimes. In these countries and also in Northern Ireland, the probation service has the obligation to inform the victims of certain categories of offenders when plans for release are being made; the victims can then send a

representative to the Parole Board to explain why they support or reject the parole application. Some jurisdictions have specialized probation officers dealing with victims; others have special structures within the probation service to work with this category of clients (Hungary, Northern Ireland, Catalonia).

In other countries, the involvement of the probation service in delivering services to victims goes even further. In the Czech Republic, crime victims are considered to be an explicit target group of the probation service; for that reason, it is called the Probation and Mediation Service. The service has as legal duty to “help to redress the effects of crime on the victim and on other persons affected by crime” and “to contribute to the protection of the rights of the victims of crime”. This task is carried out by mediating an agreement between offender and victim in order to try to solve the conflict between offender and victim, and to restore the victim’s feeling of safety, integrity and faith in the legal system that has been disrupted by the offence(s). Successful mediation can result in a decision by the prosecutor or the court to waive the prosecution, to rescind pre-trial detention or to apply any of the diversion measures or non-custodial sanctions.

In countries like Austria, Catalonia and Hungary, one of the probation service’s tasks is to provide information and trial support to victims and sometimes even to vulnerable witnesses. For specialized services such as support, psychological counseling, psychotherapy and so on, victims are usually referred to other institutions (this is the case in Hungary, Belgium, Estonia, Catalonia, Latvia and Luxembourg) or to NGOs (Austria, the Czech Republic, France, some of the German Federal States, Moldova, Northern Ireland, Slovenia and Slovakia). An exception to this rule is Romania, where the probation service provides specialized services (psychological counseling and other forms of assistance) to victims of some types of violent crime.

3.3.6 Prevention of crime

It is striking that in only a few countries the probation service sees it as its task—or is assigned the task—to play a role in primary crime prevention. In most countries, the main focus still lies on tertiary prevention. Primary prevention activities are usually specifically directed at juveniles and limited to participation in consultations on the (mainly) local level; they do not play a leading or major role (e.g. Bulgaria, Catalonia, Latvia and Lithuania). Most partners in these consultation structures are local social services, voluntary associations, the local community and (sporadically) the police. There are, however, some exceptions. Compared to ten years ago, a growing pressure on probation services can be observed to become more actively involved in primary prevention. This is mainly due to the increasing focus in the criminal policies of more and more countries on public and community safety. In England and Wales, for example, the probation services are heavily involved in community safety and crime prevention issues. In the framework of the 1998 Crime and Disorder Act, they are obliged to cooperate with the police, local authorities and other agencies in the development of crime and disorder reduction strategies. Like in England and Wales, the probation service in Northern Ireland has a special budget allocated to primary prevention: 20% of the community development funds has to be spent on social crime prevention and capacity building in high-risk neighborhoods. In contrast to the rest of the UK, the Scottish probation service plays only a limited direct role in primary prevention; it focuses mainly on secondary (diversion and community-based services) and tertiary prevention (prison through-care and after-care services).

The Austrian probation service's mission statement stresses the importance of crime prevention aimed at reducing prejudice and fear in society in general. Crime prevention and help in crisis situations are provided by means of giving information through institutions, social work in schools, assistance to juveniles, drug counseling, and online counseling through the Internet (help within 24 hours). In Switzerland, the agencies for probation assistance and protective supervision are actively involved in crime prevention projects, mainly those dealing with domestic violence, child abuse and the in-patient and community care of drug addicts. Other countries where primary prevention is seen as an important task of the probation service are Norway and Denmark. Here, the probation and prison services are involved in the local activities of the National Crime Prevention Board. In Finland, the probation service has participated in the preparation of a national crime prevention program; the probation service's district offices closely cooperate with local authorities in order to prevent crime. In Sweden, the probation service actively participates in a special preventive program called "Law and Justice", which is part of the school curriculum.

Special mention should be made of the Belgian Houses of Justice (Justitiehuizen). Since 1996, these have been operating in all court districts with the aim of introducing and maintaining a human and scientific approach within the judicial landscape. The Houses of Justice focus on innovation and on cooperating in a more systematic manner with their most important partners, i.e. the magistracy, bar and welfare institutions. They act as meeting places, a crossroads for ideas, and as guides for professionals and for citizens who have

come into contact with the law. In France, the probation service is also an important partner in various community safety councils; it is responsible - along with the police, the educational system, the central and local governments, traders, shopkeepers, social educators, et cetera - for the implementation of "safety agreements" as part of local and departmental community safety plans.

Nevertheless, the main focus in crime prevention is still on secondary and tertiary prevention programs. In Portugal, the probation service is involved in some programs and projects directed at social groups with specific problems such as the unemployed, drug addicts or former prisoners. The service also participates in the National Plan of Action for Inclusion, in the National Plan against Drugs and Drug Addiction, and in the National Employment Plan.

