

Chapter 6

Croatia

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1 HISTORICAL DEVELOPMENT OF THE PROBATION SERVICE SYSTEM

The Republic of Croatia is a country at the crossroads of Central Europe and the Mediterranean, covering a total area of 87.609 km², the land area covers 56.542 km², and the territorial sea occupies 31.067 km². Croatia shares borders with Slovenia, Hungary, Serbia, Bosnia and Herzegovina, Montenegro and Italy (sea border). It has a population of 4.437.460 inhabitants, with 89.6% Croats, 7.7% national minorities, and 2.6% other nationalities. The official language is Croatian and the capital is Zagreb. According to census, the predominant religion is Catholicism, 87.83%, followed by Eastern Orthodox (4.4%) and Islamic (1.3%) denomination.

Croatia became independent on 25 June 1991 after the first democratic election and since the adoption of the 1990 Constitution it has introduced a parliamentary democracy. The President of the Republic is the head of state, elected for a five-year term. He is the commander in chief of the armed forces, also appointing the Prime minister, who has to win the consent of Parliament for himself/herself and his/her ministers. The Croatian Parliament is a unicameral body with up to 160 representatives, elected by popular vote to serve four-year terms. The Prime minister, who has two deputy prime ministers and 14 ministers in charge of particular sectors of activity, heads the Croatian government. The government, as the executive branch, is responsible for proposing legislation, a budget, executing the laws, and running the country's foreign and internal policies. Croatia is divided into twenty counties and the capital with county status (The City of Zagreb). Gross Domestic Product per capita in 2004 was USD 7934, and USD 8674 per capita in 2005. Independent and autonomous courts exercise judicial power and ruling is based on the Constitution and laws. Judicial power is divided into courts of general and specialised jurisdiction. Courts of general jurisdiction are the Supreme Court, the highest-instance court of the state, county courts, and municipal courts. There are 129 courts of general jurisdiction: one Supreme Court, 21 county courts and 107 municipal courts.

Courts of specialised jurisdiction are the Administrative Court, the High Commercial Court, the Commercial Courts, the High Police Court and the Police Courts. There are 129 courts of specialized jurisdiction namely one Administrative, High Commercial and High Police Courts; 12 Commercial courts, 114 Police courts. The Constitutional Court rules on matters regarding the conformity of laws with the Constitution, the conformity of other regulations with the Constitution and the laws, ruling on constitutional claims and deciding on other issues defined by the Constitution. The Public Prosecution Office is an autonomous and independent judicial body empowered to proceed against those who commit criminal and other punishable offences, to undertake legal measures for protection of the property of the Republic of Croatia and to provide legal remedies for protection of the Constitution and law. There are a total of 82 public prosecution offices, consisting of 20 county offices and 60 municipal offices. The Public Prosecution Office of the Republic of Croatia and the Office for the Suppression of Corruption and Organised Crime, USKOK, established in 2001 as a specialised body within the Public Prosecution Office, were founded for the purpose of fighting more efficiently against both corruption and organised crime.

Its authority encompasses a circle of the so-called corruptive offences committed by groups or criminal organizations. The Office has been established based on the Act on the Office for Suppression of Corruption and Organized Crime.

1.1 The start of probation in the Republic of Croatia

The probation service system is not yet established in the Republic of Croatia. Several organizations jointly share tasks, characterised by their types and features, as probation service tasks but they are not integrated into one service system. For the Croatian territory, the possibility of establishing probation was first stated in 1918 in the Order of the Governor of Croatia, Slavonia and Dalmatia on “punishing and protecting youth” setting forth the correctional measure of “releasing to probation”.

The Criminal Code of Yugoslavia from 1922 envisages the possibility of pronouncing suspended sentence, with (protective) supervision for the convicted person not to commit new offences and to provide assistance in adjusting to life in freedom. The Criminal Act, adopted in 1951, provides the possibility of pronouncing probation for young adults and additional amendments of criminal legislature envisage suspended sentence with protective supervision within the probation period as well as special obligations for persons on suspended sentence. Further foundations for developing probation are connected with the Socialist Republic of Croatia 1978 Criminal Act, which established and developed a legal frame for probation system, through regulation of supervision of suspended sentence. This Act prescribed conditions for ordering supervision, its content, determination and implementation. However, since no implementation regulations have never been created based on this Act, there has never been any practical application of these sanctions.

The Criminal Code of the Republic of Croatia that entered into force in 1998 offers the possibility of pronouncing and executing new alternative sanctions, suspended sentence with supervision and replacing prison sentences of up to 6 months with community service. These sanctions are elaborated in a special Supervision of Suspended Sentence and Community Service Act enacted in 1999, as well as in complementary implementation regulations in 2001.

The Law on the execution of prison sentences, adopted in 2001, establishes a new party in probation, the executing judge (*sudac izvršenja*), who decides on the serving of a prison sentence, on postponing the sending to prison, on the interruption of serving the prison sentence, on supervision over the convict during the interruption of serving of prison sentence, on providing assistance and on supervision for convicts on conditional release. The Law on the execution of prison sentences has established modalities of cooperation among social protection organizations and social welfare centres for tasks relating to the execution of prison sentence.

2 LEGISLATIVE BASIS AND MISSION

2.1 Legislative basis

The legislative grounds for implementing a series of activities, that are basically a type of probation work, are found within the Criminal Code, The Criminal Procedure Code and the Law on the execution of prison sentences, Supervision of

Suspended Sentence and Community Service Act, The Juvenile Courts Act, The Act on Social Care and The Misdemeanours Act.

