

# **Chapter 4**

## **Bulgaria**

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

Bulgaria is an East-European country, situated in the middle of the Balkan Peninsula with a population of 7,679,290 people (National Statistics Institute – 2006). Bulgarian society consists of different ethnic groups – 85% Bulgarian, 9% Turkish and 6% Roma. Some researchers estimate the Roma minority to be much bigger – between 600,000 and 800,000 people. Up to 1989 Bulgaria was part of the Eastern Block under Communist rule. After 1989 rebuilding of the basic democratic structures of the state began – a process that is still ongoing. The country has been a member of the United Nations for more than 50 years. It became a member of NATO on 29.03.2004 and since 01.01.2007 Bulgaria is a European Union Member State. The Bulgarian legislative system has been greatly influenced by continental law. Court decisions are based on the Constitution, codes and different general and special laws. The main criminal law is the Penal Code. The first Penal Code has been adopted soon after the liberation of the country from Turkish slavery – 21 February 1896 (Punishment Law). After the democratic changes of 1989, a series of reforms began in the field of criminal policy aimed at synchronization with the European models. An important step towards this aim was the implementation of probation as a specific community measure to impact offenders.

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

The Bulgarian National Probation Service actually started to function in the middle of 2005. Although different probation elements (i.e. conditional release, conditional sentence) were part of the country's penal system during the post-Liberation period (1878 on), the complete vision for probation became clear after the end of the Communist regime (from 1989 on).

The idea for the introduction of a probation system started circulating around 1994-1995 as part of the intensive reforms within the judicial system. Two main trends should be outlined in relation to the idea for the establishment of probation. The first one involved mostly experts and high ranked officials of the country's penal system. In 1995 experts from General Directorate Execution of Penalties at the Ministry of Justice (General Directorate of Detention Places at that time), worked out a vision for the structuring of a probation system through insertion of a separate section in the Law on Execution of Penalties. Experts from the Council of Europe provided support in this process. In 1996-1999 a pilot project named "Introduction of alternative measures for treatment of the detainees" was implemented within the Tempus programme. This project set the beginning of a public debate on this topic. From 1998-1999 on, this trend was actively supported by the big donors for Bulgaria: the Open Society Foundation, the British Council, and the US and UK Embassies. The second trend was determined by the intensive development of the non-governmental sector in Bulgaria since 1990. Firstly, the Open Society Foundation through the special programme of the Foundation – the Constitutional and Legal Policy Institute COLPI, has undertaken the initiative for penal system reforms. In 1998 – 2003 the organization financed projects aimed mostly at enhancement of the prison

reform and also at the implementation of community sanctions and measures. Within such a project, Crime Prevention Fund - IGA established in Pazardjik in 1999 the first Centre for Social Support to Ex-offenders that laid the foundations of a 6-year pilot probation model in the same city actively supported afterwards by the British embassy through the Know How Fund programme. Concrete probation measures have been piloted within this project for the first time in the country (the execution of conditional sentences was delegated to NGOs). In 2001-2002 the British Council in Bulgaria and IGA, together with British experts developed the first programme for training of probation officers. Based on this experience, in the period 2002-2004 the British Council implemented two other projects: training of probation trainers in the prison system and the project "Development of a strategy for the Bulgarian National Probation Service and training of probation officers" that was funded by the Global Opportunities Fund at the Foreign and Commonwealth Office and implemented in partnership with the Ministry of Justice. Within the second project, the first probation officers were trained by experts of the National Probation Service of England and Wales. From 2002 on, initiatives of NGOs in this field became more intense: series of projects were implemented; legislative initiatives were undertaken; experimental probation centres were piloted – in 2003-2005 in Stara Zagora and Ruse through Open Society funded projects; and in 2002-2004 – four pilot projects for youth probation in Blagoevgrad, Bourgas, Gabrovo and Vidin, financed by the Norwegian government in cooperation with the United Nations Development Programme. Some remarkable international events were organized – i.e. the International conference "Exchange of Experience and Good Practices for Development of Probation Services" organized by the British Council and IGA.

The period 2001 - 2004 should be outlined. Through an initiative of the Ministry of Justice an inter-agency work group was established to develop a concept for legislative and institutional introduction of probation in Bulgaria. State and NGO representatives as well as representatives of the judicial system were part of the group. Later a concept for the implementation of probation through a separate special law was developed within an IGA initiative. The idea for preliminary legislative introduction of probation as a new kind of penalty in the Bulgarian Penal Code and addition of a new chapter in the Law for Execution of Penalties prevailed. The US Ministry of Justice and the UK Ministry of Internal Affairs provided active support during this period. Probation became reality in Bulgarian legislation through the Law for Amendments of the Penal Code passed on the 27 September 2002. The general regulation of the nature of probation, the mechanisms for its execution and the structural implementation of the probation system in Bulgaria have been made with the adoption of further amendments of the Penal Code and the Law for Execution of Penalties on the 23 November 2004. In November 2003 the Sector "Community work with offenders (probation)" was established within the Department "Correctional Activities in Detention Places" in General Directorate "Execution of penalties" at the Ministry of Justice.

Finally, it should be mentioned that during the last years – 2005-2007 – two twinning projects – "Strengthening the Bulgarian Penitentiary System" and "Establishment of a Probation System in Bulgaria" – were implemented by the

National Offender Management Service of the UK with the support of the European Union PHARE Programme.

## **1.2 Important developments**

Assuming that some elements of probation in Bulgaria can be traced back to the time of the Liberation of the country from Turkish slavery in 1878, it is important to trace the development of particular alternative sanctions. The “deprivation of liberty” penalty was introduced in the system of penalties by the first Penal Law (21 February 1896). Working on the regulation of all different kinds of penalties, the lawmakers used the extensive experiences of England, France, Germany, Russia and other countries and adapted the progressive European ideas to the traditions of the Bulgarian nation. In the organization of the system of sanctions in the Penal Code, the dualistic system of sanction consequences was adopted. The institute of conditional release was established in 1896 and the Conditional Sentencing Law was adopted in 1903 and entered into force in the beginning of 1904. Thus Bulgaria became one of the first European countries to look for alternatives to the deprivation of liberty and seek different forms of intervention on the prisoners while they are in and when they are out of prison.

The current system of penalties was adopted with the Penal Code of 1968 when the country was under Soviet influence (1944-1989). Despite the strong ideology of the government system, some positive developments of the different alternative sanctions should be recognized. Most important was the utilization of the conditional sentence where the court may rule that a community organization, a group of colleagues or a particular person should provide supervision to the sentenced offender within the “trial period”. However, it should be mentioned that all community organizations are controlled by the government during this period. The conditional release was still in use during that period. Special Supervising Commissions attached to the local authorities were obliged to support prisoners and ex-prisoners.

The Law for Prevention of Juvenile Delinquency, adopted in 1958 (during the beginning of the Communist regime), played a key role in the development of alternative sanctions and measures in Bulgaria. Many parts of this law actually introduce and regulate the use of a wide variety of sanctions and measures towards juveniles – measures that are not imposed by a court and are executed primarily in the community or in special boarding schools. This law is in force in Bulgaria even now (although a large part of its texts have been updated recently) and its structure and contents are similar to the international standards in this field. After the democratic changes of 1989, several phases of development can be identified:

- the development of legislation and sub-legislative regulations;
- preparation of the professional documentation of the probation service and establishment of standards for work with offenders;
- establishment of the district probation offices, elaboration of human resources table and job specifications for the different categories of probation staff;
- selection and training of probation officers;
- establishment of Probation Councils;
- inter-agency collaboration and building of a system for community support to the probation services.

It should be underlined that the development of probation mainly as a public service is typical for Bulgaria. After the democratic changes and the rapid development of the civil sector in the country, elements of private initiative can be observed but they do not have decisive impact. This resulted in strong centralization of the probation system in the country. As a result of this, the work within the probation system is perceived as a professional one. Elements of voluntarism can be found in the new legislation but they come to good will by their nature. Still in Bulgaria there is no clear perspective in this direction. If we analyse the development of the probation activities in Bulgaria, we can state that the tendency for tougher control and repression prevails over support. The chosen probation concept is different from all well-known models throughout Europe. The typical idea of community sanctions and measures is not present here (by the way, it can be found in the Law for Prevention of Juvenile Delinquency); the pre-trial social report, which is a key element for all probation services in Europe, is missing too; there are probation officers with functions similar to those of the police within the structure of the Bulgarian probation service, there are also probation officers performing social work. On the other hand, the division between repressive and supportive measures is clearly defined in the probation legislation. However, the supportive measures are not developed enough yet.