Crime prevention also seems to get more and more attention in the new EU member states that recently started to set up a probation service system. In the Czech Republic, crime prevention is a task permitted by law, but there is no regulation or document stipulating how this task should be carried out. In Slovakia and Slovenia, crime prevention is seen as an important strategic aspect in criminal policy. Prevention programs in these countries are mainly carried out by non-governmental organizations and social institutions.

In Estonia and Bulgaria, the government has created a special organizational infrastructure for crime prevention. Responsible for crime prevention in Estonia are the Crime Prevention Council and the Crime Prevention and Probation Division of the Ministry of Justice. Besides the Ministry of Justice, other ministries (Education, Interior, Social Affairs) are also involved in crime prevention programs, in close cooperation with agencies from the non-profit sector and local initiatives. Although the probation service is active in some of these programs, its daily work mainly deals with preventing recidivism, i.e. secondary and tertiary prevention. The Latvian and Lithuanian probation services do not have a legal obligation to organize primary prevention activities, but in practice they are involved in many prevention programs, especially those for juveniles. In contrast to the situation in Latvia and Lithuania, the Romanian legislation permits the probation service to run prevention programs on its own or in partnerships with other agencies. However, with the exception of a few local probation departments who have developed and set up crime prevention programs on a local level, crime prevention in general is not a key activity of the Romanian probation service.

In Bulgaria, special crime prevention programs mainly deal with juveniles. For that reason, special Juvenile Crime Prevention Offices have been established. The central tasks of these offices are: 1) to analyze the reasons for and the circumstances in which particular offences are committed by juveniles; 2) to make visits to schools and to keep in touch with teachers, school counselors and school administration; 3) to give lectures and to meet with children and their parents; and 4) to participate in joint programs with other authorities, NGOs, and international organizations working in the field of crime prevention. The day-to-day work of the probation service with adult offenders is aimed at the prevention of re-offending (secondary prevention).

The probation service in Hungary plays an important role in the National Crime Prevention Strategy by actively participating in the development of crime prevention cooperation and in setting up an early warning system. Crime prevention programs are coordinated and partially funded by the National Crime

Prevention Committee. This funding has helped the probation service in launching several crime prevention showcase projects (e.g. day center, career orientation training). In order to prevent people from turning into offenders, the probation service cooperates with the police as a supervisory authority, and with various childcare and social institutions as supporting organizations. As members of the social and child protection early warning system, probation officers play a major role in crime prevention. The law allows them to send out warnings, to initiate case discussions or multilateral case conferences, to request action from authorities, to act on warning signals received, and to organize and coordinate the operation of the early warning system.

4 THE ORGANIZATION OF PROBATION SERVICE SYSTEMS

So many countries, so many customs. The way probation is organized in European countries reflects the variety of socio-cultural backgrounds typical for this part of the world. When reviewing the European palette, a number of general influence factors can be discerned. In the first place: country size. This factor overwhelmingly influences the way probation services are organized. Secondly: the probation "bandwidth". Some countries have a fully developed probation service system, which delivers all types of probation work, including community service and the enforcement of other alternative sanctions, mediation, victim support and prolonged care after detention. Most European countries nowadays enjoy a well-developed probation system, although the current state of these systems differs because of varying levels of efficiency and societal support required to maintain a state-of-the-art probation service. But other countries - particularly those where probation has been introduced only recently - have more limited packages; some can deliver only core probation tasks such as preparing reports on delinquents for the courts.

With respect to the probation service's structure and management, the general rule is that the service follows the set-up of the state authority. Most of the time, the state probation service is a centralized national structure under the authority of the Ministry of Justice. When this is the case, the probation service can either be organized independently as a department or national agency (Ireland, Romania, Moldova, Portugal) or be included in the same management structure as the prison service (Bulgaria, Denmark, Estonia, Finland, France, Italy, Lithuania, Norway, Spain, Sweden, England and Wales) or another parajudicial service such as victim protection, mediation, etc. (Hungary, Belgium). Exceptions are Luxembourg, where the probation service is part of the prosecution service, and Scotland, where probation activities are delivered by local authorities through social services. A peculiar situation exists in Italy, where the prison and probation services fall under the authority of the Ministry of the Interior.

In Germany, Catalonia and Switzerland, probation activities are divided between probation services and social services within the criminal justice system. In some German regions, for example, there are probation services assigned to the regional courts; in others, probation activities are delivered by social services coordinated by the Ministry of Justice.

A third group of countries is formed by Austria and the Netherlands. Here, probation activities are carried out by private organizations supervised and financially supported by the Ministry of Justice (NEUSTART in Austria, and the National Probation Service, the Mental Health Care Organization and the Salvation Army in the Netherlands).