The Criminal Code provides the possibility to pronounce suspended sentence as well as suspended sentence with supervision under the same legal conditions. Suspended sentence with supervision (uvjetna osuda sa zaštitnim nadzorom) may be pronounced in criminal procedures for adults when the conditions to impose a suspended sentence exist but the circumstances in which the perpetrator lives and his personality suggest that he needs assistance, protection or supervision in order to fulfil the obligation not to commit another criminal offence within the period of probation. When the court assesses and imposes imprisonment for the duration of up to six months, it may at the same time decide that such punishment, with the consent of the convict, will be replaced with community service (rad za opće dobro na slobodi). Community service is determined for a minimum of ten to a maximum of 60 working days. The period for performing community service shall neither be shorter than one month nor longer than one year. The Supervision of Suspended Sentence and Community Service Act regulates the execution of these sanctions in detail.

The Law on the execution of prison sentences regulates the execution of prison sentence and prescribes the role of the executing judge as the person in charge of imposing the punishment of prison sentence, deciding on granting postponement of the execution, deciding on interruption of serving of prison sentence, protection of the prisoners' rights, computation of sentence expiration, appeal on the warden's decision on disciplinary responsibility and ordered disciplinary measures, on implementing special measures for maintenance of order and security – isolation, supervising conditionally released prisoners and organizes assistance of the social care centre within ruling. The Law on the execution of prison sentences determined the areas of cooperation with the social care centres for the following tasks of executing the sentence: delivery of data required for criminological processing of prisoners, possible applications for the postponement of the execution of prison sentence, providing an opinion prior to granting benefits, obligation to report to the social care centre when on parole, preparation for release in cooperation with the executing judge, and after-release assistance. The Juvenile Courts Act regulates the status of juveniles and young adult criminal offenders, provisions on juvenile courts, criminal proceedings and sanctions implementation as well as regulations on criminal protection of children and juveniles.

The Act on Social Care describes the role of social care centres in the course of court proceeding, as well as other specialised tasks in preventing and suppressing unacceptable forms of behaviour. Social care centres supervise the implementation of juvenile sanctions prescribed by The Juvenile Courts Act and they cooperate in the execution of prison sentence. The Misdemeanours Act (Article 45) prescribes conditions for replacing and collecting the fine by force; if the fine is not paid in full or in part by the criminal offender, the court will bring a decision, with the consent of the perpetrator, to replace the fine with community service. Community service shall be determined for a duration proportional to the imposed unpaid fine, from a minimum of three to a maximum of ten working days.

2.2 Mission and mission statement

There is no organized probation system in the Republic of Croatia; there are no general terms determined, no policy and no action strategy within probation activities.

2.3 Crime prevention

In the Republic of Croatia, general crime prevention policy has not been established and therefore does not exist, but there are national programs namely Suppression of trafficking in persons, Suppression of Corruption, Suppression of Drug abuse, Road Transport Safety, Program of Protection from Family Violence and Program of Activities to prevent violence among children and youth.

2.4 Victim protection / Out-of-court settlement – mediation

In the Republic of Croatia, there are only the earliest beginnings of a support system for crime victims, but an especially established and developed protection system for crime victims has not been active so far. Out-of-court settlement/mediation is applied for juveniles and junior adults. In compliance with the Juvenile Courts Act, there is the possibility for the state prosecutor to decide, under certain conditions, not to resort to judicial proceedings if a juvenile or junior adult is willing to fulfil one or several obligations. Out-of-court settlement is applied in pre-preparatory proceedings within the framework of special requirement for the offender to repair or remove damage inflicted by a criminal offence as much as one can. Although this is an out-of-court settlement, the role of the judiciary – state prosecutor and the court is significant because they decide on criminal cases recommended for out-of-court settlement as well as on the possibility of giving up criminal charges afterwards. The social care centres are in charge of supervision over the implementation of measures over juveniles and junior adults. Therefore, out-of-court settlement service has been formed within the centres. The out-of-court settlement project has been launched in the year 2000 as an experimental model in several towns. It was extremely successful; its expansion is under way and there are plans to applying the same for adult criminal offenders.

3 THE ORGANIZATION OF PROBATION SERVICES

The probation service does not exist in the Republic of Croatia, but some of the probation activities being implemented have already been mentioned.

4 PROBATION IN DIFFERENT PHASES OF THE CRIMINAL PROCESS

4.1 General

The Criminal Code of the Republic of Croatia envisages punishments, non-custodial sanctions and security measures. Types of punishments are:

- a fine which may be imposed both as a principal and a supplementary punishment;
- imprisonment, imposed only as a principal punishment;
- imprisonment for the duration of up to six months may be replaced with community service.

Imprisonment may not be shorter than 30 days or longer than 15 years. For the most serious forms of criminal offences, long-term imprisonment for the duration of 20 to 40 years may be ordered. Long-term imprisonment will not be imposed on a perpetrator who, at the time of the perpetration of the criminal offence, has not reached the age of 21. Non-custodial sanctions are judicial admonition, suspended sentence and suspended sentence with supervision

The purpose of admonition is to give the perpetrator of a criminal offence a reprimand when, considering all the circumstances regarding the offence and the perpetrator, a punishment does not need to be inflicted. It can be applied as a non-custodial measure to the perpetrator of a criminal offence for which a punishment of imprisonment of up to one year or a fine is prescribed, and under certain conditions for offences for which imprisonment of up to three years or a fine is prescribed. A suspended sentence is a criminal sanction that, as a non-custodial measure, consists of the pronounced punishment and the term within which such a punishment shall not be executed under conditions prescribed by law. The court may apply it when it establishes that, even without the execution of the punishment, the realization of the purpose of punishment can be expected, particularly taking into account the relationship of the perpetrator towards the injured person and the compensation for the damage caused by the criminal offence. A suspended sentence may be applied to the perpetrator of a criminal offence for which the statute prescribes the imprisonment of up to five years and for criminal offences for which the imprisonment of up to ten years is prescribed, if the provisions of mitigation of the punishment have been applied. A suspended sentence shall postpone the execution of the pronounced punishment for a period of time, which cannot be shorter than one or longer than five years. When the conditions to impose a suspended sentence exist but the circumstances in which the perpetrator lives and his personality suggest that he needs assistance, protection or supervision in order to fulfil the obligation not to commit another criminal offence within the period of probation, the court may impose a suspended sentence with supervision. The supervision may last throughout the period of probation, but may also be cancelled sooner if the requirements for assistance, protection and supervision have ceased to exist.