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

Probation activities in Bulgaria can be implemented courtesy of a court act, a verdict (sentence) or a court definition. The different probation measures and their nature are regulated by the Penal Code. Six different probation measures have been defined in the Penal Code of Bulgaria; they can be divided into the following groups based on their nature and aims:

- measures for control and preventive influence on convicts. They subject the convicts to various restrictions such as compulsory address registration, compulsory periodical meetings with a probation officer and restrictions of free movement;
- measures for support to convicts such as courses for professional qualification and/or programmes for community corrective influence;
- measures for restoration of damages such as corrective labour and community service. The first measure is in fact a 10 to 25 % monthly deduction from the salary of the sentenced person for a certain period. It is executed at the place of employment of the particular offender. The period of the execution of the measure is not included in the social security records.

The measures can also be divided into two groups based on whether their imposition by the court is obligatory or not:

- obligatory: compulsory address registration and compulsory periodical meetings with a probation officer;
- non-obligatory (by choice of the court): restrictions of free movement, courses for professional qualification and/or programmes for community corrective influence, community service.

The first four probation measures can last from six months up to three years; corrective labour – from three months up to two years; community service –

from 100 to 320 hours per year but not for more than three consecutive years (Art. 42a, Par. 3 from the Penal Code). The two measures, compulsory address registration and compulsory meetings with a probation officer, are being imposed on all persons sentenced to probation. Community service should not be imposed on persons younger than 16 years of age (Art. 42a, Par.4 from the Penal Code) due to requirements for compliance with the labour legislation. The activities that should be carried out by the probation services include:

- evaluation of the offending behaviour of people sentenced to probation through utilization of special methods for offender assessment;
- execution of sentences, case planning and supervision of sentenced persons;
- assessment of the need for corrective interventions and planning of the application of special programmes;
- support to offenders for the establishment of constructive contacts with relatives and with the public institutions;
- preparation of different reports and analyses related to the execution of probation measures;
- establishment of effective work relationships with representatives of other institutions;
- providing up-to-date and quality information at the meetings of the Probation Councils;
- coordination of the activities of the institutions and the organizations that are linked to the supervision.

It has been legally defined that the probation services can delegate the execution of particular elements of the probation measures to NGOs or specialists. However, still there are no clear standards for this; consecutively this opportunity is being used sporadically.

## **2 LEGISLATIVE BASIS AND MISSION**

### **2.1 Legislative basis**

Probation has been defined as a penalty with the amendments and annexes in the Penal Code of the country on 27.09.2002 and 23.11.2004. Probation is “a combination of restrictive measures for control and influence without deprivation of liberty that are imposed together or separately” (Art. 42a, Par. 1 from the Penal Code). In the system of penalties, probation has been defined as the toughest penalty without deprivation of liberty. The Penal Code defines the contents of the sentence, specific rules for juveniles, the contents of the agreement for cases of termination of criminal procedure with an agreement, the procedure for penalty execution – conditional release and substitution of probation with deprivation of liberty. The execution of probation is regulated by the Law for Execution of Penalties, last amended on the 23 November 2004. The organizational structure of the system of probation, the job specifications for the probation officers and the contents of the activities comprising the execution of the probation sentence are defined in a special chapter of the LEP (Chapter thirteen). In addition to the above-mentioned laws, there are other sub-legislative documents:

- regulations for Application of the Law for Execution of Penalties (RALEP), approved by the Minister of Justice. They give more detailed regulation related to LEP texts;
- rules for Application of the Offender Assessment System (OAS) – this instrument is an adapted version of the English structural instrument for risk assessment of adult offenders OASys;
- rules for Employing Officers in General Directorate “Execution of Penalties” – the activities of the probation services and officers are regulated in further details here;
- strategic Plan and Priorities for Development of the Service 2007-2009.

It can be added that some of the Bulgarian penalty-execution experts have critical attitudes towards the overall concept of the legislative introduction of probation in the country. This criticism targets mainly the definition of the probation as a penalty: “In comparative aspect probation is not a penalty by its legal nature” (G. Mitov). These experts point out that such definition of probation given by the Bulgarian lawmakers is contradictory to Recommendation № R (92) 16 of the Committee of Ministers to Member States regarding the European Rules for Community Sanctions and Measures from 19 October, 1992.

Probation measures are imposed on persons who have committed crimes defined by relatively low public impact, for which the Penal Code envisages deprivation of liberty for up to three years. The probation service works with juveniles (14 - 18 years of age) and adult offenders. However, persons between 14 and 18 years sentenced to probation account for a relatively small percent – 5 % of all offenders sentenced to probation. Young offenders are being dealt with mostly by the Local Commissions for Prevention of Juvenile Delinquency that has their legal foundations in the Law for Prevention of Juvenile Delinquency. The lawmakers have provided for exceptions related to the legal status of juveniles on probation. For example, community service cannot be imposed under any circumstances on persons below 16 years of age and if in such cases probation is envisaged as a sanction, it should be substituted with public reprimand. Probation of juveniles is implemented through a special procedure – by a specialized probation officer in cooperation with an inspector from the Child Pedagogic Office. The programmes for probation supervision and corrective influence are developed by the above-mentioned officers in collaboration with the Child Protection Department and a pedagogical counsellor. An individual plan for execution of the imposed probation measures and a programme for community corrective influence are elaborated.

## **2.2 Mission and mission statement**

If we trace the history of the establishment of probation system in Bulgaria, we should mention that first came the amendments of the legislation, which were then followed by the process of elaboration of strategy for structural development of the service. Within the twinning project “Establishment of Probation Service in Bulgaria” (BG/2004/IB/JH/2007) implemented in the period 2005-2007 with the support of English experts, the first “Strategic Plan and Priorities 2007-2009 of Bulgarian Probation Service” has been developed.

This action plan contains the following formulation of the mission of the Probation service in Bulgaria: «The probation service aims to secure the effective execution of probation sentences through its mission aimed at partnership work, at the rehabilitation of the offenders, at reducing the recidivism, at higher security for our society and reparation for the victims and society and at providing accessible and effective services to offenders and the society». The Bulgarian probation service declares four goals of its activity:

- providing effective supervision of offenders sentenced to probation or conditionally released from prison;
- work with partner organizations to reduce recidivism among persons under probation supervision, aimed at improvement of their rehabilitation and protection of society;
- reduction in the number of ex-offenders that are imprisoned again;
- reparation to crime victims.

A Strategic Plan for three years (2007-2009) has been prepared to support the achievement of these goals. Probation services pursues the following values:

- a transparent, open and respectful attitude towards people;
- partnership aimed at reduction of recidivism and protection of society;
- accounting for the needs of the victims and the reparation of damage done to them;
- providing support to the probation officers in order to achieve stronger effectiveness of their work;
- sustaining the idea that most offenders have the potential for a positive change;
- tolerance to differences and support to anti-discrimination actions;
- ensuring effectiveness and efficiency.

The main tasks of the probation service are building the infrastructure of the probation service in order to provide effective operational functioning until the end of 2007, completion of the staff until the end of 2007, preparation of practical guidebooks for the staff and elaboration of training programmes and building an institutional partnership cooperation framework. With a view to the fact that the probation system in the country is still in a process of structuring and development, no serious analyses of its activity and achieved results can be made. For the two years of existence the established basic partnerships between the probation services and the regional police offices and local authorities' representatives (especially in the execution of community service) should be mentioned. In a few regions of the country partnerships with NGOs have been established – mostly linked with the execution of the measure “programs for community corrective influence”.

### **2.3 Crime prevention**

The probation service in Bulgaria is not directly engaged with crime prevention activities. To a great extent, this results from the fact that the Bulgarian lawmakers introduced probation as a penalty. Consequently the probation activities actually begin with an act of the court and are implemented in the post-trial phase. Of course this is connected with the lack of possibility for the probation officers to prepare pre-trial report and to implement any kind of

activity during the pre-trial phase. The Ministry of Internal Affairs (the police), the Ministry of Education and different local authority structures are directly engaged with the prevention activities that in their perspective are focused mainly on primary prevention. The day-to-day work of the probation services with offenders is directed to the prevention of re-offending (secondary prevention).

## **2.4 Victim protection**

Although one of the main aims of the above-mentioned Strategic Plan (2007-2009) for the development of probation is the reparation to victims, the probation system in Bulgaria at this stage is still not organized to work with victims.

Since 1999 the possibility of terminating criminal procedure by signing an agreement is being applied. Statistical data shows that during the last two years approximately 6,500 cases or more than  $\frac{1}{4}$  of the criminal procedures have ended with an agreement. This court procedure (which contains some mediation elements) allows the interests of the victim to be observed to a higher extent – when damage to property has been done, agreement is allowed only if the damages are repaired (Article 381, Paragraph 3 from the Criminal Procedure Code). However in practice probation service does not work with the victims after an agreement has been reached, the case has been closed and the defendant has been sentenced to probation. It should be mentioned that in Bulgaria there is a Mediation Law that defines mediation as an alternative method for solving legal and non-legal disputes. Subject of mediation can be civil, commerce, family and administrative disputes, disputes related to consumer rights and other disputes between natural persons and/or legal entities. At the Ministry of Justice there is a register of mediators and mediation organizations. Bulgarian lawmakers, however, have not linked the mediation process and the work of the probation services, as it is in the Czech Republic for example.