With just a few exceptions (e.g. Denmark, Romania), the structure of the probation services follows a three-level model of hierarchy: central, regional and local. In Bulgaria, the probation service is organized nationally within the structure of the general directorate "Execution of Penalties" with 28 district probation services and 112 units. In Estonia, there are four regional departments. In Finland, there are 15 district offices under the authority of the probation administration. Ireland has 12 regional offices; each regional office is coordinated by a director and the local units are coordinated by senior probation officers. In Sweden, there are no chief probation officers. Instead, the responsibilities associated with the traditional chief function are shared among several staff members, called "inspectors" (although they do not inspect). Each inspector is responsible for a particular task, for example: staff development and training, personal change programs or financial matters. In Denmark, the probation service is headed by the director-general of prisons and probation. There are no administrative bodies at the regional or local level, only in the department itself.

In some countries, the central or local probation services benefit from advice and support offered by independent, inter-agency working groups (Probation Council-Bulgaria, Inter-institutional Committee for Social Rehabilitation-Catalonia, Council for Probation and Mediation-Czech, etc.). These transversal and consultative groups usually consist of representatives from the probation service and social services as well as judges, prosecutors, local employers, experts, etc. The regional and local structure of the probation services mainly follows the structure of the court system (Bulgaria, Estonia, Latvia, Romania), the police system (Denmark) or both the court and the prison systems (France, Belgium, Italy, etc.).

European probation officers are almost exclusively civil servants; therefore, they have to comply with the admission rules for this staff category. In countries where the probation service delivers significant prison activities, there is also a distinct category of probation staff formed by social workers with a special status (France, etc.). In terms of educational background, probation officers are usually required to hold a bachelor's degree or other diploma in social work (Austria, Denmark, Ireland, Italy, Luxembourg, Malta, the Netherlands, Northern Ireland, Norway, Scotland, Spain) or in a related field such as social pedagogy, psychology, law, theology and so on. In 1998, the UK government decided to introduce a special probation training program. This Diploma in Probation Studies combines a university degree with a verified probation training qualification. There is less emphasis on social work but more on broader criminal justice issues. The training is administered through the probation service's regional training consortia and five universities, and puts strong emphasis on "distance learning".

In some countries, candidates must also have prior working experience (Ireland, France). After joining the service, new employees usually follow an introductory training course of two (Ireland) to six weeks (Hungary) in order to

get acquainted with the procedures and specific activities they will undertake. In most European countries, the introduction course is followed by one year of supervised practice or mentoring to make sure that the new probation officer performs adequately. In addition to the introductory program, probation services offer their staff in-service training on special or new topics (drug and alcohol abuse, community service, etc.). Some of these courses are taught in Ministry of Justice or Prison Department institutes (France, Italy, Lithuania, Moldova and Norway) or by universities, in the form of post-graduate or master's programs. Other forms of ongoing training are encouraged by probation administrations, popular forms being intervision, mentoring, professional colleges (Hungary), conferences, and staff supervision. In Hungary, the civil association of probation officers also publishes a journal, called "Probation Officer".

Almost all probation services have three categories of staff: management staff, probation officers and administrative staff. Management staff is usually recruited from the senior probation staff. There are less people employed as administrative or supportive staff than as probation staff. In Germany, for example, the ratio probation officers vs. administrative officers is 6:1.

Apart from these three distinct staff categories, there are also two other important groups involved in probation activities. In the first place, probation officers with specific responsibilities. In the Czech Republic, for instance, probation officers are supported by probation assistants; these mainly have supervising responsibilities. In England and Wales, front-line probation staff is divided into probation officers employed as offender managers with assessment as a key competency, and probation officers who work in both offender management and interventions. Following the same logic, Northern Ireland has probation service officers and community service officers; Portugal has deputy probation officers.

The second important group is formed by volunteers. Volunteers are involved in probation work in the vast majority of European countries. Furthermore, in Denmark, volunteers or external staff can receive a fee for writing pre-trial reports. In Sweden, in addition to the professional probation officers, there are some 4,500 lay supervisors - ordinary citizens who maintain a close and friendly contact with just over 40% of all offenders under supervision. Lay supervisors receive only a modest fee for their work. In Switzerland, by the end of 2006, there were approximately 400 volunteers working in the ten cantonal agencies.

A probation officer's workload varies - depending on the geographical distribution of clients, judicial practice, season of the year, etc. - from between 35-50 clients (Denmark, Estonia, Sweden, etc.) to 50-100 clients (Switzerland, Luxembourg, etc.). In client allocation procedures, the level of risk of re-offending is sometimes taken into consideration (England and Wales, Switzerland, etc.). In England and Wales, the introduction of a workload measurement tool is being planned; this is subject to local agreement. As most of the country reports emphasize, in practice, probation officers often deal with far more clients than the figures mentioned.

There seems to be a sort of general intercultural difference in the way countries organize their systems, the demarcation line of which is running through the center of Europe. As a very broad generalization, one could characterize northern probation service systems as rather flat organizations, and

those in the south as hierarchic organizations with a centrally located responsibility. Last, but far from least, the main dimensions along which the organization of probation service systems can be distinguished are centralized versus decentralized organizations, and public versus private organizations.

