

# **Chapter 24**

## **Norway**

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

## **1.1 The start of probation in Norway <sup>1</sup>**

The first clear sign of interest in organising a probation and aftercare service is probably a visit to Norway in 1819 from two representatives of an association established in London in 1815-16, whose most prominent member was Elisabeth Fry. The visitors, William Allen and Stephen Grellet, told of prison reforms and organising aftercare work for released prisoners. This greatly increased the interest in these matters in Norway, both by private persons and by the government. A commission was appointed to examine this topic thoroughly, and their report was presented in 1841. The main focus of the document was prison reform, but this is also probably the first public document where the necessity of organising aftercare was mentioned. The first private association with the aim of offering help and care to released prisoners was established in Oslo in 1849.

In the following period up to about 1920, new voluntary associations with similar goals were established all over the country. From 1923 on these individual associations formed a federal organisation called "Norges Vernesamband". They had at the time already been authorised by the Ministry of Justice to supervise probationers and parolees. This organisation continued to exist until the end of 1979. The development of these probation and aftercare organisations must be seen in connection with reforms and changes in the penal code and prison legislation, especially the introduction of suspended sentence combined with supervision (1919) and conditional release from prison combined with supervision (from 1911 by the police and from 1922 by the probation and aftercare organisations).

## **1.2 Important developments**

The voluntary organisations were from the earliest days subsidised by the Government, but were also dependent on grants from their members and others. It is characteristic for the development that private involvement in the probation and aftercare organisations gradually decreased. Parallel to this, the organisations became more and more dependent on government grants. Furthermore the actual work was being done by an increasing number of professionally trained social workers. In 1980 responsibility for the supervision of offenders was assumed by the State through the creation of the Prison and Probation Administration, a department within the Ministry of Justice. Prison and Probation remained separate entities. Under the Execution of Sentences Act (Straffegjennomføringsloven) from 2001, the Probation Service and the Prison Service merged at the regional and national level. At a local administrative level, prisons and probation offices

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<sup>1</sup> Parts of this text have been reproduced from the chapter on Norwegian probation in the previous edition of this book, written by Einar Fæste, and from the text on the website of the Norwegian Correctional Services, [www.kriminalomsorgen.no](http://www.kriminalomsorgen.no). Also, translations from [www.lovdatab.no](http://www.lovdatab.no), where all Norwegian laws are gathered, has been used. Thank you to Jan-Erik Sandlie for comments and to John Gray for correcting my English.

continue to function independently of one another. The Act defined the activities of the Probation Service to a large extent in terms of the execution of sentences.

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

The Norwegian Probation Service has the following main activities:

- execution of community sentence (samfunnsstraff);
- supervising conditional release from prison (prøveløslatelse fra fengsel);
- supervising conditional release from preventive detention (prøveløslatelse fra forvaring);
- execution of the Drunk Driving Programme (promilleprogram);
- supervising home detention (hjemmesoning);
- preparing pre-trial reports (personundersøkelse).

Pre-trial reports are prepared at the request of the police prosecutor or the court. The report should focus on information about the indicted person that may be relevant for the type of punishment or the possible conditions connected to it that may be imposed by the court. Community service projects started already in 1985. Community Service Orders, (samfunnsnyttig tjeneste) became an independent penal sanction available to the courts in 1991 and the Service thereby gained another statutory task. This new sanction was implemented at first as a condition of a suspended sentence until it was regulated in the Penal Code (Straffeloven) and became an independent penal sanction. In 2001 the Community sentence was introduced as a new form of this type of punishment, replacing among others the community service order.

The age of criminal liability in Norway is 15 years. The Norwegian penal system does not distinguish between adult and juvenile offenders. Juvenile offenders under the age of 18 will normally be treated by child welfare institutions under the Directorate for Children, Youth and Family Affairs (Barnevernet) and they seldom go to prison. In 2006, a White paper was accepted by Parliament where the treatment of juvenile offenders under the age of 18 is regulated<sup>2</sup>. It states among other things as a principle that this age-category will – very extreme cases excepted – not be imprisoned or remanded into custody.

## **2 LEGISLATIVE BASIS AND MISSION**

### **2.1 Legislative basis**

The Norwegian Probation Service finds its legislative basis in the Execution of Sentences Act from 2001, which also covers the Prison Service. Both services are administratively combined at the central and regional level in the Correctional Services. The activities of Probation Service are regulated by the Execution of Sentences Act and the lower level regulations connected to it. Furthermore, law and regulations pertaining to the Probation Service are to be found in the Penal Code. Norwegian law distinguishes between “crimes” (forbrytelser) and “misdemeanours” (forseelser). The Probation Service deals exclusively with offenders who have committed crimes.

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<sup>2</sup> Stortingsmelding nr. 20 "Alternative reaksjoner overfor unge lovbyrtarar" (Alternative reactions towards young offenders).

## **2.2 Mission and mission statement**

The Norwegian Correctional Services are responsible for carrying out remands in custody and penal sanctions in a way that takes into consideration the security of all citizens and attempts to prevent recidivism by enabling the offenders, through their own initiatives, to change their criminal behaviour. The Correctional Services make remand places available to the police and execute penal sentences that have been imposed. It is important to note that the Norwegian Correctional Services according to this mission statement aims to enable offenders to change their criminal behaviour. This is done by offering them the tools with which they may be expected, according to research results and experience, to reduce their offending behaviour once they have served their sentence. The final step towards a life within the law is their responsibility. The Correctional Services has as its slogan: "An active Correctional Services – a safer society". The service will be active in its approach to the offender, and the ultimate goal is a safer society by reductions in recidivism. In 1997, a White Paper on the Correctional Services (Stortingsmelding nr. 27, 1997 – 1998) was accepted by parliament. In this White Paper, the basic principles of the "What works" - approach to correctional practices were embraced and it was proposed to formulate goals, mission and working methods for the Correctional Services in this spirit. As a result of the approach taken in the White Paper, a professional strategy plan was developed (Strategi for faglig virksomhet 2004 – 2007). It states among other things as a basic principle that we believe that a human being is capable of change. The offender has a responsibility of his own for taking action in order to stop offending. As facilitators it is our mission to give those who have committed an offence a better opportunity. After the sentence is served, the offender must be better prepared for a life without offending. Everything we do will be measured after this. Serving the sentence shall be a turning point. Quality in corrections shall not only be measured by the effectiveness of measures taken to prevent recidivism. It is a goal in its own right to make life while serving a sentence worth living. This is especially important in the case of long prison sentences and for offenders with less potential for development.

## **2.3 Crime prevention**

The Probation Service and the Correctional Services in general are not directly involved in any crime prevention programmes on a larger scale. In some cases the service may however cooperate on a local level with relevant authorities, organisations or institutions in structural or temporary activities with a background in primary prevention. This will most often be in the framework of establishing or maintaining a position in a local network and it will not be in a leading role.

## **2.4 Victim protection**

The Probation Service is not responsible for or involved in the provision of services for victims. However, mediation between offender and victim may be a part of a community sentence. The hours included in the mediation process itself are included in the total number of hours of community sentence, as well as the

number of hours that the offender will work for the victim as a possible result of the mediation.

### **3 THE ORGANISATION OF THE PROBATION SERVICES**

#### **3.1 Main characteristics**

The Probation Service is a governmental organisation under the Ministry of Justice. It is part of the Norwegian Correctional Services together with the Prison Service. This merger was effectuated through the introduction of the Execution of Sentences Act in 2001, whereby the line-organisation of the separate Probation Service disappeared. The Act regulates the different tasks and responsibility levels in the Correctional Services. The reorganisation of the Probation Service was a necessary consequence of the new legislation.

#### **3.2 Internal organisation**

The Norwegian Correctional Services are organized on three levels:

- the Norwegian Correctional Services Central Administration (Kriminalomsorgens sentrale forvaltning KSF);
- the regional level with six different administrations;
- the local level with individual prisons and probation offices.

The administration of the prison and the Probation Service is joined at the central and regional level, and a separation is only effective at the directly operative local level. In addition to the administrative line there are two departments with specific tasks, the Correctional Services of Norway Staff Academy (Kriminalomsorgens utdanningscenter KRUS) and the Correctional Services Information Technology Centre (Kriminalomsorgens IT-senter KITT). These are placed directly under KSF.