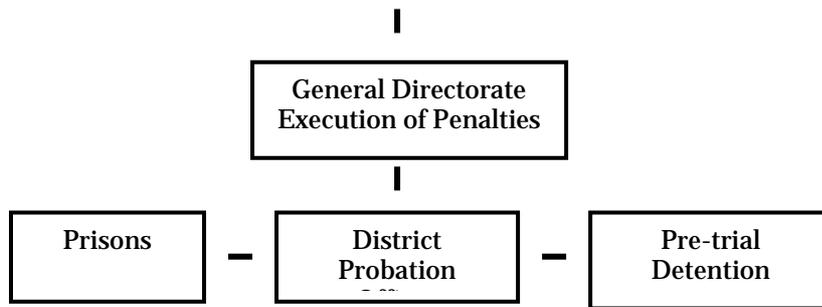
## **3 THE ORGANIZATION OF PROBATION SERVICES**

### **3.1 Main characteristics**

At national level the probation service is a part of GDEP that is positioned in the Ministry of Justice. The General Directorate “Execution of Penalties” is the institution that has the responsibility for execution of all penalties in the country. It includes three units namely prisons, pre-trial detention and probation.

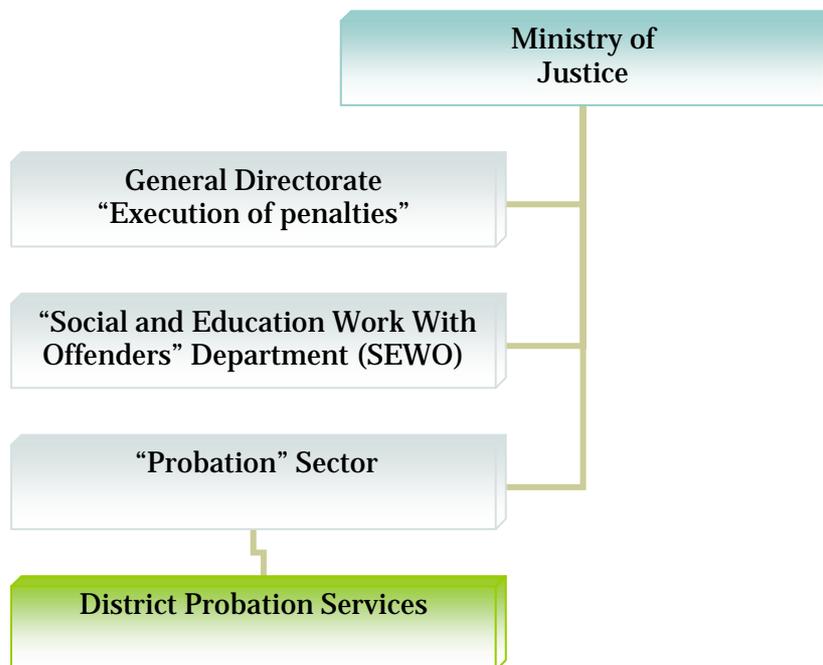
#### **Figure 1**

Ministry of Justice



The total personnel of the Directorate includes 5,000 people, 2.5% is the percentage of the administrative and management staff. The GDEP officers work with different kinds of offenders like defendants, suspects, people sentenced to deprivation of liberty and sentenced to probation – approximately 22,000 offenders in total. According to Article 133 from the LEP, the probation penalty is executed by probation services that are regional divisions of the General Directorate “Execution of Penalties” at the Ministry of Justice. The Minister of Justice has the power to establish and close these divisions. Ordinance of the Minister of Justice № LS-03-32/ 30.03.2005 outlines the structure of probation services.

**Figure 2**



In general the territorial division of the probation service follows the administrative division of the country. There are 28 District Probation Services

within the territory of the Republic of Bulgaria and they correspond to the jurisdiction area of the District courts. This means that there are a total of 28 district probation services with 112 units attached to them corresponding to the jurisdiction areas of the regional courts.

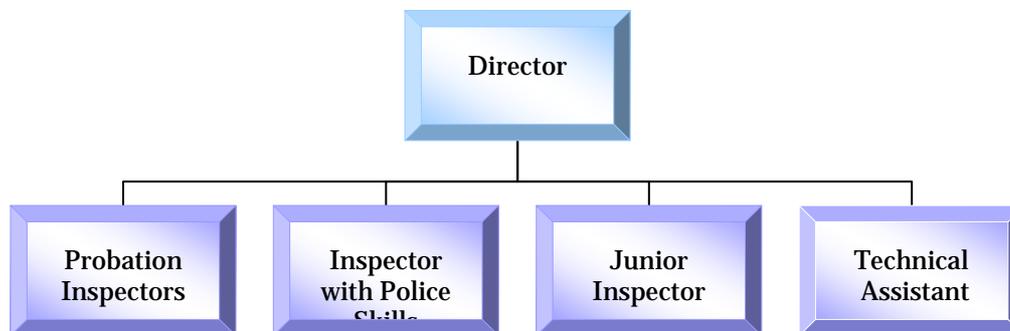
### 3.2 Internal organization

The management and control functions are implemented by Sector “Probation”, which is part of the “Social Activities and Corrective Work with Offenders” Department at the General Directorate “Execution of Penalties”. This sector maintains the collaboration with the state, the public bodies and NGOs at the national level. Its functions are:

- development of the legislation related to the execution of probation;
- elaboration of standards, rules, procedures, instructions for execution of probation measures;
- putting in practice the strategic and operative planning of the probation service activities;
- controlling the functioning of district probation services and controlling the quality of the services provided;
- planning and organization of the professional attestation and training of probation officers and enhancing their professional development;
- providing and disseminating resources needed for the probation service activity.

On the other side, the District probation services are situated in all of the district capitals in the country and use their own or adapted premises rendered by the state or the municipality. Each service has a director, police inspector, probation inspectors who organize and manage the activities included in the execution of the penalty, junior probation inspectors and a technical assistant.

**Figure 3**



The tasks of the district probation services are to provide operative guidance and control the implementation of supervision activities, to collaborate with the state and local authorities in the region, NGOs, the court, the prosecution office and detention places. Regional units at the district probation services implement all activities related to the execution of probation measures: assessment of

offenders, planning the supervision and execution of probation measures, implementation of the plans, working with offenders, state and municipal institutions, and NGOs.

### 3.2.1 Probation officers

The procedure and the rules for personnel employment have their legal regulation in Article 20 of LEP and the Rules on Conditions and Procedure for State Service in the GDEP and the Code of Ethics of GDEP Officers, adopted in 2006. Probation officers are full-time professional workers. The number of staff is 500 people. 472 of them are state employees and 28 work under labour contracts. Applicable to all candidates for probation officers (with the exception of technical assistants) are the regulations of the Ministry of Internal Affairs Law. The inspectors must have university education – a bachelor’s degree in social work, pedagogy, psychology or law. Junior police inspectors and employees under labour contract need secondary education. Aside from these requirements the probation officers must compete for the job and also should pass basic training – in practice this requirement is not applicable for all officers yet. The number of staff is 500 people; they are distributed proportionally throughout the district probation services and implement supervision activities in the jurisdiction area of the relative district court.

**Figure 4**



Between 2 and 28 probation officers are employed in each probation office (regional or district), with the exception of the district services in the big cities of Sofia and Plovdiv. Main functions of probation inspectors:

- supervision of offenders according to the imposed probation measures and terms;
- assessment on the risk of self-harm, risk of serious harm and the risk of re-offending;
- planning and immediate execution of the case plan;
- reporting on offender research results;

- implementation of activities comprising the execution of the sentences and for achievement of the aims and objectives of the probation service in partnership with a probation specialist, junior inspector and technical assistant;
- analysis and summarizing information and observations of offenders' behaviour; propositions for enforcement of disciplinary measures when necessary or for a change of the status of the sentenced persons, according to LEP requirements;
- active collaboration with representatives of the court, the prosecution, Ministry of Internal Affairs, municipality etc. aimed at mobilization of the community resources involved in probation activities.

The average caseload of one inspector is 30 – 40 offenders. However, in some of the services the inspectors have to work on more cases.