5 ORGANIZATIONAL AND ADMINISTRATIVE DETAILS

5.1 Finances

Not surprisingly, almost all European probation services receive their funding exclusively from the national Ministry of Justice. There are only a few exceptions to this rule: In Austria, 87% of the budget comes from the Ministry of Justice, 3.2% comes from provinces, 0.5% from local authorities and 2.6% from the Public Employment Service. In Scotland, funding is received from the Scottish Executive, and in Switzerland, where cantonal authorities generally play a major role in all aspects of public life, there is a great variety of organizations financing probation activities. In almost three-quarters of the countries investigated, the ministry responsible for justice affairs is the only funder of probation activities.

Some countries use the appropriate EU funds (Austria, Bulgaria, the Czech Republic, Romania, England and Wales). Interestingly, several country reports explicitly mention that probation organizations are allowed to acquire funds from sources other than the judicial authorities or other governmental parties. This is, for example, the case in the Netherlands, where the probation service can close contracts with local authorities or private parties to deliver certain services. Probation services from Norway, Bulgaria, etc. cannot raise funds themselves. In England and Wales, individual probation offices are not allowed to raise private money; however, some have set up local charitable trusts to assist offenders.

There are also countries where the probation service has no independent budget (e.g. Bulgaria, Romania) but a common budget either with the court system or with the prison system. Not many probation services seem to have complaints about the amount of funding they have been receiving in recent years. On the contrary. The Danish Department of Prisons and Probation, for instance, has recently received a rather large sum of money from the national budget, allocated by the Ministry of Social Affairs, for the purpose of making a special effort for offenders who are socially at risk.

5.2 Probation budget versus prison budget

The budget of the probation service system in relation to that of the prison system varies throughout Europe. While Malta's probation service has to manage with less than 3.1% of the prison system's budget, their colleagues in Luxembourg can spend an impressive 18.4% (the probation service having almost the same number of clients as the prison system (2005)). Second best is Sweden's probation system, which is allocated about 25% of the funds the prison service receives, but has more than double the number of clients per day as the prison service. Third is Scotland with 21.8%. In Catalonia, 12.5% of the entire budget for the enforcement of judicial measures is designated for non-custodial

sentences. Denmark follows with 10%. The probation services in Finland and Austria are Europe's poor cousins with 6.8% and 6.9% of the prison system's budget respectively. However, one should bear in mind that, due to the fact that the financial data of about half the number of countries reported on in this volume do not allow for this comparison, there might be many other countries with very low probation budgets in comparison to what the prison system spends. The cost per client is calculated in just a few countries. In, for instance, Finland, the operating expenses in 2006 of the probation service per community sanction client were 3,000 Euros. Another way of estimating the costs per client on probation is the ratio prison costs vs. probation costs. In Bulgaria, for example, the costs per prison inmate are ten times higher than the costs per probation client. In Sweden, the difference is even bigger: 22:1.

5.3 Audit

In Europe, very diverse procedures exist for accounting for the expenditures of the probation services. The probation services in about a third of the countries examined in this volume answer to an external auditor or to a national audit bureau (e.g. Catalonia, Bulgaria, England and Wales). In most other countries, the probation service answers to the Ministry of Justice or to whatever government department that provides its funding. In a small number of countries, the probation service has only internal accounting procedures (e.g. Belgium). However, it should be kept in mind that such internal procedures often coincide with very strict money allotting and delivery procedures handled by the funders.

Most probation services are subject to the same accounting regulations as other public administration services. The exception to this rule is Austria, where NEUSTART follows the accounting rules for non-profit organizations.

A noticeable trend is that the budget allocation process is more and more linked to the probation service's performance. To give an example: some countries use integrated planning processes with a budget balance sheet, a performance budget and a financial plan for a three year period (Austria, Sweden) or a one year period (the Netherlands).

5.4 Registration and evaluation

An important development that has taken place since the first edition of this book, is that in most of the European countries it describes, the use of integrated systems for activity and client registration has become common practice.

In Finland and the Netherlands, for example, there are nationwide IT-based client data systems which cover all types of community sanctions. Besides expert statements and enforcement documents, the client data system provides statistics needed for planning and assessing operations. Permanence targets are also monitored with the help of this system. In Austria, there is a computerized system which collects data on probation clients and uploads this information into the main data warehouse on a daily or a weekly basis. In Catalonia, there are four databases which integrate activity sheets with a clocking system. In Denmark, individual computerized case records are kept on all offenders dealt with by the Prison and Probation Service. In 2002, Denmark introduced a system simply called "Client System"; it allows all employees of any branch of the service to quickly receive the latest updates on their clients. In Ireland, data on offenders dealt with by the probation service is stored in a computerized Case Tracking System (CTS). The Swedish KVR (Client Register System) provides a single database for the entire country, in which personal and referral details are stored (e.g. age, gender, family, home, court, offence, police officers involved in the prosecution, reports, supervision, type of order, breaches or successful completions).