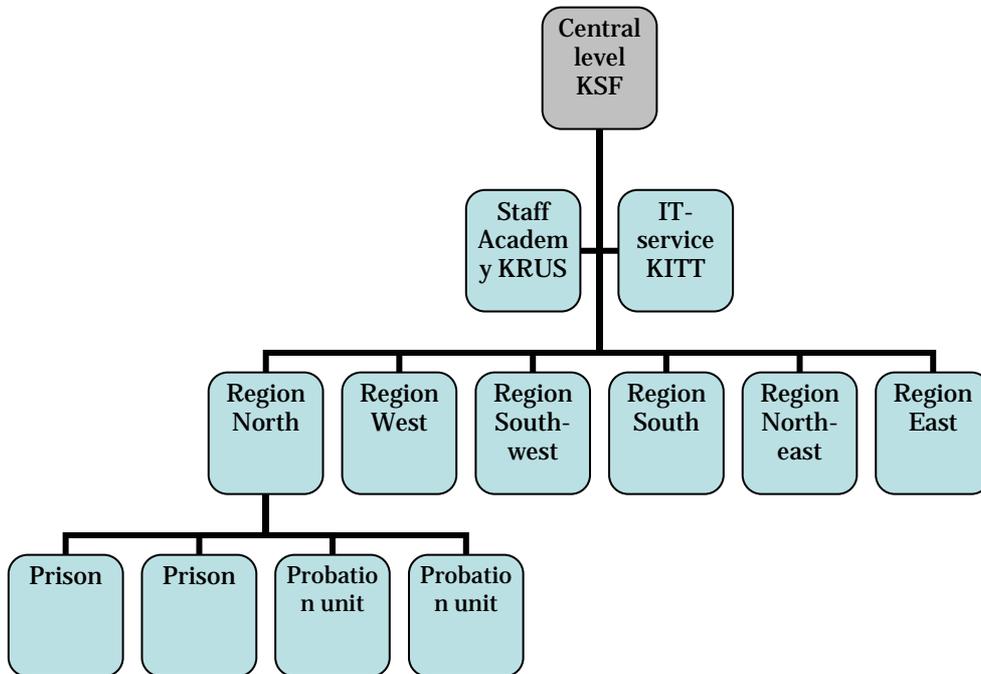
The Norwegian Correctional Services Central Administration (KSF): the central level of the Norwegian Correctional Services (KSF) is responsible for the professional and administrative management of Correctional Services in Norway. It is housed in the Ministry of Justice in Oslo. In addition, it is responsible for a number of decisions in individual cases, for example with respect to requests for a pardon or the transfer to the home country of offenders who are foreign nationals. KSF is an integral part of the Correctional Services Department of the Ministry of Justice and is headed by the Director General. As the Correctional Services Department it acts as the political secretariat of the Minister of Justice and is divided into three sections: The juridical section, the administrative section and the development section. The Regional Administration: the Correctional Services are divided into six regions:

- Eastern Norway (Region øst), office in Oslo;
- Northeastern Norway (Region nordøst), office in Lillestrøm;
- Southern Norway (Region sør), office in Tønsberg;
- Southwestern Norway (Region sørvest), office in Sandnes;
- Western Norway (Region vest), office in Bergen;
- Northern Norway (Region nord), office in Trondheim.

Each region is responsible for the execution of sentences within its regional boundaries and is charged with ensuring the coherent use of resources and effective cooperation with other regions. The regions have the freedom to develop policies and establish priorities relevant for their respective situations, within the

boundaries set by legislation, overall-policy and budgets. Prisons and probation units are responsible for day-to-day operations at local level. The Execution of Sentences Act establishes the different types of decisions that may be taken as to individual cases at the central, the regional and the local level. For the Probation Service, these mostly concern breach of conditions in a community sentence and its consequences.

**Figure 1: Organisation chart**



Norway is divided into 19 counties. Each county has a main probation office, with the exception of Hedmark and Oppland, which share a main office. In that way, there are 18 local main probation offices in Norway. In many cases there are branch offices because of the large distances within the counties. In total there are 26 of these branch offices, making a total of 44 Probation Service units throughout the country. The following table shows the distribution of both prisons and probation units over the six regions of the Correctional Services.

**Table 1: Prisons and probation units per region**

Region	Prisons	Probation units	Total
North	7	12	19
Northeast	7	7	14
West	4	8	12
East	9	3	12
South	13	8	21
Southwest	7	6	13
	47	44	91

The Correctional Services of Norway Staff Academy (KRUS) is a centre of expertise for Correctional Services in Norway. Its tasks are to provide a two-year specialized training for prison-officers, offer further education and in-service training for the close to 3000 employees of the Correctional Services, carry out research and provide information on the services. The Research and Development Unit at KRUS is commissioned by the Ministry of Justice to execute research projects and methods and programmes in the Prison and Probation Services. The Correctional Services' IT Centre (KITT): the IT Centre develops and maintains IT systems for the Correctional Services and supervises security, infrastructure and central technical applications.

### 3.2.1 Probation workers

The Probation Service consists of professionals, generally speaking with an education at an academic level. There are around 300 full-time equivalent jobs, distributed over a somewhat larger number of employees. These include 18 probation unit managers (frimsorgsleder), secretarial personnel and practitioners in various functions. The average caseload of a probation worker is dependent on the type of work he or she or in some cases the section where he or she works deals with. Larger probation units may have specific sections dealing with community sentence. Other types of specialisations very seldom occur. Another factor influencing individual caseloads is whether the practitioner is working full-time or part-time. An average can be computed by dividing the number of active cases on a given day by the number of full-time equivalent jobs. In 2005, an investigation was carried out by a work-group from the Ministry into workloads for the separate units and their use of resources. Every month on a given day, the number of active cases was counted. These twelve measurements showed variations from a total caseload of 1760 in January to 2011 in November. The average caseload over these twelve measurements was 1924. Assuming that around 200 to 225 of the Probation Service's workforce are practitioners, it would mean that the average caseload per practitioner varies around 9 active cases on any given day. Probation unit managers have the responsibility for the carrying out of the day-to day activities involved in the Probation Service's tasks. They usually have control over the budget as it is distributed to their unit by the regional level, and they are accountable to this level as to production levels and spending. The inves-

tigation into the Probation Service's resources mentioned above, gives an impression of how the total workload is divided over the various tasks for the practitioners. This is represented in the table below.

**Table 2: Percentage of time involved in various forms of production and other activities in 2005**

Products	%	%
Community sentence	27,8	65,4
Drunk Driving Programme	4,8	11,3
Conditional release from prison	3,8	8,9
Conditional release from preventive detention	0,7	1,6
Home detention	0,1	0,2
Pre-trial report	5,3	12,5
Total products	42,5	100,0
Activities		
Travel-activity	4,5	
Meetings	11,1	
Courses	6,8	
Absence because of leave, holiday etc.	10,1	
Other	24,9 <sup>3</sup>	
Total activities	57,4	
TOTAL	100,0	

### 3.2.2 Education, training requirements and opportunities

Traditionally probation officers are qualified social workers. This normally implies a three-year study. It is also possible to take a course of further education in social work, in cooperation with universities, which leads to a higher degree in social work. The Correctional Services Staff Academy KRUS is responsible for the professional training of staff in the Prison Service. For probation workers the main activities lie in the organisation of training in programme-activity and other more general subjects, and KRUS also organises national and international seminars, workshops, presentations etc. Each year a catalogue is published where the opportunities to participate in this type of activities are presented. In general, the costs of these courses are covered by KRUS. The Academy provides hotel facilities of its own in the building for course participants.

### 3.2.3 Other organisations involved in probation work

At the local level, the Probation Service collaborates with a number of different service providing partners. These have, however, no formal tasks in probation work. Private organisations or persons may in some cases act as a supplementary

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<sup>3</sup> It should be noted that also mercantile staff was asked to participate.

supervising body, especially in the case of unpaid work as part of a community sentence, but they have no formal responsibility as to the execution of the sentence. In many cases all over the country the Probation Service has started a collaboration with educational or vocational organisations, municipalities etc. in connection with community sentences. A specific example is the foundation "Youth against violence" ("Ungdom mot vold") in Oslo that not only provides unpaid work for the larger part of the offenders with a community sentence in Oslo, but is also very active in following up these juveniles after their sentence has ended. The foundation has developed a programme based on cognitive-behavioural principles and is – apart from their work with this group of offenders – very active and outreaching in crime prevention. The local Probation Service co-operates actively with this foundation.