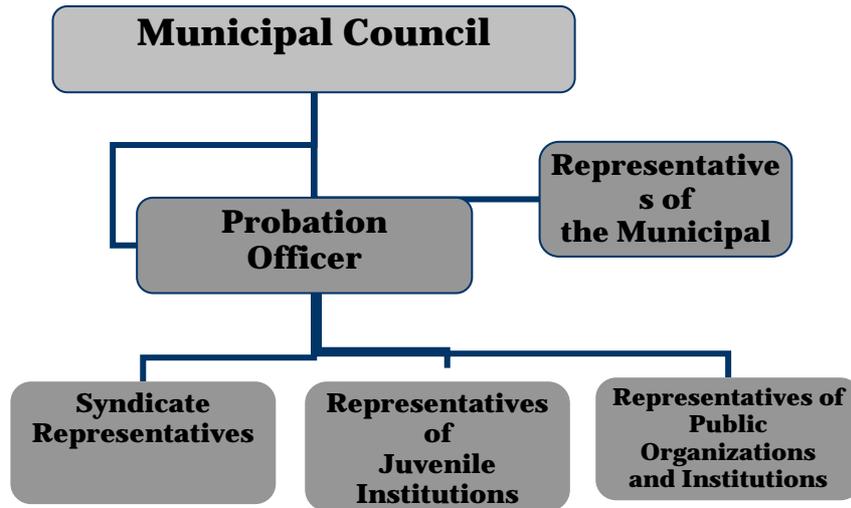
### **3.2.2 Education, training requirements and opportunities**

At this initial stage of the development of the probation service in Bulgaria there are some problems related to the training of probation staff. Most of the officers have been employed before training possibilities had been identified. Almost all specialized trainings so far were carried out by experts from the National Offender Management Service of England and Wales. There are officers specialized to work with juveniles and to conduct therapeutic programs. In the above-mentioned Strategic Plan one of the main priorities is human resources development. Standards for probation officers have been elaborated and a training plan containing compulsory themes for initial professional training has been adopted. Some of the Bulgarian universities (i.e. Sofia University and Bourgas University) provide master's degree and probation officer qualification programs. However, it should be underlined that in fact only a small number of probation staff has been trained (about 80-100 people).

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

According to legislation (LEP) and the experience already gained, several main partners of the probation system in Bulgaria can be outlined. In the first place we have the Probation Councils. The Probation Councils are public bodies that also involve civil society representatives. Through the Probation Councils state control over the probation activities can be exerted and on the other hand the general public can take part in the correction and rehabilitation of offenders. They represent an organized mechanism for community involvement in the process of penalty execution and maintain the idea that effective correction and rehabilitation of offenders is impossible without involvement on behalf of various public and municipal bodies and structures. The Criminal Procedure Code (CPC), LEP and the Regulations for Application of LEP regulate the structure and the members of these bodies, the functions, the rights and obligations related to the activity of the Councils. Probation Councils are established in the jurisdiction area of the relative Regional court. They are composed of a chairman – probation officer, members of the council – representatives of state, municipal, public and civil organizations existing in the correspondent region.

**Figure 5**



Main functions of the Probation Councils are:

- coordination and cooperation with local institutions;
- organization - related to the selection of community service workplaces, involvement of volunteers and non-governmental organizations;
- control - in relation with the elaboration of proposals to the court by virtue of Art. 43a and Art. 70, Paragraph 1 of the Penal Code, as well as the elaboration of statements under Art. 89 – 92 of the Penal Code;
- support - the supervision of the execution of probation sentences and the involvement in the correction and rehabilitation processes contain social assistance and social support to the sentenced persons and their families.

The tasks of the Probation Councils are as follows:

- making decisions about the detailed content of the restrictive measures imposed by the court, their intensity and duration depending on the behaviour of the persons sentenced to probation;
- validating themes and directions of the vocational training courses as well as corrective influence programs;
- giving approval of the places where community service is implemented and the type of work that is suitable to the skills of the offender and the needs of the community;
- giving approval to proposals to the court for substitution of probation with deprivation of liberty;
- validating proposals to the court for conditional release;
- validating statements to the relative prosecutor for imposition of compulsory medical measures;
- approving the amendment in the status of those offenders who (after serving at least  $\frac{1}{4}$  of the sentence term) have proven that they deserve stimulation by

changing the compulsory registration regime from daily to weekly signing at the probation office, and waiving the evening and the weekend curfew. In the second place we have the municipality, which appears to be the main partner of the probation services in the execution of probation measures, particularly in community service execution. Small town mayors also participate actively in supervising the execution of compulsory address registration – a measure that often requires daily registration. The partnership with the police office should be pointed out because of its important role in the implementation of all probation activities.

The Law on Execution of Penalties allows representatives of the non-government sector, volunteers or citizens to participate in the implementation of activities related to probation. Besides, the law allows probation services to develop and implement projects and programs in cooperation with NGOs. At this stage, detailed standards and mechanisms for this have not been established. Sometimes social work, psychology, pedagogy and law students are involved as volunteers. Some NGOs in the country have signed principal agreements for provision of services to the local probation services.

It should be concluded that in Bulgaria there is only one probation structure that is responsible for the execution of probation measures. Up to this moment, an organization of probation officers does not exist.

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

### **4.1 General**

As mentioned in Chapter 2.1, probation is regulated within the Penal Code, the Criminal Procedure Code and the Law on execution of penalties. What are the legal requirements for the imposition of probation? Probation can be imposed as a single penalty (Article 55, Paragraph 1, Sub-paragraph 2, case “b” from the Penal Code). It is designed as the appropriate sentence for offenders who have committed low impact crimes. The Bulgarian legislation allows in some cases deprivation of liberty to be substituted with probation. Besides that, probation can be imposed as a complementary penalty in cases of conditional sentencing (Article 67, Paragraph 3 from the Penal Code). In such cases probation does not lead to suspension of the conditional sentence but adds to it by measures for supervision during the “trial period”. This option can be applied only if the “trial period” is longer than six months and less than three years. Finally, probation can also be imposed in cases of conditional release from prison. The duration of this measure should not be longer than the “trial period” imposed by the court – Article 70, Paragraph 1 and 6 from the Penal Code.

**Table 1: Probation activities during the different stages of criminal procedure**

	Pre-Trial Phase See: 4.2	Trial and Enforcement Phase See: 4.3	Post Release Phase See: 4.4
Preparing a Social Enquiry Report (prepared by the probation service after the sentence of the court has come into force)		x	
Supervising / organizing etc. community service		x	
Compulsory address registration		x	
Compulsory meetings with a probation officer		x	
Free movement restriction		x	
Attending professional qualification courses and programs for corrective influence		x	
Corrective labour		x	
Supervising etc. conditional sentence		x	
Supervising etc. conditional release/parole		x	

#### **4.2 Pre-trial phase**

As the table shows, no participation of the probation service in whatever form is envisaged during pre-trial phase.

## **4.3 Trial and enforcement phase**

### **4.3.1 General**

Within the Bulgarian probation system probation intervention is possible only through a decision of the court and is formulated within the contents of the sentence. Probation measures create the structure of the sentence and are executed through various interventions:

- “Compulsory registration of permanent address” is a measure for supervision and control over the sentenced person. It is imposed on everyone sentenced to probation. The lawmaker has defined this measure in Article 42 b, Paragraph 1 of the Penal Code and Article 141 of the LEP. This probation measure establishes an obligation for the sentenced person to visit the probation office and sign up in a special book on a regular basis. The task of the probation service with regard to this measure is to execute supervision over the sentenced person through a day-to-day observation and personal contact with him/ her;

- “Compulsory regular meetings with probation officer” is a measure for control and supervision but includes also some elements of social support and assistance. It is also imposed on everyone sentenced to probation and is legally regulated by Article 42b, Paragraph 2 from the Penal Code and Article 141a from LEP. This measure comprises meetings with the probation officer who manages the particular case. They can be organized on the probation service premises or exceptionally at another appropriate place. There are three types of meetings: planned by the probation officer, unscheduled meetings requested by the probation officer and unscheduled meetings requested by the sentenced person. The task of the probation service with regard to this measure is to plan and conduct the meetings and to manage the execution of this measure. Besides, within the framework of the measure the probation officer can provide assistance for solving of various personal, administrative and other problems (helping the sentenced to obtain ID and other documents, to find accommodation and job, to pass vocational training courses, obtain social security status and/ or social assistance);

- “Free movement restriction” is a measure for control and supervision imposed by appraisal of the court. It is legally defined by Article 42b, Paragraph 3 of the Penal Code and Article 141b of the LEP. This measure is by its nature a limitation of the freedom of movement imposed on the sentenced person. Three types of restrictions are included here:

- restriction for visiting public places and entertainment places, clearly described in the sentence;
- restriction for leaving the town/city for more than 24 hours without permission of the probation officer or the prosecutor;
- restriction for leaving home during a certain period of the day/night.

The task of the probation service here is to inform the owners or employees, responsible for the access to the public places and entertainment places that have been described in the sentence; to ensure in cooperation with the police adherence to the imposed restrictions.

- “Participating in vocational qualification courses and programs for corrective influence”. This is a measure for support and assistance to the sentenced person

that can be imposed by appraisal of the court. It is legally defined by Article 42b, Paragraph 4 of the Penal Code and Articles 141c, 141d and 141e of the LEP. The content of this measure comprises an obligation on the sentenced person to attend professional qualification courses and/or programs for corrective influence with the aim of labour integration and development of social skills and law-abiding behaviour of the sentenced person. This measure, as said above, includes participation in professional qualification courses and/ or programs for corrective influence. Programs for corrective influence are two types:

- personal development programs include literacy courses, developing job search skills, positive communication with the social services and the police;
- corrective programs are aimed at changing the personal values and behaviour of the sentenced person or to help him/ her to overcome an addiction.