In most cases, data is used for management purposes, for designing policies and also for scientific use. In Ireland, the system is also meant to track offenders' progress through different types of supervision, and to monitor caseloads as well as workload changes by area and by referral source. There are countries where

the probation service keeps specialized registers. Scotland, for example, has its VISOR - Violent and Sexual Offenders' Register - which provides national data available to the police and to criminal justice social work organizations.

Gathered data is usually protected and access is limited to designated bodies. However, as a rule, the information is also synthesized into annual reports which are published and disseminated to partners and to the general public.

5.5 Client views and societal support

What can be concluded from the country reports, is that evaluation studies of probation work are rare; in some countries, they are too outdated to be relevant to the current situation. Information on the opinions probation service clients have with respect to the activities of the service is also rather scarce. Most reports show that studies on client views or societal views regarding probation activities are not available. A 1998 study about probation in Denmark states that 75% of the clients of the country's probation service consider the provided supervision useful. A survey (also from 1998) among a number of employees of the Dutch probation service reveals that only a minority (33%) of the probation officers is of the opinion that clients regard the service as an extension of the justice system. No other recent systematic studies on client views exist.

With respect to the societal support for European probation activities, somewhat more information is available. The Swedish country report suggests that there is political support for the probation service's work (taking into account the fact that the service has been given a new responsibility: the co-ordination of all prison and probation planning for the implementation of help and control). In Catalonia, the last opinion poll on alternatives to prison sentence was conducted in 1995. Since then, also several studies about the victim-offender mediation programs have appeared. Most of the information regarding the attitude of judiciary or other partners is gathered during seminars, conferences and regular meetings between probation service representatives and these partners.

Another way of getting - rather indirect - information about the societal support are crime and victim surveys. The Scottish Crime Survey (SCS), a cross-sectional survey measuring the incidence and prevalence of victimization among the Scottish population, has been carried out since the early 1980s. In addition to establishing victims' perspectives, the survey highlights that, until recently, the fear of crime has continued to rise whereas, officially, crime rates have fallen. The data also highlights that the typical victim and the typical offender often have very similar profiles. In Scotland, research on community attitudes and views shows that the public wants to have a say and contribute to community justice processes.

The British Crime Survey measures the crime level in England and Wales by asking people, aged 16 and over and living in private households, about crimes they have experienced in the last year. In 2005/06, the most significant findings were that the total number of crimes in England and Wales was around 10.9 million (a decrease since the last survey) and that around 23% of the population had fallen victim to crime (compared to a high of almost 40% in 1995). Probation could be seen in this context, since the National Offender Management System is

responsible for public safety.

Finally, in the Netherlands, a 2003 study reveals the general public's image of the Dutch probation service. And in 2006, a survey was carried out amongst chain partners, municipalities and the Dutch population on their opinion of the probation service. Both reports award the service an average of 6.5/6.6 (on a 10-point scale).

The remaining eight countries report no information on this subject, which underlines how urgently academic research is needed.

5.6 Probation clients' rights

The legal status of a prosecuted or convicted probation service client is determined by the legal protection provided by national constitutions and by international conventions on human rights. Confronted with criminal procedures, the client's fundamental human rights can be restricted. This restriction cannot be implemented before a legally defined legitimization has been made, and adequate legal remedies have been provided should the client be of the opinion that his/her rights or interests have been violated. If the rights of a suspected or convicted person have been infringed by a criminal law sanction or criminal procedural measure, the consequences for his/her legal status are principally defined by the regulations and stipulations in the relevant criminal laws, penal regulations, penitentiary act or specific acts such as data protection acts or legal aid regulations.

This also applies when the probation service is involved in the case. However, if a client is of the opinion that his/her rights or interests have been violated due to negligent or wrongful actions taken by the probation service, the penal and penitentiary regulations are generally insufficient to offer adequate protection: they do not provide the right to complain about the probation service. Complaints about the actions of the probation service may, however, be brought up if this is relevant to decisions relating to the suspect/convicted person made by the public prosecutor, judge or prison authorities. This can happen, for example, when a conditional sentence, probation order or other community sanction has been revoked, or in the case of conditional release.

In certain cases, a suspect/convicted person who is of the opinion that his/her rights or interests have been violated by the actions of the probation service may appeal - like any other citizen - to the civil, administrative or criminal court, public prosecutor or (if there is such a person) the national Ombudsman (Bulgaria, Catalonia, Croatia, the Czech Republic, Denmark, Estonia, the Netherlands, Latvia, Lithuania, Luxembourg, Northern Ireland, Portugal). In some countries, complaints are dealt with by a local authority Ombudsman (Scotland) or an Ombudsman specialized in the penitentiary system or human rights (England and Wales, Finland, Hungary, Poland, Sweden, the Czech Republic, Estonia, Romania, Slovenia, Sweden). Through such procedures, redresses can be provided in the case of a breach of confidentiality by probation officers; in most countries, this can result in disciplinary action or even constitute a criminal act (e.g. in Finland).