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

### **4.1 General**

The legislative basis for probation activities in Norway is located in the Execution of Sentences Act (Straffegjennomføringsloven) from 2001. Following this law, a number of Regulations (Forskrift) and more detailed guidelines (Retningslinjer) were issued. With irregular intervals, the central level issues circulars (Rundskriv) with respect to specific matters. In addition, the central level of the Correctional Services has issued a number of quality indicators that are among other things being used in the budgeting process. The indicators relevant for the Probation Service will be described at a later stage (see Chapter 5). The penal sanctions executed by the Probation Service are described in the Penal Code (Straffeloven). In the case of pre-trial reports, a number of other legal documents are relevant. The Criminal Proceedings Act (Straffeprosessloven) offers the legislative basis here, together with the Regulations for the Prosecutor (Påtaleinstruksen) and the Guidelines for pre-trial reports in penal cases (Retningslinjer for personundersøkelser i straffesaker).

The Drunk Driving Programme finds an additional legislative basis in the Regulations for the application, contents and execution of the Drunk Driving Programme. This also includes regulations on how to use the pre-trial report in connection with this programme. These regulations are developed within the framework of an experimental arrangement, which now covers the whole country.

Norway is also trying out a court-controlled drugs programme, where the Probation Service is heavily involved, in the two largest cities, Oslo and Bergen. This may be compared with what in other countries is known as a drug court. This arrangement also has its own temporary legislative framework, which includes preparing a pre-trial report.

**Table 3: Probation activities during the different stages of criminal Procedure**

	Pre-Trial Phase	Trial and Enforcement Phase	Post Release Phase
Supervision/assistance etc. to offenders whose cases were conditionally waived	x		
Mediation/victim support		x	
Supervising/organising etc. community service		x	
Supervising/organising training or learning projects		x	
Supervising etc. drug/alcohol treatment programmes		x	
Supervising etc. electronic monitoring		Not yet	
Supervising etc. other community sanctions, namely the community sentence in general		x	
Pre - sentence report	As pre-trial report		
Supervising etc. conditional sentence		x	
Assistance/support to offenders in home detention		x	
Supervising etc. conditional release/parole		x	
Court-controlled drugs programme	x	x	

Using the general scheme for probation activities, the Norwegian Probation Service may be said to be involved in or closely connected with the following.

## **4.2 The pre-trial phase**

### **4.2.1 General**

In some cases, the prosecutor may decide to react to an offence by conditional waiver of prosecution (påtaleunntatelse). In minor cases where guilt is presumed, the prosecutor may decide to refrain from prosecution if there are specific reasons to do so. The conditions for the waiver may be that the suspect will refrain from committing an offence during the period of probation. The probation period is two years from the date when the waiver is decided, but no longer than the statute of limitations for opening a case against the suspect permits. The prosecutor may also issue other conditions in connection with the waiver, and in specific

cases these may include contact of some kind with the Probation Service. Otherwise, the Probation Service is only involved in the pre-trial phase through the preparation of pre-trial reports. This is also the earliest point at which the Probation Service may enter the criminal procedure. Other possible reactions in the pre-trial phase, in which the Probation Service is not involved, include among others the following:

- remand in custody: according to the Prosecution Instruction, the police shall inform the Probation Service immediately if investigation is started against one of its clients. If the client is in remand, there is a possibility to visit and assist the client in co-operation with the police;
- referral to child welfare: this is applicable in cases where the offender is under the age of criminal responsibility, i.e. 15 years old. The police may also inform child welfare when investigating an offence where a suspect is under 18 years old, or even older in certain circumstances;
- municipal Mediation Council (Konfliktråd): this is an alternative to prosecution and is a reaction administered outside of the judicial system by the local municipality. In less serious offences, a case may be referred by the prosecution to a Mediation Council administered by municipality. The mediator shall assist the parties in coming to a mutually acceptable agreement regarding compensation, reparation or a similar end result. If the offender fulfils his obligations then the mediation Council will report to the prosecutor that mediation was successful. The prosecution may decide to drop the case and the offender will not have his offence recorded in a criminal record. A precondition for referral is that both offender and victim agree to participate in the process. There is no age limit - neither upper nor lower - but this reaction is primarily aimed at young persons, the majority in the age group from 15 to 18 years old. The Councils are administered by local authorities who may themselves (employees) assume the role of mediator, or they may engage suitably able persons in individual cases.

#### **4.2.1 Pre-trial report<sup>4</sup>**

The prosecuting authority or the court decides whether a pre-trial report is to be drawn up concerning the suspect in a criminal case. The suspect himself or the defence lawyer may apply to the prosecutor that he or she request a pre-trial report before the case goes to trial.

Section 161 of the Criminal Procedure Act (Straffeprosessloven) states that when it is deemed to be of significance for deciding on a penalty or other precautions, a pre-trial report or social inquiry relating to the person charged shall normally be prepared. The purpose of such inquiry is to obtain information concerning the personality, social circumstances and future prospects of the person charged, for use in deciding the case. The following sections of the Criminal Procedure Act describe how the prosecuting authority may decide on the desirability for a social inquiry when the person charged has admitted guilt, or when he or she consents to the inquiry, or when the inquiry is to be used at the hearing of an

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<sup>4</sup> This text is partly taken from the English translation of the Criminal Procedure Act on the Norwegian website [www.lovdato.no](http://www.lovdato.no), and partly translated from the fact-sheet on pre-trial reports issued by the Correctional Services.

appeal against the sentence or other precautions. Otherwise the court shall make any such decision. A social inquiry shall be carried out by a suitable person, selected by the appropriate local probation unit, unless the court appoints a specific person to carry out the inquiry.

The aim of a pre-trial social inquiry is to provide information concerning the suspect so that the prosecution and the court may be able to have a clearer picture of the defendant's health, use of alcohol or drugs, financial position, social relations etc. The report may affect the decision to impose a specific type of sanction or to impose specific conditions connected to the sanction. The Probation Service must adjust the contents and length of the report to the individual case in question, and make use of a standard approved format. Four different models have been developed for the pre-trial report.

- form for a common pre-trial report: this must be used when the requesting authority has asked for a report without connection to a specific type of sanction. This form must also be used in connection with a possible community sentence;
- form for a pre-trial report where the Drunk Driving Programme may be relevant: This form must provide information on whether the suspect is within the relevant target group and is suitable for participating in the programme;
- form for a pre-trial report when the Court-controlled drugs programme is relevant; This form must provide information on whether the suspect is within the relevant target group and is suitable for participating in the programme;
- form for a pre-trial report when preventive detention may be relevant.

The Probation Service must inform the suspect on the purpose of the report and on his or her rights in connection with the report. The report must be prepared without any unnecessary inconveniences for the suspect. The report is based upon conversations with the suspect and through collecting information from other persons, institutions or public authorities. The suspect has the right to be informed on the contents of the report and is asked to sign a declaration saying that he or she has been informed of the contents. The Correctional Services have the possibility to make use of the information from the pre-trial report during the execution of the possibly resulting penal sanction.

### **4.3 Trial and enforcement phase**

#### **4.3.1 General**

The Norwegian Probation Service provides services in the trial and enforcement phase solely in the form of executing sanctions imposed by the court. These include the community sentence, the Drunk Driving Programme and the Court-controlled drugs programme. All three will be described here in some detail.

##### **4.3.1.1 Community sentence**

Since 1994, community service – as unpaid work for the benefit of the community – had been a part of the spectrum of sanctions, yet it had never really become a considerable factor in the penal system. The number of sentences carried

out decreased steadily from 1994 until 2001<sup>5</sup>. Courts appeared to be little impressed by the nature of the sanction and preferred other possibilities. Limited use led to limited experience, which in turn led to limited possibility for development. The number of potential workplaces remained low; the sanction was often “tried out” on people who otherwise would have received a conditional sentence or a fine; thorough evaluation was difficult because of small numbers and an insufficiently defined target-group. This is a general problem that many countries developing community-based sanctions have experienced. A specific Norwegian problem lies in the geographical situation, where Probation Service units sometimes have to cover areas stretching for hundreds of kilometres, with a very low population density. As a result, it was difficult to develop community service in practice into a form of punishment with a reliable, trustworthy image. After a number of years of thinking the process through in relation to practice as well as legislation, a new form of community sanction was introduced through the Execution of Sentences Act from 2001, called “Community Sentence”.