Security measures are compulsory psychiatric treatment, compulsory treatment of addiction, prohibition to engage in a profession, activity or duty, prohibition to drive a motor vehicle, expulsion of aliens and forfeiture. The purpose of security measures is to eliminate the conditions that enable or encourage the perpetration of another criminal offence. Compulsory psychiatric treatment may be applied to a perpetrator who commits a criminal offence in a state of diminished mental capacity, if there is a danger that the cause of such a state may in the future also induce the perpetration of another criminal offence.

It may be carried out during imprisonment or along with replacing for imprisonment, or a suspended sentence. The compulsory psychiatric treatment will last until the termination of the reasons for which it has been ordered and may not exceed five years. The compulsory treatment of addiction can be ordered for a perpetrator who commits a criminal offence under the decisive influence of addiction to alcohol or to narcotic drugs if there is a danger that, due to such an addiction, he will repeat the offence. Prohibition to engage in a profession, activity or duty may be ordered against a perpetrator who commits a criminal offence in carrying out his profession, activity or duty if there is a danger that such a role could induce the perpetration of another criminal offence through the abuse of the profession, activity or duty. It can be ordered for a period that may not be shorter than one or longer than ten years, with the proviso that the time served in prison will not be included. Prohibition to operate a motor vehicle shall be ordered against the perpetrator of a criminal offence against traffic safety if there is a danger that by operating a motor vehicle he will commit such a criminal offence again. The prohibition can be ordered for a period that may not be shorter than one or longer than ten years; but if by the criminal offence the death of one or more persons is caused and the perpetrator has previously been convicted of the same crime, security measures may be ordered for life. The time served in prison will not be included. Expulsion of an alien can be ordered against a perpetrator of a criminal offence who is not a citizen of the Republic of Croatia, provided that there is a danger that he will commit a criminal offence. It is ordered for a period that will not be shorter than one or longer than ten years, with the proviso that the time served in prison will not be included. Against the perpetrator of a criminal offence for which long-term imprisonment is prescribed, the security measure of expulsion may be ordered for life. Forfeiture may be ordered with regard to an object which was designed for or used in the perpetration of a criminal offence, or came into being by the perpetration of a criminal offence, when there is danger that the object will be used again for the same purpose or when the purpose of protecting the public safety make the forfeiture seem absolutely necessary.

4.2 Pre-trial phase – pre-procedure phase

In the pre-trial phase, the role of the State Prosecutor is fundamental and his/her basic duty is the prosecution of perpetrators of criminal offences. His/her authorities are prescribed by the Criminal Procedure Code, listing the following fields of activities for criminal offences prosecuted ex officio: taking measures for detecting criminal offence and identifying the perpetrator, performing an investigation of criminal offences and requesting and supervising the implementation of investigation actions and measures for the gathering of information important for starting criminal procedure, demanding the implementation of investigation and investigation actions, and issuing and defending indictments.

The following precaution measures may be taken against the accused in order to secure his presence and is prescribed by the Criminal Procedure Code (Article 90): a prohibition to leave place of residence, a prohibition to visit certain places or areas, an order to report occasionally to a specified authority or state body, a

prohibition of meeting with certain people, a prohibition to perform certain business activities, a temporary confiscation of his travel or other documents for crossing the state border and a temporary confiscation of a driver's license. If there is a grounded suspicion that a person has committed a criminal offence, detention may be ordered against him (Article 104, Criminal Procedure Code). Detention shall be ordered or terminated in the course of investigation by a decision of the investigative judge of the competent Court, on the motion of the Prosecutor or ex officio. After the indictment has been submitted to the Court and up until the completion of a trial, detention may be ordered, extended or terminated only by the ruling rendered by the Panel or judge. If there is a grounded suspicion that a person has committed a criminal offence, detention of the suspect (Article 101 of the Criminal Procedure Code) may be ordered by the investigative judge on the motion of police authorities or a prosecutor in the case of determining concurrence, checking an alibi, collecting data on evidence and serious endangerment of life, health or property. Grounds for ordering detention are circumstances suggesting a possibility of flight, a justified fear to believe that he will destroy, conceal, alter or falsify evidence or clues important to the criminal proceedings or if particular circumstances indicate that he will hinder the inquiry by influencing witnesses, accessories or accomplices, if particular circumstances justify the fear that he will repeat the criminal offence or complete the criminal offence or commit a threatened criminal offence, type and seriousness, circumstances of criminal offence, prescribed imprisonment, if a duly summoned defendant obviously evades appearance at the trial.

Table 1: Activities of Probation during the Different Stages of Criminal Procedure

	Pre-Trial Phase See: 4.2	Trial and Enforcement Phase See: 4.4	Post Release Phase See: 4.4
Preparing a Social Enquiry report		x	
Mediation (only for juveniles)		x	
Supervising / organizing etc. community service		x	
Supervising/ organizing training or learning projects		x	x
Supervising etc. drug/ alcohol treatment programs		x	x
Supervising etc. other community sanctions, namely suspended sentence:		x	
Supervising etc. other community sanctions, namely unpaid work		x	
Pre - sentence report		x	
Supervising etc. special measures for drugs addicts		x	x
Assistance / support to prisoners in prison		x	
Supervising etc. conditional release/ parole			x
Advisory report with respect to amnesty/ pardon		x	
Aftercare activities		x	x
Preparation for home leave and support during home leave		x	
Preparation for conditional release		x	

	Pre-Trial Phase See: 4.2	Trial and Enforcement Phase See: 4.4	Post Release Phase See: 4.4
Preparation for home leave and support during home leave		X	
Preparation for conditional release		X	
Preparing a Social Enquiry report		X	
Mediation (only for juveniles)		X	
Supervising / organizing etc. community service		X	
Supervising / organizing training or learning projects		X	X
Supervising etc. drug/ alcohol treatment programs		X	X
Supervising etc other community sanctions, namely unpaid work		X	
Pre - sentence report		X	
Supervising etc. special measures for drug addicts		X	X
Assistance / support to prisoners in prison		X	
Supervising etc. conditional release/ parole			X
Advisory report with respect to amnesty/ parole		X	
Aftercare activities		X	X
Preparation for home leave and support during home leave		X	
Preparation for conditional release		X	