Obviously, if he/she has a complaint, a probation client has the possibility to address the probation officer involved. Should this not lead to a satisfying

solution, a higher-ranking officer within the organization can be contacted, eventually and ultimately right up to the minister for justice or even (members of) parliament. However, this informal complaint procedure through the managerial chain provides insufficient guarantees that the complaint will be treated seriously and lead to a satisfying solution. This is also the case in countries where NGOs (partially) monitor the observance and protection of human rights within prisons and probation services (Bulgaria, Romania). In most countries, the specific rights of probation clients have not been defined very clearly; such rights often only have an informal status. This also means that there is no independent body evaluating probationers' complaints about the content and the quality of probation work.

In some countries (e.g. Italy, Portugal and Spain), legislation does not distinguish between probation work and other social work, or between probation workers and other civil service officers. This means that the probation client's legal status, including his/her right to complain, and the complaint procedure itself, are regulated in the current disciplinary statutes or codes of ethics applicable to the specific field.

Only in a few countries (England and Wales, the Netherlands, Scotland, Sweden), the probation client's right to complain about the probation service has explicitly been defined in legislation. Complaints can be made about any action/decision taken by the probation service: the frequency of contact, dissatisfaction with the assigned supervisor or probation officer in charge of the case, confidentiality, the way the client's data are handled and kept (security and integrity), everyday contact, the probation officer's behavior and decisions, the content, quality and reliability of the reports produced by the probation service, etc. In the countries mentioned, special procedures have been developed for this type of complaint; these guarantee an independent and objective evaluation of all complaints.

In England and Wales, if the complainant is not satisfied with the outcome of the internal processes, a formal complaint can be lodged to the Prisons and Probation Ombudsman. The Ombudsman will undertake an independent external investigation and also check if the resulting recommendations for improvement are acted upon.

In Scotland, formal complaints are normally dealt with by a complaints officer on behalf of the social work service's director. Complaints may result in the appointment of an internal investigative officer or, in exceptional cases, in the appointment of an external investigator. The complainant has the statutory right to appeal to a complaints review committee (usually a sub-committee of the local authority's social work committee) if he/she remains dissatisfied. In Sweden, after the procedure through the managerial chain has been followed, as a last resort, complaints can be addressed to the local supervisory board or appeal board. In the Netherlands, all formal complaints can be submitted to the National Complaints Committee. Just like the Swedish supervisory boards, this committee is chaired by a judge, which guarantees its impartiality. In Sweden, the other three commission members are lay assessors attached to a court; in the Netherlands, the other two members may not be probation service employees, volunteers or board members.

Recently, some of the new EU member states have moved in the same direction by providing a more solid formal basis for the legal status of probation service clients. In Estonia, for example, probationers have the legal right to complain to the supervising court about probation officers' actions or decisions. If a complaint is found to be (fully or partly) justified, the court can issue a directive or order to compensate the probationer for the damage caused. If the parties dispute the decision, they have the right to appeal to the Court of Appeal. In Hungary, complaints about any violation of the probation officers' code of ethics can be submitted to the prosecutor. The Chief Prosecutor's Office regularly evaluates the work of the probation service; in the scope of these checks, complaints from probation clients are also investigated. If the client is not satisfied with the investigation carried out by the prosecutor, he may appeal to the court.

6 TODAY AND IN THE FUTURE

Modern multifunctional probation services fully authorized and equipped to execute various sorts of sanctions

6.1. Today

Since the rise of the "modern movement" in criminal law and the concomitant individualization of penal responses, the importance of probation work has increased considerably. The growing attention of governments for probation itself and for fitting it into the task field of prosecution services and courts has resulted in higher quality-demands on probation. During the 20th century, this has led to the appearance and subsequent increased involvement of professionals in probation work. In various European countries, this development occurred in different areas, but it has generally resulted in the involvement of volunteers being reduced, and in an increased identification of probation work with other judicial executive organizations.

However, since alternative sanctions have evolved and the workload of the probation services executing them has increased, today, the number of volunteers is once again growing, especially in the field of community service. The importance of volunteer work is also growing due to the increasing involvement of the probation service in victim support—a work area usually covered by volunteers. It can thus be said that probation has developed "bottom-up" in society from the situation where volunteers supported prisoners. Then, due to the professionalization of the work itself and its executors, and to the identification of probation with other judicial executive organizations, it steadily expanded away from the mainstream of everyday life. Finally, probation reached a situation in which it is moving back into society thanks to the increased importance of community service and other alternative sanctions, and to the growing involvement in victim support.