The most striking aspect of the Norwegian variant is the high degree of discretion given to the Probation Service in deciding the contents of the sanction. The court imposes a community sentence of a specific length, which may vary from 30 to 420 hours. The law identifies community service in the sense of unpaid work, and participation in programmes as concrete elements in a community sentence, but it may also include other activities that the Probation Service as the organization carrying out the sanction deems suitable in an attempt to prevent further offences under the particular circumstances. Clearly, this requires an assessment of the offender’s problems and resources. The number of hours that this assessment takes is part of the sentence. In addition to the community sentence, the court may impose specific conditions as to

- locations where the offender must stay or keep away from;
- work, education or treatment;
- persons the offender is not to have contact with.

The community sentence is an independent main form of punishment, along with imprisonment and fines. Yet in addition to the length of the community sentence and the possible conditions, the court decides on the length of a period of subsidiary imprisonment in every individual sentence. This decision has consequences for the amount of time to be spent in prison in case of breach, and for the period in which a community sentence needs to be completed. The court may however set a different completion period, for example when the duration of the subsidiary imprisonment implies a completion period in which very little can be done. In such a case, the completion time may be altered by up to 120 days.

A community sentence is one of the possible sanctions available to the court when the seriousness and characteristics of the offence otherwise would lead to unconditional imprisonment up to one year. Before January 1, 2006, the Penal Code defined the possible use of a community sentence to be limited to offences with a maximum penalty of six years unconditional imprisonment. The focus has in this respect been moved from replacing a general, potential length of imprisonment to the intended length in an individual, actual case. As a number of

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<sup>5</sup> Højdahl, T. and Kristoffersen R. (2003), “Evaluering av innføringen av samfunnsstraffen”, page 16.

drugs-related offences have maximum penalties of over six years in Norway, these offences – which often were of minor character within this category and led to much shorter actual sentences – were excluded from community sentence. The changes in the law brought also this type of offences within its scope. No types of offence are formally excluded from community sentence but there is a general agreement on a preferred target-group of young offenders, and on the fact that violent and sexual offences are not a priority category.

In deciding on the contents of the community sentence, the Correctional Services is obliged to take into account in what way the sanction may serve to improve the offender's abilities to avoid further criminal activities. For unpaid work, the Probation Service decides when, where, and what type of work the offender shall do; for all the other activities, it is also the Probation Service that decides. Most work found for offenders will be for official and municipal or voluntary organisations that are not for profit. Apart from their role as "employer" these organisations play no part in the administration of the reaction. No task shall be performed which will bring gain or profit to individual, body or organisation. For the most part, the tasks performed will consist of unskilled physical work, with the emphasis on refurbishing; repairing; painting; cleaning etc.

The Guidelines to the Execution of Sentences Act state that the Probation Service will need to be able to offer relevant programmes on short notice at any given time. In case these are not available, the Probation Service is to ascertain whether this or a similar programme exists in other public sectors and, if so, whether it can be used. Clearly, the fact that many of the currently available programmes imply group-work presents a number of problems in view of the geographical distances and the small number of potential participants.

Participation in programme-based or other activities – apart from unpaid work – is in principle voluntary. Yet if the offender has agreed to participate in any of these activities and breaches the conditions, this can be considered as a breach of the sanction as a whole. The number of community sentences has seen a strong annual increase since the introduction from 380 in 2002 to 2 683 in 2006. Other possible forms of contents may include treatment, mediation and locally based programmatic or otherwise structured activities which may involve partnerships with organisations or institutions and a number of individual conversations with the offender, focusing on and aiming at reducing further criminal activity. Assessment is a part of the community sentence and the hours involved are subtracted from the sentence. This goes also for the evaluative conversation conducted towards the end of the sentence. During the execution period and as part of the number of hours, individual conversations between the Probation Service and the offender are obligatory. These shall focus on the prevention of further offending.

Table 4 shows some figures concerning the number of community sentences in Norway in 2006, including the distribution of several main forms of contents among the hours served. The average duration of a community sentence is between 90 and 95 hours.

**Table 4: Community sentence in Norway – numbers and contents**

	2005		2006	
	Hours	%	Hours	%
Unpaid work	126500	70,9 %	123898	67,8 %
Locally based measures	21231	11,9 %	27216	14,9 %
Individual conversations	18475	10,4 %	18976	10,4 %
Programmes	8814	4,9 %	8836	4,8 %
Treatment	3217	1,8 %	3539	1,9 %
Mediation	113	0,1 %	184	0,1 %
Total	178350	100,0 %	182649	100,0 %

Evaluation Studies: the community sentence has been thoroughly evaluated since its introduction. Three reports have appeared in 2003, 2004 and 2006 respectively dealing with the first results, the challenges and the offender's perspective, measuring among other things user satisfaction<sup>6</sup>. One of the main conclusions of the earlier evaluations is that the by far largest part of the sanction still consists of unpaid work. The Ministry of Justice has issued quality indicators implying that first 25% and then 30 % of the contents of community sentences will have to consist of other activities than unpaid work. This appeared to present a number of practical difficulties in the beginning. The authors therefore recommended focusing attention on how this particular part of the sanction can be used in a more rehabilitative way. At present, this does not seem to present a very large problem anymore. In 2006, only 67.7 % of all hours in community sentences in Norway went into unpaid work. Taking into account that unpaid work is by far the cheapest component within the community sentence and therefore very attractive from a financial point of view, this may be considered a very good score. Results from the final evaluation show that offenders undergoing a community sentence tend to be very satisfied with the fact that they were sentenced to this type of sanction, with the contents of the sanction and with the way they were treated by the Probation Service. The final report from 2006 also included a number of results from a study into recidivism among those who had received a community sentence since its introduction in 2002. Analyses showed that 79 % of this group of persons had not received a new prison sentence or community sentence during the period after serving the sentence. The price of an average hour community sentence is estimated at around 425 Norwegian kroner, some 50 eu-

<sup>6</sup> Højdahl, T. and Kristoffersen R. (2003), "Evaluering av innføringen av samfunnsstraffen", KRUS, Oslo;  
Højdahl, T. and Kristoffersen (2004), "Samfunnsstraffen 2003; resultater og utfordringer", KRUS, Oslo.  
Højdahl, T. and Kristoffersen (2006), "Dømt til samfunnsstraff. KRUS, Oslo.

ros. The price of an average sentence with duration of 90 hours is then between 450 and 475 euros.

#### **4.3.1.2 The drunk driving programme**

The Drunk Driving Programme was developed by the Norwegian Correctional Services itself and started in a limited number of places in the nineties. It is an alternative penal reaction for offenders who otherwise would have been sentenced to unconditional imprisonment for driving under the influence of alcohol. The limit for participating in the programme instead of going to prison lies at 0,15 % blood-alcohol or lower in case of a repeated offence. The Drunk Driving Programme is a condition within a conditional imprisonment sentence and the offender must consent in participating. Formally, the programme is still at the experimental stage, but it has grown to cover the whole country over the last ten years and will shortly become integrated in formal legislation.

To participate in the programme, one must admit to having a serious alcohol problem. This shall be supported by an assessment drawn up by the Probation Service in the pre-trial phase. The assessment is part of the programme, which further consists of individual conversations, possibly treatment and participation in a training programme focusing on the dangers of alcohol and of the combination with driving a motorised vehicle. An important element in the training programme is the analysis of the chain of antecedent, behaviour and consequence (ABC-, or in Norwegian FAK-analyse), where the participant learns to identify the moments where an alternative decision would have had other results and not have led to driving drunk. The offender must be sober during the meetings with the Probation Service and during participation in the training programme. The Probation Service uses breathalysers to establish this. A serious or repeated breach may lead to the implementation of the imprisonment sentence. In 2006, 475 offenders started the programme

Evaluations: an early evaluation<sup>7</sup> showed no significant reduction in re-offending. Those who participated in the programme were caught driving under the influence of alcohol equally often as members of a control group who received another sanction. The dependent variable was a renewed contact with the police, there is no evidence as to whether the programme has led to another type of re-offending, for example that a lower percentage of alcohol was involved, or that speed was reduced. Local, internal evaluations performed by the Probation Service itself, show much more encouraging results<sup>8</sup>. Although there is no guarantee for scientific quality, these results seem to be more in line with the general experiences.