House arrest (Article 106, Criminal Code Procedure) is ordered if there is danger of repeating, completing or committing a threatened criminal offence and the purpose of detention may be achieved by ordering a person not to leave the apartment or other place of residence. The house arrest order may prescribe the use of outside electronic or video surveillance. An accused who is to be placed in custody or has already been placed in custody only for a flight risk may be allowed to remain at liberty or may be released if he personally or someone else on his behalf furnishes the surety (Article 94, Criminal Procedure Code) that he will not flee before the end of the criminal proceedings, that he will not conceal himself and will not leave his residence. Bail is always expressed as an amount of money that is set on the basis of the seriousness of the criminal offence, the personal and family circumstances of the accused and the property situation of the person posting bail.

The State Prosecutor may decide on the basis of the rule of opportunity (Article 184, Criminal Procedure Code) to postpone prosecution for criminal offences punishable by a fine or imprisonment for a term not exceeding three years, for offences of a lower degree of guilt and proportional damage, with the victim's consent and if the suspect accepts to fulfil one or several of the following obligations:

- to remove detrimental consequence or to compensate the damage caused by the criminal offence;
- to pay a certain amount for the benefit of a public institution, humanitarian or charitable purpose, or fund for compensating the damage to victims;
- to perform a certain community service or humanitarian work;
- to fulfil a mature obligation related to maintenance;
- to perform community service;
- to voluntarily submit to treatment of drugs and other addictions, to submit to psychosocial therapy to remove aggressive behaviour with the suspect's consent to leave family during therapy.

If the suspect fulfils the imposed obligation, the State Prosecutor shall dismiss the crime report.

4.3 Trial and enforcement phase

In accordance with the Act on Social Care, the social care centre provides information on family circumstances as well as the opinion and propositions in court proceedings regarding the family and criminal protection. The relationship of Social Care Centres with probation officers is stipulated in the Supervision of Suspended Sentence and Community Service Act. Social Care Centres are obliged to cooperate in enforcement of alternative sanctions.

4.3.1 The System of executing of sanctions

The Execution of the Prison Sentence Act entered into force in 2001, establishing the Directorate for Penitentiary System (*Uprava za zatvorski sustav*) as the main central administration body within the Ministry of Justice. The Directorate for Penitentiary System consists of the Central Office established within the Ministry headquarters, penitentiaries (7), prisons (14), a Training Centre for civil servants

employed within the security department and correctional institutions (2). The Directorate for Penitentiary system deals with the following tasks:

- the execution of prison sentence pronounced in criminal, misdemeanour or other court procedure as well as prison sentence replacing the imposed fine (supplementary punishment);
- the execution of juvenile prison sentence;
- the execution of detention;
- the execution of correctional measure of sending juvenile offenders to correctional institutions;
- the execution of suspended sentence with supervision and community service.

The Central Office of the Directorate for Penitentiary System performs the administrative supervision over the operation of penitentiaries, prisons, the Training Centre and correctional institutes in compliance with laws and regulations. There are four special services organized within the Central Office namely the administration service, the treatment service, the security service and the programming and monitoring service. Penitentiaries, prisons and correctional institutions may establish departments in the fields of security, treatment, administration, health care, work and professional training and financial-bookkeeping management.

The main purpose of the execution of the prison sentence is to enable the person serving prison sentence for a life in freedom in accordance with the law and social rules. The activities programs during the execution of imprisonment should enable the inmate to reintegrate into society and life in freedom in accordance with the law and social rules. For each inmate an individual program for the execution of prison sentence (pojedinačni program izvršavanja kazne) is created, being a set of measures used for the planning of execution of the prison sentence in a way appropriate to the characteristics and needs of a particular inmate as well as to the type and possibilities of a prison or jail. If a person has not yet developed the necessary skills to cope with a life in freedom before the execution of the prison sentence, the inmate needs assistance to develop these skills. The inmates who have developed these necessary skills should be enabled to maintain them and acquire new ones. The individual program for the execution of the prison sentence will include risk assessment, work ability, educational level, health condition, the need to start implementing special treatment programs, specific psychological or psychiatric, social or legal assistance, the proposition of special forms of individual or group work, contents and forms of use of free time – cultural and sports activities, contacts with the outside world – letters, phone calls, visits; program for the preparation for release and post release assistance.

Apart from the Directorate for Penitentiary System, the tasks of the execution of prison sentence will also be within jurisdiction and competence of the executing judge. The executing judge is a county court judge for the penitentiary or prison of the court's territorial jurisdiction. The Centre for the Execution of Prison Sentence will be established within a county court when required by the amount of its work (penitentiary or prison size, number of prisoners). The executing judge will undertake actions and decide on the execution of ruling by sending the defendant to the serving of prison sentence and deciding on postponement of the execution. He also decides on granting or withdrawing an

interruption of the serving of prison sentences, computation of sentence, statute of limitation for the execution of a prison sentence or termination of the execution. The executing judge takes part in deciding on possible granting of parole, orders post-release assistance measures and supervision over prisoners suspended sentence and decides on revoking parole.

The Supervision of Suspended Sentence and Community Service Act determines that the central person in the execution of supervision of suspended sentence and community service is the probation officer (povjerenik), who is a civil servant employed within the Directorate for Penitentiary system by the Ministry of Justice or The Ministry of Health And Social Welfare – outside his/her regular duties. Probation officers who perform supervision and community service are appointed by special orders, for each individual case. The preconditions for the appointment of a probation officer are a university degree, professional and working experience of not less than five years and personal characteristics that may have a positive influence on persons under probation. The law envisages officers' obligation to undertake additional professional training to perform their tasks. The probation officers answer to the Ministry of Justice and the court for their work. The Ministry of Justice may ask for a certain number of civil servants from other ministries and governmental bodies to perform supervision and community service, that is, the ministry can employ members of adequate professional associations for these tasks (social workers, psychologists, social pedagogues).