6.2. Tomorrow

In almost all country reports in this volume, one or two, sometimes even more, pages are spent on the new developments in the field of probation. These parts of the reports we especially recommend to the reader. The various European jurisdictions are heavily involved in developing new ways of responding to offenders, and to the social surroundings where they come from and where they exert their negative influence. Obviously, probation is an indispensable part of the infrastructure needed to enable and to support this social policy. This puts high demands on the probation work field. Nowadays, it can be observed that the field is preparing and developing the necessary conditions for a major role in this. Probation services are investing heavily in the professionalization of their work force and in the modernization of their organizations.

A number of key concepts are increasingly being elaborated and implemented, such as: enhancement of social workers' qualifications, improvement of education and training, development of new programs as well as risk assessment protocols, modernization of work methods, focus on effectiveness, quality improvement of the services offered, definition of offender/victim target groups, introduction of case management, definition of accurate targets and priorities, adequate mid-term planning, responsible budgeting and accounting, managerial monitoring and scientific evaluation, adequate co-operation and agreements with other public and private organizations that can carry out part of the work, integration of modern information and communication technologies, development of mediation and primary crime prevention.

Another important development expected in a large number of countries is the integration or harmonization of work methods and interventions in the prison and probation systems (e.g. France, Estonia, Portugal, etc.). An innovative development with no precedent in the history of probation is seen in England and Wales, where certain probation-related tasks are outsourced to independent/voluntary/commercial organizations. This movement is meant to stimulate the public sector, including the probation service, to improve its performances. Time will tell whether opening the criminal justice system to privatization is a good or a bad step. The inter-European collaboration and the consequent cross-fertilization can provide part of the fuel of - or the lubricant in - the process of handling these concepts aimed at lifting probation to a higher level of development. The information in this volume can contribute to this.

The chapters of this book deal with nearly all probation service systems in Europe. Almost all of Europe is covered. In the criminal justice systems of countries like Albania, Macedonia, Montenegro, Serbia and so on, radical reforms are currently taking place. Although, at the moment, this impressive shift has not yet resulted in the development of probation service systems, we are confident that their introduction is only a matter of time; establishing probation activities is expected to become an inherent part of the reforms. We hope the information in this volume will be of help in outlining this process.

7 CONCLUDING REMARKS

In the following 32 chapters, the various stages of development of the European probation service systems as well as their differences and similarities are

presented. When comparing the current tendencies in probation with those described in the previous edition of *Probation and Probation Services in Europe* (2000) and *Probation and Probation Services in the EU Accession Countries* (2003), the following developments stand out:

- Probation is clearly taking on an active role in more countries than before.
- Between the activities of the various probation services, more and more similarities are becoming apparent. Four core tasks can be distinguished:
 - o Providing judicial authorities and others with high-quality information (pre-sentence/social enquiry and advisory reports) and assessments in order to assist them in sentencing and other decisions;
 - o Enforcing sanctions and supervising offenders;
 - o Developing, organizing and supervising community sanctions and measures (CSMs) and ensuring that these are implemented efficiently;
 - o Providing practical, financial, social and psychological help as well as care and after-care based on social work methods at any stage during the offender's contact with the criminal justice system. To this list, two tasks can be added that are not generally regarded as typical probation tasks; however, in those countries where they belong to the probation service's field of activity, they are considered core-business elements. The two tasks are:
 - o Providing victim support and mediation;
 - o Making an active contribution to crime prevention.
- In several countries, the probation service's activities are part of the general risk assessment and public protection policy. This has resulted in a new type of reports particularly focusing on the risks of reoffending, and based on risk assessment techniques. Probation services are developing into correctional services, whose "supervision and control" task is pushing the original motto "advise, assist and befriend" to the background.
- Particularly the suspended sentence, suspended prosecution, community service and mediation seem to be gaining firm footing in the sentencing practice. The European countries are moving towards a more community-oriented criminal justice system that assigns the community an explicit role in the enforcement of penal sanctions by emphasizing the reintegration of offenders into society as well as the needs of crime victims. This emphasis on the offender's inclusion, rather than exclusion from society, presupposes the involvement and commitment of the community, in particular the local community. It is mainly the introduction of this new category of sanctions and measures that has generated an increase in possibilities for probation services to enhance their societal profile and to become important players in the field of criminal justice.
- Many countries have introduced formal or informal ways to reduce the pressure on overcrowded prisons and the overburdened judicial apparatus, and to divert offenders away from the stigmatizing and incriminating criminal procedure and/or pre-trial detention. The endeavor to minimize the damaging effects of a prison sentence and reduce the actual period spent in prison has led to a wide variety of back-end sanctions and measures, often implemented by the probation services.