#### **4.3.1.3 Court-controlled drug programme<sup>9</sup>**

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<sup>7</sup> Kristoffersen, R. (1999), "Promilleprogramme i friomsorgen. Om deltakerne og deres erfaringer" Oslo, KRUS.

<sup>8</sup> Internal report from Nordland friomsorg, Bodø.

<sup>9</sup> From a text by Berit Johnsen Ph.D., Correctional Services Staff Academy, who is currently evaluating the programme.

On January 1 2006, two “Court-controlled drug programmes” were established in Norway as pilot projects in the cities of Oslo and Bergen. According to the US National Association of Drug Courts Professionals, a drug court is “ a special court given the responsibility to handle cases involving substance-abusing offenders through comprehensive supervision, drug testing, treatment services and immediate sanctions and incentives”. In Norway, drug treatment courts deal with offenders of all ages and of both sexes, with an established relationship between a pattern of serious drug misuse and offending. The aim of the drug treatment court is to reduce or eliminate offenders' dependence on drugs and to reduce the level of drug-related criminal activity.

In the juridical sense, the drug treatment court sentence is a suspended sentence where participation in drug treatment court programmes is a condition. The offender has to agree to participate in the drug treatment court programme. The programmes include court-controlled treatment and rehabilitation activities. The programme consists of four phases, and is specially designed for each individual offender. Flexibility is an essential feature of the programme in order to meet the offender's various needs. Some may need a 24-hour a day treatment at an institution, while others may need polyclinic treatment. A supervision and treatment team is responsible for the design of the programme. The team consists of representatives from the Correctional Services, the social service, and the health service and in some cases representatives from the educational and employment service. Other organizations may also be represented in the team, like the police, the child protection agency etc. The permanent members of the team-work together at a drug treatment court centre, and some of the client's activities also take place there. The drug treatment court programme transforms the roles of both criminal justice practitioners and drug treatment providers, and one of the aims for the pilot project is to develop good models for cooperation between the services.

A special feature of the Norwegian model is that the court's involvement in the programme is not as prominent as for example in the Irish or the Scottish model. However, the court supervises the programme, and all the time during the programme, the offender is accountable to the court. It is the court that rewards progress, by for example moving the client to the next phase, or sanctions non-compliance. Naturally, it is also the court that responds to criminal activity during the programme. The punishment for not following the conditions as well as for new criminality may be imprisonment.

Evaluations: The programme is currently being evaluated.

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

The pre-trial report described in 4.2.2 serves also as a pre-sentence report.

#### **4.3.3 Probation procedures and process**

##### **4.3.3.1 Ethical guidelines (Yrkesetiske retningslinjer)**

The Correctional Services have issued a set of ethical guidelines of its own, specifically directed towards its employees. These concern a number of different

areas of work: knowledge and attitudes, the employee's relationship to the offender, employee's relationships with each other, with others, with laws and legal regulations, and the specific responsibilities of leadership. In addition, there are laws concerning the relationship between the public and official employees which are intended to give the public – in this case the offenders - a just, efficient, and predictable treatment at the hands of officialdom. The Official Administration Act (Forvaltningsloven) gives explicit and detailed directions concerning confidentiality. Furthermore it gives the client right to see most of the documents regarding himself and his applications etc. The Freedom of Information Act (Of-fentlighetsloven) gives the public right of access to documents concerning official administration not protected by the rules of confidentiality.

#### **4.3.3.2 Assessment procedures**

In many cases, the single units in the Correctional Services use their own assessment instruments and methods. Even though many of them are similar, there is not yet a general policy on this aspect of the work. In 2004 a pilot was performed in a limited number of places in Norwegian corrections, where a translated and "Norwegianised"<sup>10</sup> version of the Offender Assessment System (OASys)<sup>11</sup> as used in England and Wales was tried out for Norway. The pilot led to further efforts to develop a Norwegian version and the work has now become part of a larger process for developing a new integrated registration system for the whole of the Correctional Services (NEK). The instrument will provide both a risk-analysis with respect to re-offending and various forms of harm, and an assessment of criminogenic needs, resources and some other factors indicative for the use of specific programmes, measures or methods.

#### **4.3.3.3 Procedures concerning breach of conditions in the execution of a penal sanction**

Breach is registered and documented by the Probation Service and brought before the court. In Norway, a new offence is also considered a breach and can lead to execution of the subsidiary prison sentence in addition to punishment for the new offence itself. In such cases, the community sentence is broken off and the public prosecutor takes the case to court. However, in other cases of breach of conditions connected to the community sentence, lawyers from the Correctional Services act as the prosecuting party, in accordance with the Execution of Sentences Act. The Correctional Services have in such cases also the right to appeal and appear in court in such appeal cases. It seems that this has increased the confidence of the courts in the Correctional Services and, by the same token, in the community sentence as an acceptable modality.

#### **4.3.3.4 Procedures concerning community sanctions**

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<sup>10</sup> This work was done by Elisabeth Godø, Morten Cornell Jacobsen a.o.

<sup>11</sup> As laid down in the OASys manual version 2002, written by Danny Clarke et. al. of the Probation Service for England and Wales.

The annex includes the contract that the offender must sign, stating the demands concerning the execution of community sentence. The offender's consent is required for the community sentence and its various conditions. Once the consent is given, a breach of a specific condition will be regarded as a breach of the whole sanction. A largely similar set of demands is used in connection with the Drunk Driving Programme.

#### **4.3.3.5 Procedures concerning programmatic activity and accreditation**

The Norwegian Correctional Services make use of a number of programmes, both in prison and in probation work. The programmes are designed to help achieve the Correctional Services' goal of enabling prisoners to counteract criminal patterns of behaviour through their own efforts. The purpose of the programmes is to give prisoners new knowledge and motivate them to change, as well as to build up their resources and skills in order to cope with life without crime. The programmes can be carried out in groups or individually. Programmes may be offered to remand inmates and convicted persons who have been given prison sentences, community sentences and special criminal sanctions. Participation in programmes is voluntary, unless it is evident that it is part of the sentence itself - as is the case in the Drunk Driving Programme run by the Probation Service. In certain prison units, participation in programmes is a condition for admission to the unit. In such cases, the prisoner must be informed about the content of the programme before being placed in prison.

Before a convicted person or remand prisoner is invited to participate in a programme, an assessment must be made of whether the programme is suitable for the person concerned in the light of his or her risk profile and needs, and of whether the offer is being made at the right time. In making this assessment, the prisoner's overall situation is considered in relation to the target group and content of the programme in question. The Correctional Services currently offer a number of different programmes<sup>12</sup>:

- Ny Start (New Start) - a cognitive programme to improve coping skills;
- Mitt valg (My Choice) - a drug and alcohol abuse programme run by the Probation Service;
- RIF - a drug and alcohol abuse programme run by the Prison Service;
- Brottsbrytet (Breaking with Crime) - a cognitive Programme aimed at general crime prevention;
- VINN (WIN) - a programme for women aimed at general crime prevention;
- En-til-en (One-to-One) - a programme for use in prison and while on probation aimed at general crime prevention, in an individual form;
- Discussion groups for violent and sexual offenders based on the Alternative-to-Violence model;
- Anger Management Programme;
- Stress Management Programme - used in prison;
- Sexual Offences Programme;
- Drunk Drivers' Programme – see above.

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<sup>12</sup> None of these have been accredited at the time of writing.

Some of these were developed in Norway; others were bought, borrowed or copied from other countries, translated and adjusted to Norwegian circumstances as best as possible. Their set-up, implementation and execution would differ greatly, however. The Ministry of Justice finances the execution of a number of these programmes, as a result of a negotiation process with the six regional levels. These apply annually as a part of the overall budgeting process for the execution of a specific number of programmes for a specific number of times. Generally, the negotiation implies that the Ministry tries to increase the number of programmes by putting a quantitative demand to the regional levels. The regional level - and especially the actual local level which they represent and where the programmes are executed - is often confronted with difficulties in finding the right candidates for the group-based programmes. As a consequence, changes tend to be made in the target-groups and in the way the programme is executed. This leads to a practice where programme integrity is not always guaranteed and effectiveness therefore may be doubtful. Several programmes exist in various forms or are being only partly executed or with added elements.