Officers performing supervision on suspended sentence and community service may have probation officer assistants (pomoćnici povjerenika). They participate as volunteers in the execution of probation, after a public announcement. Officer assistants must have personal characteristics which may have a positive influence on persons under probation, a high school or university degree and they have to be able to provide assistance and support for the convict to establish social connections in a wider social community. Additional education of officer assistants for executing sanctions is mandatory. Officer assistants answer to the probation officer for their work and act according to the probation officer's directions when performing tasks from an individual program for the execution of prison sentence.

The execution of supervision of suspended sentence and community service is described in detail in implementation acts – regulations – prescribing the number of convicts on supervision and/or community service who can be assigned to one probation officer. It is noted that a single probation officer may simultaneously execute a supervision and/or community service implementation with up to three convicts if there is no officer assistant or up to six convicts if he/she has a probation officer assistant. Supervision of Suspended Sentence and Community Service Act envisages individual programs for the execution of prison sentence (pojedinačni program izvršavanja) for the execution of supervision and community service work. Individual programs for the execution of the prison sentence will be modified in compliance with the inmate's character, personal circumstances, health condition, employment, capabilities and professional competence. The execution program contains activities implemented during imprisonment by note of the officer executing the individual activities, work methods, deadlines for undertaking activities and ways to execute

special obligations. The officer reports to the court on the course of the implementation of the execution program. The report contains fundamentals of the execution program, information on cooperation of the convict, task realization and cooperation with other convicts.

4.3.2 Probation officers' education

Activities for training civil servants of the Ministry of Justice are performed within the Judicial Academy, providing professional training of judges and other judicial officers, as well as court and lawyers' apprentices within judicial bodies of the Republic of Croatia. The Judicial Academy cooperates with courts, law schools, other organizations and international institutions and bodies in providing professional training. The Training Centre is a special organizational unit of the Directorate for Penitentiary System performing professional training of employees. Professional training is obligatory for all employees of the Directorate for Penitentiary System, particularly because no regular specialist education exists within the educational system for performing tasks within penitentiary system. Apart from educational programs for security officers of penitentiaries and prisons, officers executing the implementation of prison sentence, detention measures and correctional measures of sending to correctional institutions, the Training Centre organizes training for probation officers executing supervision of suspended sentence and community service work. Professional training of probation officers and officer assistants includes a study of legal regulations determining the execution of sanctions, keeping up with modern penological achievements, models of creating execution programs and entering data into the register of inmates and inmate's personal file.

4.3.3 Juvenile courts act

The Juvenile Courts Act prescribes the execution of sanctions for juveniles. Sanctions to be imposed on minors (persons from the age of 14 to 18) for the offences committed are correctional measures, juvenile imprisonment and safety measures. There are several types of correctional measures:

- measures of admonition, guidance or other appropriate measures;
- court reprimands, special obligations, and referral to a correctional centre
- measures of intensified supervision;
- intensified care and supervision with daily stay in a correctional institution;
- reformatory measures;
- referral to a correctional institution, a reformatory or a special correctional institution.

Juvenile imprisonment is the most severe criminal sanction that can be imposed (from the age of 16 to 18), for a criminal offence for which the law provides a five-year prison sentence or more, taking into consideration the nature and seriousness of the offence and the perpetrator's degree of guilt. Juvenile imprisonment may not be shorter than six months or longer than five years; however, in cases of the most severe criminal offence juvenile imprisonment may last up to ten years.

According to Article 27 of Juvenile Courts Act, the court may in its judgement, find a minor guilty of a criminal offence, reserving at the same time the right not to impose the sentence of juvenile imprisonment on him or her when it deems that, by pronouncing the minor guilty and by putting him or her under the threat of subsequent imposition of the sentence, the minor may be deterred from committing other criminal offences. Before making the decision, the Court has

the obligation to ask for a report on social circumstances. The judge is required by law to select the most appropriate sentence from a wide range of options and therefore the report is in great extent taken into consideration. The court shall subject the minor to the measure of intensified supervision and shall impose on him or her one or more special obligations. The court will state in its judgement that the minor may later on be sentenced to juvenile imprisonment if he or she, during the trial period specified by the court which may not be shorter than one year and longer than three years, commits another criminal offence or opposes the execution of correctional measures. The court may, after the expiry of at least one year of the trial period and after having debriefed a centre of social welfare's representative, make its final reservation as to the imposing of the punishment, if the new facts confirm the belief that the minor is not going to commit any new offences. Apart from correctional measure or juvenile imprisonment, minor offenders may also be subjected to safety measures of mandatory psychiatric treatment, mandatory treatment for drug addiction, expulsion of a foreigner from the country and seizure of an object; a senior minor may also be subjected to a safety measure of prohibition to operate a motor vehicle.

The court may order a minor to fulfil one or more special obligations if it assesses that appropriate orders or prohibitions are needed to influence the minor and his or her behaviour for instance to apologise to the injured party, to repair or make compensation for the damage done by the offence, to attend school regularly, not to be absent from the workplace, to become trained for an occupation that suits his or her abilities and inclinations, to accept employment and persist in it, to get involved in the work of humanitarian organisations or in the activities of having relevance for the community or for the environment, to refrain from visiting particular places or entertainment events and to stay away from particular persons who have detrimental effect on him or her, to undergo a professional medical treatment or treatment for drug addiction or other addictions, to get involved in individual or group work in youth counselling services, to participate in trainings for acquisition of professional qualifications, not to leave, for a longer period of time, the place of his or her permanent or habitual residence, without special approval obtained from the centre of social welfare, to have his or her knowledge of traffic regulations tested in the competent institution for drivers' education. In selecting particular obligations, the court will also take into account the minor's willingness to cooperate in the fulfilment of such obligations and it will make sure that they are suitable to the minor and the conditions in which he or she lives. The obligations ordered may not last longer than one year and may subsequently be modified or revoked, partly or fully, by the court. The court and the social welfare centre will monitor the fulfilment of obligations.