- In most countries, electronic monitoring has been introduced as a sanction in its own right, or as a condition attached to conditional sanctions or conditional release, but it is not always carried out by the probation service.
- Most mission statements reflect the traditional ethos of probation: to protect the public by effectively enforcing community measures and sanctions. These two ideas form the core of probation work in Europe nowadays: to protect the public and to promote social inclusion of offenders. In almost all countries, there is a tendency towards a lesser alignment of probation work with traditional social work concepts and values; instead, activities and goals are increasingly being adjusted to the starting points and the goals of other criminal justice agencies.
- The task of providing guidance, care and assistance is still the most important work area of probation services. These tasks can be regarded as the binding factor of all probation work and cover a large number of material and immaterial problems. Probation service interventions are adjusted to the character of the problem, the nature of the offence committed (with special attention to drug offenders, sexual offenders and violent offenders) and the client category (offenders with mental disorders, detained offenders, addicts, ethnic minorities). Guidance, support and care can basically be provided in all stages of the criminal procedure.
- It is striking that offering support and guidance to prisoners during their detention is no longer considered a core activity of probation services. If some form of after-care does still take place, this is generally on a voluntary basis.
- Most European countries nowadays enjoy a well-developed probation system, although the current state of these systems differs because of varying levels of efficiency and societal support required to maintain a state-of-the-art probation service. Other countries - particularly those where probation has been introduced only recently - have more limited packages; some can deliver only core probation tasks such as preparing reports on delinquents for the courts. Nevertheless, we can only admire the huge steps taken by the former Soviet Bloc countries in setting up and professionalizing their probation systems.
- Despite a growing tendency towards more concurrence and similarities with respect to mission, tasks and organizational set-up, the differences between the European probation services remain great. Big differences exist in terms of offences and offenders. Many probation services only deal with less serious/non-violent crimes and offenders with no criminal record. But others, for instance in the Netherlands and in England and Wales, are increasingly targeting high-risk/dangerous offenders in order to downsize the number of prisoners. Considerable differences are also noticeable in the formal names and characteristics of the sanctions and measures in which probation services play a major role. For instance, community service can be found under different designations and in various modalities such as a special condition attached to conditional/suspended sentences, as a conditional waiver or conditional pardon, as a sanction in its own right, or as a substitute for fine

default detention. As a result, probation orders and probation activities have a very broad palette of appearances in the different phases of the penal process. This is one of the reasons why making rules for cross-border operations is such a difficult and time-consuming task (e.g. the framework agreement on the transfer of alternative sanctions and probation measures).

- There is a striking lack of research and publications on the effectiveness of probation.
- The statistics on probation activities and on probation service budgets vs. prison service budgets, offered in the following chapters, are not suitable for detailed comparison: the definitions and data collection procedures are still too different.

The European probation services seem to be getting a lot of positive attention at the moment. A few examples:

- The Council of Europe is currently undertaking a study into probation, which will result in recommendations and guidelines for governments with respect to minimum requirements for probation systems and activities. This will contribute to a greater harmonization of probation systems and procedures. The recommendations are expected to be finalized in 2009.
- The European Union is finalizing the framework for the transfer of alternative measures and probation sanctions across Europe. This is the counterpart of the framework decision on the transfer of prison sanctions, which has already been adopted. The probation framework is a recognition of the importance of probation both for a fair and effective process of justice, and for the key task of reintegration and resettlement of offenders. However, at the same time, the framework poses a challenge for probation services to implement it in such a way that it will not remain a dead letter (as was the fate of the - non-binding - probation regulation developed by the Council of Europe).
- The Council of Europe and the European Union recognize the importance of developing a solid set of basic probation statistics with common definitions and data collection procedures. The Council of Europe's present instrument (SPACE 2) will be refined and improved. At the same time, a more thorough study - supported by CEP and funded by the European Union - will be undertaken by the European Sourcebook Group, to establish how the various probation systems can be made comparable at the level of probation activities. The first phase of this study will focus on eight to ten European countries; its results are to be published in 2010.
- It is encouraging that the European Union is looking for ways to allocate more funds to research and exploratory projects concerning best practices in European probation. CEP maintains close contacts with the EU institutions in order to bring the priorities of the EU-funding programs in line with the priorities as expressed by the CEP members.

These examples underline the (ever-growing) importance of probation activities in further reducing the number and length of prison sentences, and in cutting down reoffending rates at a cost-effective price. We are convinced that this book

as well as its future updates will contribute to the strengthening of the above-mentioned positive developments in the field of probation and the criminal justice systems in Europe.

We trust that, having read this volume, one will come to the conclusion that everywhere in Europe probation organizations are moving towards becoming efficiently organized services - fully authorized and equipped to carry out the delicate public task of penal sanction enforcement, and taking the lead in the development of new and modern ways of subtle societal control and crime containment - while at the same time preserving the offender's human dignity as well as his/her human and civil rights.

The overview in this chapter is just an attempt to provide a general image of European probation in a comparative descriptive way. It should be remembered, however, that the real work is being done out there every day. We would like to conclude by stating that this book is intended to contribute to the enthusiasm, perseverance and work satisfaction of those who carry out the difficult and important tasks of probation.