The installation of an advisory panel for the accreditation of programmes is intended – among other things – to create more unity in the use of programmes and obtain better programme integrity. A programme that is accredited will be guaranteed financing from the Ministry of Justice. The panel was inaugurated in the spring of 2006. It is a direct consequence of the policy-paper on the professional strategy of the Norwegian Correctional Services for the period of 2004 – 2007. This strategy is solidly based on the What Works way of thinking and identifies a number of criminogenic factors as the central focus of correctional work. The preferred working method is that of cognitive-behavioural change and social modelling.

The panel consists of five members, all psychologists, with varying specialisations. All have experience with research and are at a national level considered to be experts in behavioural science, especially with respect to cognitive behavioural theory. They are independent of the Correctional Services or the Ministry of Justice and work at universities or so-called competence-centres. All have published on the subject matter. The members were invited to participate by the Ministry, and the Ministry pays them for their time, two workdays for preparation and one workday for meeting per application for accreditation. The Ministry of Justice, department of corrections, chairs the meetings. He is responsible for the technical aspects of the meeting, but has the possibility to participate in the discussions. In case one of the members of the panel is in some way involved in the development or the execution of a specific programme for which accreditation has been applied for, he or she does not participate in the meeting or in the decision-making.

The panel is not called an accreditation panel, because the final decision on accreditation is taken by the Ministry of Justice in its role as directorate, the highest organisational level in Norwegian corrections. The panel notifies the Ministry of its opinion on both the programme and the application for accreditation, and concludes with an advice. This advice may be to accredit the programme at once, to preliminarily accredit it or to refuse accreditation. In the two latter cases, their advice includes an extensive motivation for the decision. In case

of preliminary accreditation, the advice is accompanied by an overview of the critical points in need of improvement.

The panel is assisted by a secretariat consisting of specialists in programme activities from within the Correctional Services. The secretariat is led by two representatives from the Correctional Services Staff Academy. One of their main tasks is to assist applicants with relevant information, so that their application can be up to standard. The secretariat is the first to receive the application and considers whether it gives relevant information on all the required points. If the secretariat finds the application to be in need of further revision, it informs the applicants on this and requests them to reconsider their current application. This is to protect the panel against applicants engaging in a "trial and error"-process with the panel – which of course also may turn out to be very expensive for the Ministry. The panel must only meet in order to discuss the contents in an application that supplies all the required information to a sufficient degree. The two members leading the secretariat are also present during the panel meetings and take care of the minutes. The panel may invite them to participate in the discussions on the basis of their specific expertise.

Norway's criteria for accreditation are not significantly different from many of the other countries. However, a distinction is made between criteria and prerequisites. Where many other countries include aspects of site-accreditation in their procedures, Norway does not. Norway considers the provision of the right material conditions, facilitation and support by the management at different levels, registration and documentation, training of programme staff, guaranteeing ethical and human rights aspects etc. to be the responsibility of the different administrative levels within the Correctional Services. The panel will advise exclusively on contents and form of the programme and it will not include the conditions for execution as a criterion for accreditation. This implies that Norway employs the following criteria:

- a clear theoretical model of behaviour change;
- motivated selection of target group or target individuals;
- targeting multiple dynamic criminogenic factors;
- methods with documented effectiveness;
- aimed at the improvement of specific skills;
- a clear description of the pedagogical aspects;
- warrants for programme integrity and quality control;
- regular evaluation and updating.

An application will ideally be accompanied by a number of manuals, on the theoretical background, on training, on programme execution etc.

Contrary to most other countries making use of accreditation procedures, Norway does not employ a scoring system. The reasoning behind this is that when one hires a number of highly skilled experts because of their critical abilities and their hopefully nuanced, well-informed and well thought out opinions on every single criterion, one should not then conclude by forcing them to quantify this in a score of 0, 1 or 2. The reasons for choosing a 1 instead of a 2 may at the end of the day be to a certain degree arbitrary, and the summation of several arbitrary decisions on multiple criteria may lead to a conclusion that is not fully in line with the member's overall opinion of the programme. The panel needs to reach a unanimous decision on whether a specific programme should be accred-

ited immediately, preliminarily or not, and the reasons for this decision must be stated clearly and extensively, so that the applicants may take the comments with them in their attempts to improve the programme if necessary and possible.

Annual reports on accredited programmes must be delivered to the panel on progress, possible changes and recent developments in research. Five years after accreditation the programme needs to go through a whole new application procedure. The main problems concerning programmatic activities are in connection with the relatively short sentences and the small number of offenders with a penal sanction. These two factors, combined with Norway's remarkable geography and transportation infrastructure, make it very difficult to execute group-based programmes. A large enough group within a desired framework of place and time is more of an exception than a rule. This may also lead to certified instructors losing their licence because of a too long period of inactivity.

#### **4.3.3.6 Procedures concerning security**

In the course of 2005, 2006 and 2007, a project concerning security in the Correctional Services (Sikkerhet i kriminalomsorgen SIK) was developed and implemented in all sectors. Prisons and probation units alike were instructed on risk-assessment, risk-management and security measures.

The Norwegian penal system is based on humanistic principles and an individualised execution of sanctions. There is a fine balance between protecting the community against further crimes and creating possibilities for the offender to return to that same community better equipped for a law-abiding life than before. In addition, the safety of the correctional staff enters into the equation. In such a vulnerable situation, all involved need to be able to identify and recognise potentially risky situations, and will need to understand how their actions may have consequences in a larger context. This is the central issue in the SIK-project. It intends to increase the quality in safety-management, ensure a continuous focus on the "culture of safety" and secure a systematic study of deviance from routines.

The Norwegian Correctional Services further consider protection of the position of the offender to be an important element in safety-management. The offender and his close relatives shall be able to feel safe and secure during the execution of the sentence and not become a victim of injury or insult, violence or threats or any other type of pressure. Equality in worthiness, common rights and opportunities, non-discrimination and equality in treatment are central values in penal law and in the execution of sentences. Humanistic values, impartial treatment, generally recognised human rights and respect for the value of the human being shall be the basis for the work of the Correctional Services. To keep to this value system is a central aspect of security and safety policy and these elements are stressed very strongly both during the two-year training for prison officers and in the SIK-project.

#### **4.3.3.7 Procedures concerning control of the use of alcohol or narcotics**

Almost all penal sanctions that the Probation Service is involved in include in some way and to some extent prohibitions as to the use of alcohol or narcotics. Paragraph 56 of the Execution of Sentences Act treats investigation in connection with the conditions or ban on intoxicants, or as a consequence of suspicion that the convicted person is under such influence when appearing; this goes for all sanctions the Probation Service may be involved in: community sentence, Drunk Driving Programme, conditional release and home detention. If the court has imposed such conditions, the Correctional Services shall investigate whether the condition or prohibition is being complied with. The investigation may entail unannounced visits to the person's home. When a ban on intoxicants is imposed, the Correctional Services may order the offender to provide a urine sample, a breath specimen or a blood specimen, or to cooperate in some other investigation that may be carried out without risk or particular discomfort. Only health-service personnel may take a blood specimen. If there is reason to assume that the offender is under the influence of intoxicants or anaesthetics when appearing, the

Correctional Services shall investigate the matter as soon as possible. Measures that are part of such an investigation do not lead to a reduction in the number of hours of the sentence. The Correctional Services Staff Academy published a manual on control measures and methods in 2006<sup>13</sup>.

#### **4.3.3.8 Procedures concerning foreign nationals**

The principles of international penal law state that a penal sanction shall be executed in the country where the sentence has been imposed. However, from the point of view of rehabilitation and social relations, a transfer to the offender's home country for further execution may be considered expedient. In a circular from 2007 the Ministry of Justice states further routines for the treatment of such cases, in order to secure a quick and effective process of transfer. The circular applies to all penal sanctions, including community sanctions.

#### **4.3.3.9 Preferred working methods**

In accordance with the intentions of the Professional Strategy plan, the Probation Service makes more and more use of the technique of motivational interviewing as developed by Miller and Rollnick<sup>14</sup>. The Staff Academy provides extensive course activity concerning this method both on its own premises and out in the field. The basis for most programmatic activities lies in the use of cognitive behavioural theory and social modelling.