The task of the probation service with regard to this measure is to organize and conduct qualification courses and different programs. In the process of execution of this measure, the probation service can cooperate with state institutions, NGOs and volunteers.

- “Corrective labour without imprisonment”. This is a measure for reparation of harm caused by the crime. It is imposed by appraisal of the court and is legally defined by Article 43 of the Penal Code and Article 141f of the LEP. This measure is actually gathering of deductions of 10 to 25 percent of the salary in state’s benefit and excluding the period of the sentence from the social security record (providing the right to receive a pension) of the sentenced person. This measure is applicable only to persons that have permanent jobs. If the sentenced person becomes unemployed the measure is substituted with community service. The task of the probation service here is to organize the execution of this measure.

- “Community service” is a measure for reparation of the harm caused by the offence. It is imposed by appraisal of the court and is legally defined by Article 42b, Paragraph 5 of the Penal Code and Article 141g of LEP. This measure is one of the most frequently applied so far and by its nature it is similar to the probation practices throughout Europe. It consists of work for the benefit of society for a period between 100 and 320 hours per year, for no more than 3 consecutive years. The correspondent Probation Council selects the workplaces where this can happen; they should not be privately owned; state or municipal ownership of more than 50 % of the capital is required. The sentenced person does not get paid for this work and it is not included in the social security record. In regard to restorative justice, victims of the crime that have expressed agreement for this can benefit from community service. The task of the probation service with regard to this measure is to organize and manage the execution of community service. While executing this measure, the probation service should be supported by the local authorities or other responsible persons. The court determines the type of the probation measures imposed; the legislation does not provide that the will of the offender is taken into consideration. Some elements of agreement can be found in the process of termination of the criminal procedure with agreement (regulated by the Criminal Procedure Code) where the attorney of the offender and the prosecutor can agree only on the type of penalty.

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

The probation service in Bulgaria is not obliged to and does not prepare pre-sentence reports.

### **4.3.3 Probation procedure and processes**

All activities of the probation officers linked to the execution of sentences are subject to regulation by Chapter 13 in LEP and the RALEP. The legal basis for probation intervention is the act of the court forwarded to the district probation service by the prosecution office. The case is then distributed to the responsible probation inspector and he/she prepares a dossier and report card. It is an obligation of the probation officer to inform immediately the mayor of the city/town where the sentence will be executed and the director of the correspondent police directorate about the nature of the offence, the type and extent of the probation measures imposed. When the court sentence is received at the probation service, the offender is invited in accordance with the procedure described in the CPC to come to the probation service within 3 days to begin the execution of the sentence. At the time of the first contact it is important that the conversation is carried out in such a way that a foundation for future cooperation is established. The probation officer prepares a protocol with the purpose to inform the sentenced person about his/her rights and obligations during the period of execution of the probation measures and to make him/her familiar with the consequences of non-compliance with the conditions of the supervision. During this meeting the plan for execution of the 2 compulsory measures is prepared: the “compulsory address registration” and “compulsory regular meetings with a probation officer”. The exact time, place and identity of the probation officer are also entered in the protocol upon signature. Within 14 days after the sentence comes into force the probation officer is obliged to prepare a social report on the person, assessment of the offender’s risk of re-offending and serious harm; and to prepare an individual plan for execution of the probation measures imposed by the court.

A special assessment methodology is implemented in probation services and prisons – the Offender Assessment System (OAS). It is based on the OASys of the UK. As a particular activity of a twinning project the methodology was adapted and validated with the support of UK experts and is currently being standardized. From 2008 a software application of OAS will be introduced so that there is more effective collaboration and exchange of information between the prison system and the probation service. With the OAS criminogenic factors and the needs of each offender are determined. It investigates 14 factors (“zones”) described as criminogenic. The system itself has five components: a form (booklet for the offender), assessment of the risk for repeat offences, assessment of the risk serious harm, self-evaluation and a sentence plan. The assessment can result in three different conclusions (low risk, middle risk and high risk) and qualitative and quantitative information. On the basis of the offender assessment the probation officer in charge of the management of the particular case prepares a plan for execution of the supervision in cooperation with the offender. In this plan all aspects of working with the client are outlined. It is required that the plan is concrete, clear and appropriate and does not impose additional restrictions on the offender. The intensity of work depends on the level of risk of re-offending.

The plan also describes the cooperation with state and municipal organizations and NGOs necessary for the execution of the sentence. A final report summarizing the achieved results is prepared for each offender upon completion of the probation term. If it is necessary the report is sent to the court, the prosecution office or to the Probation Councils. Reports are also prepared at different stages of supervision with the purpose to outline the progress or regress in the offender's behaviour.

In relation to working with the OAS, specially developed rules and procedures have been approved by the Minister of Justice. The disciplinary sanctions that may be imposed by the probation officer in cases of failure of the supervised to fulfil his/her obligations are defined in the LEP. The mechanisms and procedure for imposition of additional probation measures or substitution of probation with deprivation of liberty and the execution procedure are defined in the Penal Code and the Criminal Procedure Code. The proposals for additional probation measures or substitution of probation with deprivation of liberty are prepared by the probation officer and are then sent to the local Probation Council for consideration. If the Probation Council approves the proposal, it is forwarded by the chairman of the Council to the correspondent district court. Only the observing prosecutor can make proposals for substitution of probation with deprivation of liberty. He/she can also suggest compulsory medical treatment of sentenced people having mental or drugs problems.

The probation officer can also propose less intensive supervision if the offenders demonstrate good behaviour and strictly comply with the probation plan. This proposal is sent to the probation council and if approved less intensive supervision conditions are imposed. When a proposal is received for substitution of probation with deprivation of liberty, the district court determines the date for the proceeding of the proposal. The court decides whether to approve the proposal (sent by the chairman of the probation council or by the prosecutor), or to impose other probation measures. There are quite a lot of cases when proposals are rejected. The decision of the court is obligatory for the probation service. The period of supervision is over when the sentence is fully executed, or when supervision is terminated due to conditional release of the offender. When the probation period is over, the probation officer conducts a final interview with the offender and summarizes the progress achieved.

There are special rules in the LEP and the RALEP in regard to the execution of supervision when subjects are juveniles. Probation measures are imposed on persons over 14 years of age and their duration is between six months and three years. LEP states that the execution of probation measures imposed on juveniles have to be implemented by a specialized probation officer from the district probation service in collaboration with a police inspector from the local Child Pedagogic Office. The main aspects of work with juveniles are aimed at teaching juveniles responsibility and self-control and leading a law-abiding life, actual inclusion of their families in the process of rehabilitation and utilization of the resources of all institutions related to the work with juveniles. LEP states that a specialized probation officer, a social worker from Child Protection Department, an inspector from Child Pedagogic Office and a pedagogic councillor jointly prepare an individual plan for execution of the probation measures imposed to

juveniles, programs for corrective influence on juveniles and proposals to the Probation Council similar to the above-mentioned regarding adults.

The lawmaker has embraced the principle for wide public participation in execution of probation measures. Resources of different state, municipal and non-governmental bodies can be used. Institutions of the Ministry of Justice and the municipalities are compulsorily included in the execution of the measures. For the execution of the measure "Attending vocational qualification courses and/or programs for corrective influence" the resources of the regional units of the Ministry of Labour and Social Policy and different NGOs are used. Programs for corrective influence are developed and guidebooks for their implementation are elaborated in cooperation with universities and NGOs.

The experience of the prison system in Bulgaria is used as part of the programs applied in prisons and is being adapted to suit the needs of the probation service – i.e. the two compulsory programs: the Program for adaptation of new inmates and Program "Living free". Both have been approved and all new prisoners and the ones that expect to be released soon pass them. Other programs piloted within different projects are also implemented. For example: "Conflict solving skills", "Handling anger skills", "Solving problems of life through change in mentality", "Work" club, program "Training on assertive behaviour skills", "Communication skills", programs for working with offenders that have committed sexual crimes, drug addicts etc. Special administrative rules and methodological guidelines are being elaborated with the purpose of synchronization of the activities related to the execution of probation measures. At the moment software application for all units of GDEP is being developed and a unified information system is being introduced. This will ease collaboration between the penitentiary system and the probation system and will raise the efficiency of the overall execution of penalties. A partnership framework (agreement) with the regional units of the Ministry of Labour and Social Policy has been developed and adopted.

As a conclusion we need to underline that the Bulgarian probation service is still too "young" and has serious problems in executing probation measures. They are most often connected with:

- insufficient training of probation officers (only a small part of them has passed the necessary training). Although there is a trend for specializations of the probation officers in particular fields of probation work, these processes are still at their initial stages. An adequate system for accreditation of specialized programs and services is not available yet;
- standards and mechanisms for cooperation with NGOs and volunteers have not been elaborated;
- a system for monitoring of the services provided by the probation system and a quality assessment system are still not available.