Intensified care and supervision are ordered when the court assesses that the parent's or guardian's influence on the upbringing, behaviour and development of the minor's personality is not sufficient to accomplish the purpose of correctional measures and that it is necessary to undertake correctional measures of a more permanent nature under the care and supervision of the competent service. They will appoint an expert person who will, in co-operation with the minor, his or her parents, guardian, social welfare and education authorities, physicians and other professionals, exert continuous influence on the personality

and behaviour of the minor, take care of his or her treatment and supervise the fulfilment of his or her obligations and duties.

Intensified care and supervision with daily stay in a correctional institution shall be ordered when the court assesses that, in order to achieve the purpose of correctional measures with regard to a minor, it is necessary to undertake more permanent and intensive correctional measures, especially by means of education and professional training under the supervision of youth counsellors and other professionals, and that, at the same time, complete and permanent separation of that minor from his or her earlier surroundings is not necessary.

The duration of these measures may not be shorter than six months nor longer than two years and the court may also order the minor to fulfil one or more special obligations if that would be necessary for a more effective implementation of the measure pronounced. The Juvenile Courts Act prescribes that the court may impose minor sanctions to young adults (between the age of 18 and 21) in cases when it is justified taking into account the seriousness and nature of the offence and whether committing the offence is largely caused by the perpetrator's age, and if his personal character justifies the application of sanctions for minors. The imposed measure for young adults may last until the perpetrator turns 23 years of age and the maximal duration of juvenile prison is ten years. Apart from imposed sanctions, safety measures may be applied as well under the same conditions as with minors.

4.4 Post-release phase

There are conditions for persons/convicts to be released earlier from serving prison sentence. The Criminal Code, Article 55, prescribes basic assumptions for conditional release/parole (uvjetni otpust). A convict may be released from the institution after having served at least one-half of the term or, exceptionally, after having served one-third of the term to which he/she has been sentenced. There are special conditions regarding the parole of convicts serving a long-term sentence (20 to 40 years), who can be conditionally released from serving prison sentence after having served two-thirds of the term or, exceptionally, after having served one-half of the term to which he/she has been sentenced. If the convict, while on conditional release, commits one or more criminal offences for which he/she is sentenced to imprisonment of six months, the court shall revoke the conditional release. The Execution of Prison Sentence Law envisages other provisions in relation to conditional release. Preparing an inmate for release shall commence upon his or her arrival in the prison or jail. Preparation for release is an integral part of an individual program of the execution of prison sentence containing measures aiming at acquiring or maintaining knowledge and skills that will enable the convict integration into a life in freedom.

The fundamental goal of treating prisoners is their social rehabilitation. If assessment of the execution of individual programs show that the prisoner has reached a level of successfulness from which can be concluded that he/she is capable for a life in freedom, the pronounced prison sentence does not have to be fully executed within penitentiary or prison but the prisoner may be conditionally released prior to the expiry of sentence. During the unserved remainder of the sentence, the convicted person may be imposed special obligations or bound to

the continuation of the measures prescribed by the program of execution as well but not necessarily in a penitentiary or prison.

A proposal for conditional release can be submitted by the prisoner, his close relatives, the defence counsel, the State Attorney and the prison warden. The entity entitled to decide on a proposal for conditional release is a Committee appointed by the Minister of Justice composed of one member of the Central office of the Directorate for Penitentiary system, one member from the State Prosecutor's Office and two judges. Committee members are permanent members and there is one non-permanent member, the executive judge in the area where the prison sentence is being executed. The warden of a penitentiary or prison where the sentence is being executed delivers an opinion on the proposal for conditional release, as well as the court of the first instance. Apart from the committee deciding on conditional release, the warden of the penitentiary or prison may deliver a decision on this as well. By a warden's decision, the duration of conditional release is a maximum of up to two months, providing the convict had already served three quarters of prison sentence. Rendering a decision on conditional release, the convicted person may be imposed to the following obligations: acquiring professional qualifications or continuing a previous job, accepting offered employment, supervised disposition of income, continuation of medical treatment, avoiding (not-visiting) certain places, reporting to the centre for social care, reporting to the executing judge and reporting to the police station.

The executing judge with jurisdiction concerning the domicile or residence of a conditionally released prisoner shall monitor his life outside of prison and organise support for him during parole. The executing judge is also entitled to revoke conditional release if a person repeats the criminal offence or fails to fulfil the imposed obligations without justified reasons. A person under parole may contact the competent executing judge after release for organizing assistance and support. The executing judge may include a social care centre in providing assistance and support. The social care centre then appoints a person for the tasks of preparing and implementing after-release assistance. The aftercare plan is part of an individual sentence plan. After release, the prisoner is directed to the Social Care Centre for further help and assistance during the after-release period. This assistance may include health care, financial help, education, employment, accommodation and other help and support, according to individual needs.

Persons covered by an act of amnesty are granted (Article 87, Criminal Code) immunity from criminal proceedings, a complete or partial exemption from the execution of punishment, substitution of the imposed punishment by a more lenient one, an annulment of the suspended sentence, early rehabilitation or an annulment of a certain legal consequence of the conviction. In the Republic of Croatia, it was applied only on one occasion so far, in 1990, with the Amnesty Act proclaiming general amnesty to the execution of the final verdict passed against the perpetrators of criminal acts, reducing their sentences for one quarter.