### **4.4 Post release phase**

#### **4.4.1 Probation or conditional release from prison sentence (Prøveløslatelse)**

The Execution of Sentences Act § 42 states that a prisoner may be conditionally released when he or she has served two-thirds of an unconditional imprisonment sentence – including a possible period in remand – and a minimum of 60 days. The decision is made by the Correctional Services, in this case instigated by the prison where the offender is serving his or her sentence. Conditional release for a remaining period of less than fourteen days will only be granted when there are exceptional reasons for doing so. Conditional release may also be granted in cases where the offender is serving the sentence, in whole or partly, in a treatment institution, a hospital, a halfway house, home detention etc. In exceptional cases and for serious reasons a prisoner may be released when half of the sentence – and minimally 60 days – have been served. In some cases the actual release may take place a short time before the formal release date. Important elements in the decision to grant conditional release are the offender's behaviour during the execution of the sentence, and whether there are reasons to assume that the offender

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<sup>13</sup> Janne Helgesen (red.) (2006) *Rusmiddelkunnskap for tilsatte i kriminalomsorgen*, Oslo: KRUS.

<sup>14</sup> Miller, W., & Rollnick, S. (1991). *Motivational interviewing: Preparing people to change addictive behavior*. New York: Guilford Press.

will commit further crimes in the probation period. If it is deemed important for the victim in the criminal case or for the bereaved to be made aware of the time of release, the Correctional Services must inform them beforehand. The probation period ends when the original sentence would have ended. During the whole period of probation a general condition allies that the offender will not commit further offences.

Where it is seen as necessary for a secure probation period, the Correctional Services may impose conditions to the extent that the offender will have to meet with the Probation Service for a specific period of time. The offender must be sober at these meetings. Conditions that may be imposed, include:

- keeping to certain requirements as to place of residence;
- meeting in a sober condition with a public authority, person or organisation which the Correctional Services has pointed out;
- keeping to certain requirements as to treatment;
- keeping to certain requirements as to accommodation, work or education;
- refraining from contact with certain persons.

In case of breach of one or more of the specific conditions, the Probation Service will call in the offender, which usually results in imposing stricter, or more conditions and informing him of the consequences of further breach of conditions. In case of further breach of conditions, the regional level of the Correctional Services may take the case to court and propose imprisonment for the whole or the remaining part of the probation period. When a new offence is committed, this will also be considered a breach, but here it is the prosecution that takes the case back to court with a demand for re-imprisonment. Conditional release is a part of the prison sentence; it is a form in which a prison sentence may be executed. It requires a good co-operation between the prison the offender is released from and the Probation Service unit, starting some time before the release date. Worth mentioning in this respect is a project in Oslo that deals specifically with prolific offenders, where prison officers and probation workers work very closely together during the period around conditional release.

#### **4.4.2 Probation or conditional release from preventive detention (Prøveløslatelse fra forvaring)**

Preventive detention may be imposed on dangerous, sane offenders when an ordinary time-limited prison sentence is considered to be insufficient in the light of public protection. It is the only sanction under Norwegian penal law that is of indefinite duration, but the court shall nevertheless set a timeframe. As such, it is not a sentence but a measure that is based to a higher degree on the person of the offender and his or her assessed danger to the public rather than on the intrinsic seriousness of the offence in question. It usually implies that a minimum time and sometimes a maximum time of incarceration are defined in the measure. When the period of preventive detention approaches its end, the dangerousness of the offender may be considered again. If the court decides – after taking into account the advice of specialists and of the high-security prison institution where the sentence has been served – that there still is a serious danger for re-offending, the detention period may be prolonged up to a maximum of five years at a time. There is no upper limit to preventive detention, so that the measure

may in practice turn out to be a life sentence. Yet also preventive detention may result in conditional release or probation.

The regulations for the conditional release from preventive detention are in practice much like those for conditional release from a prison sentence. However, they find their legislative basis in the Penal Code and not in the Execution of Sentences Act. It is in this case not the Correctional Services that decide to release on probation, but the court in the jurisdiction where the offender is serving his or her preventive detention. However, the process starts with the offender or the Correctional Services requesting conditional release at the prosecutor's office. The prosecutor takes the case to court if he agrees with the request. If a minimum period of preventive detention has been established, the offender shall not be conditionally released before that period has ended. The period of probation shall vary from one to five years.

The court is not obliged to impose a follow-up by the Correctional Services on conditional release and may formulate other conditions. When the court has decided to grant conditional release and the Correctional Services given the role of following up the offender, the Correctional Services may impose specific conditions connected to the probation.

Conditional release from preventive detention demands much co-operation between prison and probation. Usually, the prison starts working with the offender's reintegration some time before the conditional release becomes an option. A successful process requires contact with the Probation Service at an early stage. This is also the case with conditional release from a prison sentence, but here it is even more important because of the longer period of detention normally involved, the history of the offender and the offences he or she has committed, which often include serious violent or sexual offences. Many offenders will need to start from scratch, which makes an intensive and well-managed working method to a prerequisite for success.

Control measures during the probation period include home visits; both announced and unannounced to check whether the released complies with the total prohibition of the use of alcohol or drugs by breathalyser or other tests. The supervision may also include obligatory meetings with the Probation Service or with for example a treatment institution.

Upon breach of conditions, the prosecutor takes the case to court. The court may decide to impose a new period of preventive detention or change the duration or conditions connected with the conditional release.

#### **4.4.3 Home detention**

Norwegian law opens for the possibility to execute a prison sentence outside prison (§ 16 Execution of Sentences Act). If it is a necessary and appropriate means of ensuring the continuation of a particularly positive development and the counteraction of new criminality, the Correctional Services may transfer a convicted person for execution of sentence outside prison subject to special conditions when half the term of the sentence has been served. In such cases, the offender is not regarded as "released" from prison. No such decision to transfer shall be made if the purpose of the sentence or proper security considerations in regard to its execution contraindicates this. It is a precondition for execution of

sentence outside prison that the convicted person shall have a permanent residence and be employed in a form of work, training or other measures. In practice, this implies home detention. The convicted person shall also avoid the use of intoxicants, anaesthetics, hormone preparations or other chemical substances that are not lawfully prescribed. The Correctional Services may lay down special conditions, for example that the offender:

- undergo treatment;
- participate in a programme;
- take specific prescribed medicines;
- comply with provisions concerning where to stay, or
- avoid the company of specific persons.

The Correctional Services may abolish fixed conditions, amend them or lay down new conditions if it appears necessary for a properly secure execution of the sentence. The Correctional Services shall check that the convicted person complies with preconditions and fixed conditions. As a step in such control, measures pursuant to section 56 may be implemented. In the event of breaches of conditions or preconditions, or if it is probable that a convicted person has committed or will commit a criminal act or will evade execution of the sentence, the provisions concerning return to prison in section 14 fourth and fifth paragraphs, shall apply.

#### **4.4.4 Voluntary work**

The Norwegian Probation Service makes little use of voluntary workers. In some cases, when the distance between a probation unit and a work-place for someone on unpaid work as part of a community sentence, the contact-person on the site functions as a supervisor on behalf of the Probation Service. He or she will receive a small compensation. Otherwise, the Probation Service does not make use of volunteers. Probation co-operates however with many different organisations in a local context, and among these are several voluntary ones.

#### **4.4.5 Pardon and amnesty**

Individual pardon can be given to persons ordered to unsuspended sentence and therefore also in case of a community sentence. A prison sentence may not be changed into a community sentence through individual pardon. Amnesty may only be given by means of an act in Parliament. The Probation Service is not directly involved in pardon and amnesty.

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

There is no statutory aftercare in Norway. Clients who have served their sentence and released after completion of the sentence or released on parole without supervision are not the responsibility of the Probation Service. If the client is not already a social client, and if he needs some support after the supervision period, he will be referred to social service agencies. Old clients may turn up if they need some help in writing a letter or complaint and the Service will give advice if needed.

Much of the client work of the Probation Service involves helping the offender through the maze of officialdom that may be met when applying for various benefits and help. For this reason it is of great importance to have a thorough knowledge of other agencies, governmental bodies and relevant procedures. The (re) integration of the client into the community is seen as an essential part of the work, and to this end successful co-operation with the employment agency/social services/health services and schools etc. can be decisive.