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

Probation supervision can be imposed on conditionally released prisoners. The duration of such measures should not be longer than the "trial period" imposed by the court (Article 70, Paragraph 1 and 6 from the Penal Code). When the court decides about conditional release, a report from the probation officer may be

required, if the court deems this necessary. The Penal Code states that when the prisoner has served half of his/her period of imprisonment (in some cases –two-thirds), he/she can be conditionally released if he has demonstrated good behaviour and active participation in labour and education activities.

The number of the prisoners in Bulgaria is 11,500. There are 13 prisons, 11 of them for men, one for women and one “correctional home” for juveniles. In each prison there is a social inspector working with prisoners that expect release soon. In 2008 a probation officer working with these prisoners will be employed in each of the prisons. The Ministry of Justice has already approved the necessary job specifications and the number of such staff. Every year approximately 4,000–5,000 people are released from prisons. Of them 1,500 are conditionally released. At this stage the possibility for imposing supervision in addition to conditional release is not used often. So far supervision has been imposed on approximately 250 conditionally released prisoners. Amnesty is applied by means of a special law. The last amnesty in Bulgaria took place in 1991. At the moment a new amnesty law is being prepared and if it becomes a reality 4,500 prisoners will be released. The probation service has no direct relation to amnesty. Pardon, according to Article 74 from the Penal Code, terminates the execution of the sentence in full or in part or substitutes it with a lighter penalty. Pardon is applied to offenders, not to offences. The President of the Republic is the only institution empowered to grant pardon.

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

Within this phase there are no legally regulated obligations for the probation service in Bulgaria or practice for delivering such services.

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

#### **5.1 Finances**

The basic financial source is the state budget that provides resources for staff salaries, capital expenditures, per diems and overheads. The responsibility to allocate the budget is borne by the Ministry of Justice that calculates the financial income of the General Directorate “Execution of penalties”. At this stage other sources do not exist (private or other funds). Probation services cannot raise funds themselves and in fact they do not have an independent budget. For maintaining the prison system and the probation services resources from the State Enterprise “Prison Work” Fund have been used, mostly for improving the material conditions.

**Table 2: Probation and prison expenditures for 2006 in BGN  
(1 Euro = 1.9558 lev)**

	<b>Detention and Probation Services</b>	<b>Prison System</b>
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Total current yearly expenditure	26 165 807	51 250 755
Average number of employed staff	500 probation officers + 1200 detention officers	2976
Daily average number of offenders/clients	10 500	11 500

According to the financial reports of the Ministry of Justice, budget allocations for the last few years to the General Directorate “Execution of Penalties” (probation, prisons and pre-trial detention places) are as follows:

**Table 3: Budget allocations General Directorate “Execution of penalties”**

<b>2002</b>	60 087 177 BGN	4 588 officers
<b>2003</b>	61 383 625 BGN	4 596 officers
<b>2004</b>	64 884 296 BGN	4 357 officers
<b>2005</b>	67 858 717 BGN	4 550 officers
<b>2006</b>	77 099 059 BGN	4 889 officers

Because of the lack of coordination and financial analysis of the expenditures of different units in GDEP, concrete numbers such as the average cost of a prisoner and a person sentenced to probation can not be calculated. With a relative accuracy it is estimated that budget costs of the prison system are 10-12 times bigger than those of the probation system. Having in mind the approximate numbers of the prisoners and the persons sentenced to probation, it should be underlined that one prisoner costs up to ten times more than one sentenced to probation. The annual cost of one prisoner is between 4,500–4,700 BGN. Recidivism and re-offending have not been analysed enough. The existing data shows 38 % rehabilitation of the released prisoners. There is not any prepared analysis on, what is the average period relevant for measurement of recidivism – yearly, in two years etc. as well as what is the average percent of recidivism of the first-time released, second-time, third-time etc. prisoners.

The salary in the GDEP sphere is determined by the legislation regulating state service in the country and depends on the category of the particular public servant and his/ her office. There are three structural units in GDEP namely the prisons, the pre-trial detention places and probation. The same categories of officers work in these three units and their salaries are the same. Therefore the average salary is determined for the whole system.

**Table 4: Average salary**

<b>2005</b>	Average state servant salary	673,90 BGN per month
<b>2005</b>	Average salary of persons under labour contract	433,80 BGN per month
<b>2006</b>	Average state servant salary	714,33 BGN per month
<b>2006</b>	Average salary of persons under labour contract	459,90 BGN per month

“Prison Work” Fund State Enterprise was established in 2003 in conjunction with Article 64 of the LEP and with Article 62, Paragraph 3 of the Commerce Law. The enterprise is the successor of non-budget fund “Prison Work” which existed to that point. Its purpose is better management of activities related to the execution of deprivation of liberty and other economical activities supporting or complementing the main of activity. The enterprise continued to be GD “EP” structure until the middle of 2004. Nowadays, it operates in open market conditions as a legal entity. Governing bodies of PWFSE are the Minister of Justice, the Management Board and the Executive Director.

The financial resources of the enterprise are provided through the economic activity and other activities undertaken by detention places, rent from buildings and outfits, parts of the salary of prisoners, confiscated money and valuables, donations and other sources. The resources gathered are used for structuring and improvement of accommodation and production conditions and providing security and technical equipment, turnover allocated to production, the improvement of the medical service, financing research and publishing activities related to prisons, training and professional qualification of prisoners and staff, cultural activities and sport, stimulating prisoners and staff, stimulating citizens who have provided assistance to prison administration, financing risk related to production activity and other expenditures. The financial results were negative in 2004 but in 2005 and 2006 profits were made. The profit for 2005 was 167,648 BGN, for 2006 390,374 BGN.

**Table 5: The income from the activity of the enterprise**

<b>2005</b>	9,647,198 BGN	2,305 prisoners working
<b>2006</b>	10,890,549 BGN	2,291 prisoners working

**Table 6: Expenditures for improvement of the material conditions in prisons**

<b>2005</b>	repair, materials, cultural events, credits for budget activities	591,412 BGN
<b>2005</b>	investments for improvement of the material conditions	654,470 BGN
	Total 2005	1,245,882 BGN
<b>2006</b>	repair, materials, cultural events, credits for budget activities	452,821 BGN
<b>2006</b>	investments for improvement of the material conditions	182,486 BGN
	Total 2006	635,307 BGN

External fundraising has always been sought by GDEP. During the last few years most of the prisons work on projects with different level of financing. At the moment the system works mainly on the following bigger projects:

- the PHARE Programme Twinning project – “Establishment of the probation system in Bulgaria”. BG (2004) 1 B (JH) 07 - from 2005 – to 2007 – 800,000 Euro - training, materials, expert support;
- the Twinning project BG (2004), IB /JH/06 – PHARE program – “Strengthening the Bulgarian Penitentiary System” from 2005 – to 2007 – 800,000 Euro – training, materials, expert support;
- the PHARE Programme, “Provision of Hardware for Electronic Justice” Project No. 2004/006 – 070.03.01 -1,950,000 Euro – part of resources are allocated to GDEP;
- the PHARE Programme, “Provision of computer equipment to the judicial system” Project No. 2004/016/711.08.01- 1,950,000 Euro – part of resources are allocated to GDEP.

## **5.2 Accounting**

Financial and accounting procurement is provided by the Ministry of Justice and by the accounting services of the Investigation service district units that are regional departments of GDEP. The accounting software product CONTO is used. A systematic recording of financial transactions is kept and a report is made on a monthly basis. At the end of the fiscal year an annual financial report is prepared. Control over the proper spending of the state budget resources (external control) is exercised by the National Audit Office; the Internal Audit Directorate at the Ministry of Justice exercises the internal control. Establishment of unified district units of the GDEP is in preparation, which will provide for the incorporation of the two territorial district units – Probation and Investigation Service. Therefore they will have common bookkeeping. The financial expenditures are controlled in the way all state expenditures are controlled – by means of internal audit, done by the specialized bodies of the Ministry of Justice and the revisions of the National Audit Office. Up to this moment such examinations of separate units throughout the country are carried out but a summary analysis has not been prepared.

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

At this stage the Bulgarian probation service has an established system for registration only on paper. Everyone sentenced to probation has a personal dossier – information containing his/her name, sex, age, personal identification number, education level, professional qualification, address registration etc. Each dossier contains the text of the sentence, assessment of the offender, an evaluation report, and a plan for supervision. The whole correspondence with the offender, the institutions and all follow-up assessments, reports, individual programs etc. are kept in the dossier. This information is confidential. The dossiers are kept and archived in each district probation service. There are specially developed diaries for registration of all sentences, incoming and outgoing post communication. Access to dossiers and the registration books is permitted only to probation officers, GDEP staff, the court and the prosecution office. The probation service follows the confidentiality rules elaborated by GDEP. The staff members are obliged to sign a declaration of compliance with the rules for confidentiality of information. This information is used for case management as well as for defining the priorities of work and development of policies at local and national level.