Pardon (Article 88, Criminal Code) shall accord to a person determined by name full or partial exemption from the execution of punishment, substitution of the imposed punishment by a more lenient one or by a suspended sentence, early rehabilitation, the annulment or curtailment of the legal consequence of a sentence, the annulment or curtailment of the security measure of prohibition to

operate a motor vehicle, the annulment or curtailment of the security measure of prohibition to engage in a profession activity or duty, or the expulsion of an alien. The Pardon Act prescribes in detail the pardon procedure initiated by request for pardon submitted after the pronouncing of the verdict, through the ministry of justice. The President of the Republic of Croatia grants pardon, based on the proposition of the Pardon committee. The Ministry of justice previously creates a report on the pardon request that contains personal information of the convicted person, information on work capacity, behaviour and education, information on health condition of the convicted person and his/her family circumstances, information on criminal offence and pronounced verdict stressing the mitigating and aggravating circumstances taken into account when ordering sanctions, information on the execution of sentence, information on reducing or replacing sentence, information on submitted request for special mitigation of sentence, information on previous convictions and information on reducing or compensating for damage inflicted by the offence.

5 FINANCES, REGISTRATION, EVALUATION AND OUTSIDE OPINION

5.1 Finances and reports

The system of executing criminal sanctions is financed from the state budget and it is mandatory to submit regular yearly reports to the government and parliament on implemented activities and expenditures.

5.2 Registration systems, evaluation procedures

The law on the execution of prison sentence prescribes the obligation to create a register of inmates (matica) and an inmate's personal file (osobnik). The Register of Inmates contains personal information about the inmate, information concerning the judicial decision that is being executed and the decision of execution of imprisonment. Information and documents necessary for monitoring the legal course of the execution of a prison sentence and for the implementation of the execution program are entered into the inmate's personal file. The personal file consists of information referring to the inmate, the judicial decision and the sentence, a transcript of judicial decisions and decisions of other state authorities related to the sentence and its execution, findings and the opinion of the treatment department and remarks of the security department, execution program and its amendments made during the execution of prison sentence.

There are rules on ways of work and responsibility, training and registering of officers and officer assistants, delegations of officer assistants, register of inmates and their personal file – establishes inmate's personal file (osobnik), register of inmates (matica) and central register (središnja matica). For each convicted person, the officer makes a personal file. Documents on the implementation of sanctions are entered into the inmate's personal file. The register of inmates contains personal information, information concerning the judicial decision

which is being executed and it is kept by the appointed officer. The Ministry of Justice keeps the Central Register.

6 PROBATION CLIENTS' RIGHTS

The Law on the execution of prison sentences prescribes the rights of convicted persons on the execution of sentence. They are specified within the text of the law to be clearly expressed and commonly known. An inmate has the protection of fundamental rights, as established in the Constitution of the Republic of Croatia, international agreements and the Law on the execution of prison sentences. Fundamental rights of an inmate may be restricted by the execution of a prison sentence only to the extent necessary for the achievement of the purpose of punishment, only exceptionally, if it is indispensable for the protection of order and security, and protection of inmates themselves.

Apart from the provisions established in the Constitution of the Republic of Croatia, fundamental principles of core human right instruments are built into the Law on the execution of prison sentences: International Covenant on Civil and Political Rights; International Covenant on Economic, Social and Cultural Rights; Standard Minimum Rules for the Treatment of Prisoners; Basic Principles for the Treatment of Prisoners; Codex of behaviour of persons responsible for application of the Law; Principles of Medical Ethics relevant to the Role of Health Personnel, particularly Physicians, in the Protection of Prisoners and Detainees against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; Basic Principles on the Use of Force and Firearms; European Prison Rules; European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment; Convention for the Protection of Human Rights and Fundamental Freedoms.

Subject to the conditions set forth in this Law, every inmate is entitled to accommodation respecting human dignity and health standards, protection of personality and ensuring confidentiality of personal data, regular portions of food and water in compliance with medical standards, work and training to maintain and/or increase capabilities for life in freedom, expert legal assistance and legal remedies for protection of his or her rights without expenses of hiring an attorney, medical care, protection of maternity, contacts with the outside world, spending time outdoors, correspondence and conversation with his/her attorney, exercise of religion and contacts with authorized religious representatives, getting married, the right to vote on elections. Inmates who are foreign citizens are entitled to correspond and have conversations with diplomatic and consular representatives of their country or of a state protecting their rights. When arriving to the execution of prison sentence, an inmate has to be informed about his or her rights and must be able to assess regulations regarding the execution of sentence. For this purpose, an Inmates' Manual has been created.

The Supervision of Suspended Sentence and Community Service Act is in compliance with Recommendation no. R (92) 16 of the Council of Europe on the European rules on community sanctions and measures. The methods of implementation of supervision of suspended sentence and community service

shall not jeopardise the dignity of the offenders or their families, fundamental rights and freedoms and privacy. There shall be no discrimination on grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth, education, social position or other status. The convicted person exposed to illegal procedures or discrimination has a right to compensation. The convicted person has the right to object to the officer's work; to the information entered in official registers he/she has access to, and to the order to start the procedure of re-evaluating the execution of suspended sentence or community service work. Supervision over the execution of the sentence system is implemented by county courts, municipal courts, executive judges, the Ministry of Health and Social Welfare, the Ministry of Science, education and sport, the Ministry of Finance, The Ombudsman of the Republic of Croatia, The Ombudsman for the Equality of Sexes, The Ombudsman for Children, European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment – CPT; International Committee of the Red Cross, Croatian Helsinki Committee for Human Rights, Amnesty International.

7 NEW DEVELOPMENTS

Due to the need to improve and develop the existing system of the execution of criminal-legal sanctions, and aware of the need to form one service for encompassing overall probation tasks and activities, the implementation of a project financed by CARDS 2004 funds is in process within the Directorate for Penitentiary System. The objective is drafting the legislation for the probation system and the future structuring of a probation system that would include the following areas:

- executing alternative sanctions;
- post penal reception;
- supervision of conditionally released inmates;
- treatment during carrying out of sentence and treatment during the execution of custody measures.

The implementation of the project started in May 2007, and it is to be completed in the near future.

8 IMPORTANT PUBLICATIONS

Criminal Code, the official gazette Narodne novine 110/97; 27/98; 50/00; 129/00; 51/01; 105/04; 84/05; 71/06.

Criminal Procedure Act, the official gazette Narodne novine 62/03 – final draft

The Execution of Prison Sentence Act, the official gazette Narodne novine 190/03 – final draft

Supervision of Suspended Sentence and Community Service Act – the official gazette Narodne novine 128/99.

Law on Juvenile Courts, the official gazette Narodne novine 111/97, 27/98, 12/02.

Act on Social Care, the official gazette Narodne novine 73/97, 27/01, 59/01, 82/01, 103/03, 44/06.

Pardon Act, the official gazette Narodne novine 175/03.

Amnesty Act, the official gazette Narodne novine 31/00.

Misdemeanours Act, the official gazette Narodne novine 88/02, 122/02, 187/03, 105/04, 127/04.

Pravilnik o načinu rada, odgovornosti, izobrazbi i evidenciji povjerenika i pomoćnika povjerenika, izboru pomoćnika povjerenika, matici i osobniku osuđenika (Rules on ways of work and responsibility, training and register of

officers and officer assistants, delegation of officer assistants, register of inmates and inmate's personal file), the official gazette Narodne novine 43/01.

Pravilnik o mjerilima za utvrđivanje naknade određenim povjerenicima i pomoćnicima povjerenika na izvršavanju kaznenopravnih sankcija uvjetne osude sa zaštitnim nadzorom i rada za opće dobro na slobodi (Rules on standards to determine rates for appointed officers and officer assistants executing criminal legal sanctions of suspended sentence with protective supervision and community service), the official gazette Narodne novine 43/01, 97/04.

Rules for type and conditions of community service, the official gazette Narodne novine 43/01.

Statistical Yearbook of the Republic of Croatia, 2005; Republic of Croatia - Central Bureau of Statistics

M. Josipović, V. Babić: *Komentar Zakona o izvršavanju kazne zatvora* (Comment on *The Execution of Prison Sentence Act*), Novi Informator, 2006, Zagreb

N. Koller-Trbović, B. Cvjetko, M. Koren-Mrazović, A. Žižak: *Model izvansudske nagodbe u kaznenom postupku prema maloljetnicima i mlađim punoljetnicima* (Model of out-of-court settlement in the criminal proceedings for juveniles and young adults), Ministry of Labour and Social Welfare of the Republic of Croatia/Public Prosecution Office of the Republic of Croatia/ Faculty of Special Education and Rehabilitation.

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ANNEX 1

Statistical data 2003 – 2005

Table 1: Persons deprived of Freedom in penitentiary bodies and correctional institutions on 31 December.

	2003	2004	2005
Total	2797	3022	3485
Prisoners	1704	1961	2167
Detainees	912	909	1105
Convicted Persons (prison in misdemeanour proceeding)	59	39	103
Correctional measures	94	81	87
Juvenile prison	28	32	23

Table 2: Number of prisoners according to types of criminal offences.

	2003	2004	2005
Criminal offences against:			
life and limb	550 (32.2%)	529 (26.8%)	487 (22.5%)
Property	522 (30.6%)	640 (32.4%)	757 (34.9%)
Values protected by international law	284 (16.6%)	337 (17.1%)	400 (18.5%)
Sexual freedom and morality	138 (8.1%)	156 (7.9%)	173 (8%)
The public safety of persons and property and safety in:			
Traffic	88 (5.2%)	119 (6%)	117 (5.4%)
Marriage, family and youth	33 (1.9%)	49 (2.5%)	76 (3.5%)
other	92 (5.4%)	137 (7.3%)	157 (7.2%)
Total	1707	1967	2167

Table 3: Number of prisoners imposed with a security measure on 31 December

Type of security measure	2003	2004	2005
Expulsion of aliens	17 (3,8%)	39 (6,4)	30 (4,5%)
Prohibition to drive a motor vehicle	36 (8%)	63 (10,3%)	66 (9,8%)
Compulsory psychiatric treatment	44 (9,8%)	58 (9,5%)	72 (10,7%)
Compulsory treatment of addiction - alcohol	141 (31,3%)	129 (21,2%)	160 (23,8%)
Compulsory treatment of addiction- toxic drugs	124 (27,6%)	150 (24,6%)	217 (32,3%)
Prohibition to engage in a profession, activity or duty	10 (2,2%)	32 (5,3%)	8 (1,2%)
Forfeiture	78 (17,3%)	137 (22,5%)	118 (17,6%)
Total	450	609	671

Table 4: Duration of the sentence for prisoners on 31 December

Sentence duration	2003	2004	2005
up to 6 months	99 (5,8%)	143 (7,3%)	154 (7,1%)
6 months - 1 year	155 (9%)	568 (28,9%)	703 (32,4%)
1 - 3 years	520 (30,5%)	568 (28,9%)	703 (32,4%)
3 - 5 years	268 (15,7%)	293 (14,9%)	354 (16,3%)
5 - 10 years	368 (21,6%)	365 (18,6%)	405 (18,7%)
10 - 15 years	185 (10,9%)	233 (11,8%)	180 (8,3%)
15 - 20 years	55 (3,2%)	57 (2,9%)	64 (3%)
20- 40 years	57 (3,3%)	58 (2,9%)	67 (3,1%)
Total	1707	1967	2167

Table 5: Average occupancy of penitentiaries and prisons

Year	2003	2004	2005
Number of persons	3100	2998	3474

Table 6: Number of conditionally released prisoners by the decision of the parole committee

Year	2002	2003	2004	2005	2006
Number of conditionally released	218	337	446	578	653

Table 7: The execution of alternative sanctions, protective supervision of suspended sentence and community service / number of files received for execution

Table 7.1: Protective supervision of suspended sentence

Year	2002	2003	2004	2005	2006
Number of files	52	81	90	158	252

Table 7.2: Community service

Year	2002	2003	2004	2005	2006
Number of files	16	41	75	100	284