At the moment a new system for registration and building up of a national database are taking place. The system will be approved from July 2007. From 1 January 2008 it will be introduced in all probation services and prisons. An electronic archive is being developed as well. The electronic system will transfer all data gathered to the network where it will be accessible for all GDEP staff, probation services, prisons and pre-trial detention places. A national database on working with offenders will be created through this system and conditions will be established for rapid exchange of information. Every year the district probation services are obliged to provide an annual report of activities and achievements

outlining also the main priorities. Sector "Probation" at GDEP prepares a summarized report for the Minister of Justice in which the achievements of the probation service are described. There are not any special procedures for efficiency evaluation of the activities with regard to the achievement of the aims. At the moment a methodological guidebook for evaluation of quality is being elaborated.

#### **5.4 Societal support and clients' views**

Surveys on public aspects of the probation services activities are implemented under the form of inquiries conducted during information seminars for promotion of probation – part of NGO projects during the period 2001-2005. Serious conclusions on this cannot be done. At the moment of preparation of this chapter, Crime Prevention Fund – IGA, Bulgarian Helsinki Committee, Access to Information Program and some Bulgarian experts implement the project "Independent civil monitoring and report on the legal and institutional implementation of probation in Bulgaria". On the basis of the initial project results some conclusions about clients' views and the guarantees for their rights can be outlined. From interviews with persons sentenced to probation in ten different district probation services the following conclusions can be made:

- all of them think that their sentences are fair. The bigger part of them value probation as a good chance not to go to prison. Almost all of them did not have information about probation measures and were acquainted during their contacts in the probation services. Gradually, their parents, relatives, friends learn about probation;
- the bigger part of the clients is satisfied with the fact that they will be included in programs for social impact or attend qualification courses. They evaluate their meetings with probation officers as good and useful. They are satisfied with the methods of work of the probation services and officers (work plans, meetings etc.);
- the communication with probation officers during the meetings is valued as being good because advices and supervision are provided. Offenders state that this changes their way of life and of thinking and that they gain various positive skills;
- community service is not a pleasant measure for most of them. Some are embarrassed and do not want people to see them and to be aware of their sentencing. The day-to-day signing in the probation service and corrective labour are seen as punishments that are too harsh. Very often, offenders lose their jobs because of the obligation to sign up every day and have difficulties with their employment;
- the sentenced offenders from small towns where there are no probation services are particularly in a bad position – the day-to-day sign up has to be carried out in the neighbouring town and this means loss of time, money for travelling and additional expenses. This is difficult for the institutions as well as for the person sentenced;
- a difficulty for clients is the impossibility for interruption of the probation sentence – even in case of health problems or because of other sentencing – and this also makes it difficult for the probation service and the offender.

## **6 PROBATION CLIENTS' RIGHTS**

A protocol is given to all clients containing information about the rights and obligations they have during the period of execution of the probation measure (Article 139, Paragraph 3 of the LEP). This protocol is handed to the client after he/she has placed a signature. The possibilities for the submission of requests, complaints, signals and proposals are regulated by the LEP (Article 141m). They are submitted in written form and because of this in each probation service there is a special book for their registration. Probation clients have the right to appeal before the director of the district probation service or the general director of GDEP on every punishment imposed on them by the probation officers. Offenders have the right to complain about the behaviour of the probation staff by means of the same procedure.

The overall control for legality of the activities of the probation services and Probation Councils is exercised by the district prosecutor in accordance with the procedure described in the Law on the Judiciary (Article 136 from LEP). Rules on the cooperation between GDEP and the National Ombudsman have been developed. There is no specialized prison and probation ombudsman as is the practice in some countries. At this stage there are no rules at all on conducting external independent control over the observance of probation clients' rights. Below is part of the conclusions (from observations carried out in ten different probation services made by the Bulgarian Helsinki Committee during implementation of the project as indicated in 5.4:

- no mechanism for inspection by an independent body (out of the GDEP system) of complaints of people sentenced to probation has been established. If the probation officer infringes client's rights, the highest instance for appeal is GDEP. Court (or the ombudsman, as is the situation in some European countries) is not included in the system of appeal. The law does not foresee also a regular external control over the work of the executive bodies (Ministry of Justice exercises overall control and guidance);
- the lack of pre-trial report harms the individualization of the sentence by the court and the estimation of how and whether imposition of the correspondent probation measures would be efficient for the particular offender;
- in the protocol presenting the rights and obligations it is not mentioned that the sentenced person has the right to be conditionally released in accordance with Article 70, Paragraph 1 of the Penal Code; that the information made available to the probation officer is not confidential and everyone sentenced to probation can ask for the withdrawal of the particular probation officer;
- according to Article 141 l of the LEP disciplinary sanctions can be imposed on people sentenced to probation only for infringements of the probation measures. However, it is not clear what sanction for what infringement is applied;
- community service raises too many questions. Compensation of transport and other expenses is not regulated. Execution of the measure does not present guarantees for protection of offender's dignity and self-esteem (Recommendation N R (92) 16 of the Committee of Ministers of Member States

- on European rules on community sanctions and measures, adopted on 19 October 1992). Some guarantees have to be adopted for protection of the offender against insults, inappropriate curiosity or publicity. In relation to community service there is the issue for the consequences of incidents at the workplace. Offenders do not have social security during the execution of the sentence. In the Law on Health Security they are not even mentioned as persons whose health security is covered by the budget (as is for imprisoned and detainees). It is appropriate that the people sentenced to community service have insurance at least for incidents and for civil responsibility;
- the period during which the person sentenced to probation does community service is not included in the social security record. This results in too big benefit for employers and leads to unfavourable consequences for the sentenced person;
  - the measure "Participating in professional qualification courses" causes some problems. Court is not acquainted with the possibility that such courses can be carried out while preparing the sentence. In some district probation services refusals of the Labour Bureau to include sentenced people in such courses have been recorded, for example because of the lack of primary education;
  - similar to the above-mentioned, measure "Participating in programs for corrective influence" is imposed by the court without having clear vision about these programs and their availability in the area of the correspondent probation service.

## **7 NEW DEVELOPMENTS**

The establishment of probation service in Bulgaria is an outstandingly dynamic process. The most important priorities of its development are defined in the "Strategic Plan and Priorities 2007-2009", already mentioned in 2.2. The first important priority is the establishment of the infrastructure of the probation service and securing its effective operating throughout the whole country. This has been implemented to a great extent but the process is still running. The second important direction is completing the probation staff employment. The larger part of officers is already working but there are still places where no directors of probation services have been employed or the staff number is not fulfilled. One of the main priorities is human resources development. Trained officers are few in number. Main element of this priority is the elaboration of practical guidelines for all officers and development of programs for their training. A key moment in the strategy is the establishment of an institutional framework for cooperation with different partners.

In May 2007 a reform in the structure of probation service was carried out. 28 district "Execution of penalties" units were created to unite probation services and pre-trial detention. The aim of this unification is improving administrative-financial management of GDEP structures. Amendments of the LEP are forthcoming – the requirement for day-to-day registration will be changed. The idea is for offenders to sign up in accordance with the level of risk assessed and the supervision plan prepared but not more often than four times a week.

Fund IGA adapted an instrument for juvenile offender assessment – SRAI in

cooperation with GDEP and the financial support of Global Opportunity Fund – UK. The instrument ASSET used by the Youth Justice Board of England and Wales was taken as a basis.

The idea for legislative amendments is being more and more often discussed among politicians. Debates on introduction of pre-trial report and electronic monitoring are most active. All participants in this process estimate the introduction of pre-trial report as a key moment in probation work: probation officers, judges, prosecutors and NGO representatives. Its legislative implementation, however, raises questions regarding Bulgarian penalty-execution system and the fact that probation was defined as a penalty. It appears that this discussion will have to include the question of to what extent probation services will be involved in the pre-trial phase. The introduction of public-private partnership in the activities of the probation service is an actual question as well. Expectations are that this will additionally stimulate development of professional capacity and competences of the probation system and will raise the efficiency of the supervision. According to forecasts probation services will have 25,000 clients in three years. Aside from supervision activities, probation services will implement programs for anger management, communication skills optimisation, changing the way of thinking, a wide variety of education programs and programs for drunk drivers. This foreseen development will naturally require an additional increase of its structures and the number of probation officers. Expectations are that the probation structures will deal more with the low impact criminal contingent and that it will create the basis for reduction of the levels of re-offending and the cases of imprisonment. Furthermore it will contribute to lower expenses of the penalty execution process. Having in mind the problems with the Bulgarian judicial system reform, it can be said that the probation service is a good initiative with great development potential and possibilities for crime prevention and also securing safer communities throughout Bulgaria.

## **8 IMPORTANT PUBLICATIONS**

There are not many publications in this field because of the short history of probation in Bulgaria. Almost all publications have been published in Bulgarian.

Probation» Magazine – Crime Prevention Fund-IGA publication – book 1 (2002); book 2(2003); book 3(2004) and book 4(2005) – in Bulgarian and English.

Collection of lectures from an international conference organized by the British Council and Fund IGA, *Exchange of practice and successful models for probation development.*, ISBN 954-91239-7-9 – 2003

A.M.van Kalmthout (ed.) *Probation and Probation Services, A European perspective* updated and translated variant of the publication, 2004, Bulgaria

Collection, “Hans Zeidel” Foundation and GDEP, *Legal framework of probation*, 2004, Sofia

Collection of Open Society Foundation and the Ministry of Justice, *Applicability of probation in Bulgaria*, GDEP, 2002 Sofia,

Offender Assessment System – OASys, Collection “Implementation of alternative measures for treatment of imprisoned”, Management and planning of the sentence (Module II), Volume II, 2001, Bourgas Free University

## **9 CONTACT DETAILS**

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## ANNEX 1

### Criminal statistics

Some general documents of the Probation service:

- offender's personal record with contents: dossier form, court act, by which the penalty is determined and copies from all documents regarding the implementation of the probation sentence;
- protocol for the rights and obligations of the offender during the implementation of the probation supervision;
- informative letters towards different institutions;
- report card which is sent to the GD "EP";
- risk assessment form;
- individual form for implementation of the probation measures imposed by the court;
- report on the offender – initial and current;
- diary of the meetings with the sentenced person;
- ascertainment act – for registration of results from inquiries of the compliance with the probation measures imposed;
- form for permission to leave the place of residence;
- report book on the community service implemented concerning the duration, the place and the time;
- diary of petitions, requests, signals and proposals;
- individual program for execution of the imposed probation measures concerning sentenced juveniles;
- corrective influence programs regarding adults and juvenile sentenced persons;
- proposals to the probation council regarding changes in the offender's status.

**Table 1: Crimes with penalty inflicted and persons convicted (basic data)**

**Table 1.1: Crimes according to results of proceeding (in numbers)**

Years	Crimes with proceedings finished with					
	Total	sentence	sentence on probation	acquittal	release from penalty	suspension
<b>2000</b>	26 986	16 283		695	264	92
<b>2001</b>	28 322	15 437		769	3 088	113
<b>2002</b>	28 395	14 951		915	3 391	127
<b>2003</b>	29 177	15 423		893	3 946	72
<b>2004</b>	31 831	16 043		678	6 269	82
<b>2005</b>	32 398	16 899	8 867	852	5 713	67
<b>2006</b>	34 840	17 392	8 581	1 394	7 333	140

**Table 1.2: Crimes with penalty inflicted (in numbers)**

Years	Crimes with penalty inflicted			
	Total	complete by		
		one person	two persons	three and more
<b>2000</b>	25 935	20 109	3 795	2 031
<b>2001</b>	24 352	19 018	3 641	1 693
<b>2002</b>	23 962	18 616	3 586	1 760
<b>2003</b>	24 266	19 121	3 514	1 631
<b>2004</b>	24 802	20 055	3 208	1 539
<b>2005</b>	25 766	21 228	3 049	1 489
<b>2006</b>	25 973	21 388	3 149	1 436

**Table 1.3: Persons convicted (in numbers)**

Years	Total	Persons convicted			
		of which: Juvenile	by number of crimes		
			for one	for two	for three and more
<b>2000</b>	30 405	3 392	26 739	2 895	771
<b>2001</b>	28 729	3 259	26 070	1 906	753
<b>2002</b>	27 771	3 549	24 822	2 049	900
<b>2003</b>	28 617	3 680	26 182	1 730	705
<b>2004</b>	29 646	3 408	27 756	1 488	402
<b>2005</b>	30 501	3 273	28 638	1 541	322
<b>2006</b>	30 595	3 009	28 651	1 519	425

**Table 1.4: Persons convicted**

Kind of crimes	<b>2000</b>	<b>2001</b>	<b>2002</b>	<b>2003</b>	<b>2004</b>	<b>2005</b>	<b>2006</b>
Total	30 405	28 729	27 771	28 617	29 646	30 501	30 595
of which:							
Intentional homicide (committed and attempted)	183	216	184	182	212	216	197
Assault and battery	1 138	863	788	946	1 035	1 032	1 076
Debauchery	340	325	319	359	362	411	531
<i>of which: Rape (committed and attempted)</i>	176	164	156	184	164	195	258
Theft	15 226	14 323	15	15 254	14 242	13 348	12 766

Kind of crimes	2000	2001	2002	2003	2004	2005	2006
<b>Total</b>	<b>30 405</b>	<b>28 729</b>	<b>27 771</b>	<b>28 617</b>	<b>29 646</b>	<b>30 501</b>	<b>30 595</b>
<b>of which:</b>							
			027				
Robbery	1 356	1 073	1 162	1 275	1 258	1 199	1 437
Misappropriation	253	244	258	242	230	228	225
Embezzlement	284	263	269	353	446	463	466
Fraud	503	452	440	547	661	807	945
<i>of which: Papers fraud</i>	112	80	95	96	190	273	255
Extortion	33	28	28	57	53	54	90
Destroying and damaging of property	351	399	437	474	483	518	548
Crimes against customs procedure - contraband	65	63	59	76	99	71	147
Crimes against governance	2 763	3 372	1 836	1 568	2 194	2 720	2 255
<i>of which: illegal crossing of boundary</i>	2 650	3 237	1 703	1 445	2 046	2 551	1 963
Crimes at work	50	46	37	44	36	27	24
Bribery	38	26	20	31	32	66	83
Document counterfeit crimes	502	540	535	583	686	708	569
Arson	61	77	79	83	72	62	64
Illegal production, possession and use of weapons, explosion and ammunition	471	530	565	585	599	540	592
Transport and communicate crimes	2 575	1 912	1 986	2 502	3 175	3 561	3 547
Theft of motor vehicles	344	383	383	350	350	293	356
Drug - related crimes	232	169	293	525	743	921	1 587

**Table 1.5: Number, structure and coefficients of persons convicted**

Years	Persons convicted - number			Structure - %		Coefficient <sup>1</sup>		
	Total	Male	Female	Male	Female	Total	Male	Female
<b>2000</b>	30 405	28 061	2 344	92.3	7.7	435	831	65

<b>2001</b>	28 729	26 399	2 330	91.9	8.1	421	802	66
<b>2002</b>	27 771	25 736	2 035	92.7	7.3	408	672	50
<b>2003</b>	28 617	26 700	1 917	93.3	6.7	421	814	54
<b>2004</b>	29 646	27 421	2 225	92.5	7.5	437	839	63
<b>2005</b>	30 501	27 991	2 510	91.8	8.2	450	859	71
<b>2006</b>	30 595	28 098	2 497	91.8	8.2	454	867	71

*<sup>1</sup> Per 100 thousand persons of the average annual population aged 14 years and over.*

**Table 1.6: Number and structure of persons convicted by age**

Year	Persons convicted - number						Structure - %					
	Total	Age					Total = 100	Age				
		14-17	18-29	30-39	40-49	50+		14-17	18-29	30-39	40-49	50+
<b>2000</b>	30 405	3 392	15 680	6 374	3 382	1 577	x	11.2	51.5	21. 0	11.1	5.2
<b>2001</b>	28 729	3 259	14 643	6 162	3 186	1 479	x	11.3	51. 0	21. 4	11.1	5.2
<b>2002</b>	27 771	3 549	14 258	5 813	2 864	1 287	x	12. 8	51.4	20. 9	10. 3	4.6
<b>2003</b>	28 617	3 680	14 693	5 807	301 5	1 422	x	12. 9	51.3	20. 3	10. 5	5.0
<b>2004</b>	29 646	3 408	15 012	6 184	330 6	1 736	x	11.5	50. 6	20. 9	11.2	5.8
<b>2005</b>	30 501	3 273	15 150	6 734	3 550	1 794	x	10. 7	49. 7	22. 1	11.6	5.9
<b>2006</b>	30 595	3 009	15 441	6 749	3 432	1 964	x	9.8	50. 5	22. 1	11.2	6.4

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**Table 2: REFERENCE №2 on the status of probation, allocated in DPS at 31.05.2007**

Categories		Men	Women	Juveniles	Foreigners	Total	
Total number of sentenced people in the beginning of the month		8287	525	466	34	9312	
Total number of sentenced people in the end of the month		8627	545	502	35	9709	
Restrictions of free movement	Specific places, areas and entertaining places	92	16	9	1	118	Number of sentenced people with probation measures imposed upon
	Leaving the populated place for more than 24 hours without permission	124	7	8	0	140	
	Leaving the residence for certain period of the day / night	47	3	18	0	68	
Participation in courses and/or programs		693	95	104	3	895	
Correctional labour		1100	35	0	1	1136	
Community service		4506	260	168	9	4943	