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

### **5.1 Finances**

Normal operation costs of the Probation Service are met in their entirety by funds from the government. These are distributed by the central level of the Correctional Services through the budget of the Ministry of Justice to the regional level. The regional level has its own monetary arrangements with the local operational units. For 2006 the total budget for probation work was around 143 million Norwegian kroner, which amounts to a sum of around 18 million euros against the average course that year. In the course of 2006, an amount of around 15 million Norwegian kroner was added to the Probation Service's budget as a result of an extra effort to clear away the waiting list for community sentences, to be used on the creation of new jobs. The waiting list is defined as the number of sentences that have not yet gone into execution two months after reception by the Correctional Services. The list amounted to around 350 community sentences in the summer of 2006, and was reduced to around 135 a year later.

### **5.2 Accounting**

The process is carried out through the use of distributive letters (tildelingsbrev) from the central level to the regional and from the regional to the local. In these letters, policy guidelines are issued and the production levels and budgets for the various activities are stated. Before these are established, the local and the regional, and the regional and the central levels meet and discuss the various aspects of the contents of the distributive letters. Each year, specific result-indicators are identified that serve as a form of quality control. For the Probation Service, the important result-indicators are the percentage of unpaid work that may go into community sentences at an aggregate level, being 70 % for most regions in 2007, and the number of community sentences that have not started within two months after they have been received by the service – which should be zero. Furthermore, the number of programmes to be executed by or under the responsibility of the Correctional Services is decided upon by means of the distributive letter.

### **5.3 Registration systems and evaluation procedure**

The Probation Service uses a computer based case-register and information system. This system, known by its acronym, KOMPIS-Kif, is in use in all probation units. KOMPIS-Kif provides a case management system benefiting practitioners and management at all levels. There are – limited – possibilities to extract policy information from the system. In specific cases, a connection with the prison registration system KOMPIS-Kia may be established, for example in the case of conditional release, when an offender is transferred from the Prison Service's responsibility to the Probation Service's. Police, Prosecutor or others do not have access to the database. A case record, which will contain all documents regarding the offender, will be opened and registered by the secretarial staff. The secretary, together with the supervisor, has a responsibility to ensure that the case record is at all times kept up to date. At the termination of supervision, the secretary will ensure that the case record is filed according to directives. The case record contains the following:

- a copy of the probation order and the sentence;
- pre-trial report (if prepared);
- supervision journal that will contain the following information: name, address, marital status, date of birth and ID number, record of work and school history, extract of the premise for sentence, the sentence, name and address of the supervisor, copy of all correspondence, record of all contact with the offender and other persons or institutions regarding the offender or his case.

Before filing, a final report with a brief summary of the supervision period will be appended. No other information is allowed in the files.

In a letter from 1984, the Head of the National Archives (Riksarkivet) in Norway states as his opinion that case records shall to be stored and sealed for a period of 25 years by the registering organisation. The seal may be broken during this period only with the consent of the Data Inspectorate (Datatilsynet). After 25 years, part of the material shall be stored indefinitely, while the remaining shall be destroyed. It will however be considered acceptable when 10 % of the material is sent to the National Archives for storage and 90 % is destroyed. This led to a practice where the case records for all who were born on the 1<sup>st</sup>, the 11<sup>th</sup> or the 21<sup>st</sup> of the month were sent to the National Archives. In the meantime, new legislation rendered decisions as to destruction of records by the Correctional Services or by the Data Inspectorate subordinate to decisions by the Head of National Archives. New rules are being developed at the moment, and while this process is in progress, no records are allowed destroyed.

The law regarding confidentiality (taushetsplikt) has as a starting point the premise that no such information shall be divulged. To be allowed to pass on information the organisation must be able to refer to one or more points of the law that permit the exception. The client has the right to view all documents in his case record. An exception here may be a document that another part of the law allows withheld, e.g. a psychiatric report or internal working documents. The public prosecutor is privy to all information in a case record. The client may give his consent to certain information being imparted to a relevant third party. This may be done for example, where the Probation Service is acting on his behalf in meetings regarding potential employment. The employment authorities have a need to be informed of details that may preclude certain types of employment. If the client refuses to give his consent, The Probation Service may decide to impart

this information anyway. This will be done in cases where the offender is seen to represent a real danger to the life or health of others.

No information will be passed on to private individuals or non-official organisations without the expressed wish of the client. Registration is subjected to the Personal Data Act. In 2006, a project was started aiming to renew the registration system of the whole of the Correctional Services in all its aspects. It will take several years to develop and implement this system.

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

The third evaluation report on the community sentence by Højdahl & Kristoffersen was specifically aimed at client's views. These are some of the results: The offenders were to a large extent satisfied with their sentence. Only 18 % believed the sanction they had received was too harsh. The researchers "interviewed 45 offenders, observed six interviews and received anonymous questionnaires answered by 268 offenders leaving the order. The overall impression is that the respondents are generally very pleased with the service. Ironically, this is at least partly due to a lack of expectations as to what to gain from the order when they were sentenced. Only 25 % of the respondents stated that they hoped to gain something from the order, which to some extent can be explained by the fact that almost two third had no former experience with the Correctional Services. Nevertheless, with few exceptions, the offenders appreciate the officers in the Probation Service. On a scale from 1 to 6 - 6 being top score - the average sum score is 5.3 when measuring three essential indicators of the quality of the relation between the officer and the offender: a) quality of information, b) the offenders' satisfaction with the content of the sentence plan and c) offenders' general relation to officer.

Young offenders under the age of 18 are more critical. Their average sum score is 4.6. Discontent with the service is generally expressed in areas related to the offenders' first meeting with the officer, the recruiting of participants into programmes and programme delivery, monotony and lack of learning potential of work and strains related to the difficulty of combining the service with personal obligations. In total, over 80 % of the offenders strongly believe they will not engage in further criminal activities in the next five years."<sup>15</sup>

The use of client satisfaction research is rapidly becoming an important feature of practice in the Norwegian Correctional Services. There have, among others, been studies in this connection on the work of the "personal officer" in prison and among remand prisoners, both of which have contributed greatly to the production of manuals in these contexts. This type of research is also recommended as an important form of evaluation in the accreditation process.

### **6 PROBATION CLIENTS' RIGHTS**

Decisions pursuant to the Execution of Sentences Act may be made at local level unless it is otherwise provided. As a general rule, the regional or the central level takes decisions concerning more serious cases or longer sentences. Appeals against such decisions must as a rule be treated by the next highest level. These decisions may include transfers to other types of execution or against specific conditions imposed by the Correctional Services.

According to Norwegian Law, offenders have the same rights as any other citizen, apart from those that the sentence has temporarily removed or restricted. In addition to this, every region in the Correctional Services has its own Supervisory Council. The Council supervises the prisons, halfway houses and probation

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<sup>15</sup> Højdahl & Kristoffersen, *ibid.* p. 9.

units in the region and sees to it that the offenders are being treated according to the rules and regulations. As a rule, the Councils will visit each unit three times a year. The County Governors are asked by the Ministry of Justice to propose members of the Council from the various counties in the region. The Ministry then appoints the president, the vice-president, the members and their replacements of the Council. The Council will then function for two years. The Council may take up a case at the request of an offender, or it can do so of its own initiative. The aim is to solve the problems locally. If such a solution is not reached or the Council deems it necessary to take the case to a higher authority, the Correctional Services regional level will be drawn in. The members of the Supervisory Council have the right to speak with the offender if the latter wish to do so, and without any staff members present. The members of the Council also have the right to attend meetings about the offender and may demand insight into relevant documents if the offender agrees to this. At the end of each year, the Council sends an annual report on its work with the prisons and probation units to the regional level of the Correctional Services. From there, the report is forwarded to the central level with comment from the regional manager. Juss-Buss, a group of law students, provides legal aid to persons who do not have the resources or money to solve their legal problems themselves. Many of their clients are prisoners, former prisoners and probationers. All lawyers may give free legal advice according to specific rules to people with restricted resources.

## **7 NEW DEVELOPMENTS**

The year 2007 is a very important one for the Norwegian Probation Service. Two documents are central in this connection. The first is a Law Proposition, accepted by Parliament in June 2007, where a number of measures are being proposed for removing the waiting list for prison sentences and community sentences. This is considered a matter of high priority for the current government. The second document, a White Paper on the future of the Correctional Services, does not exist yet, but the production process has begun and the rough outlines are clear.

As to the proposition of law, there are several aspects that have an effect on the Probation Service. For one thing the capacity of the service was increased with some 30 new jobs, specifically as a measure to reduce the waiting list for community sentences. This measure has proven to be effective, since the list has become more or less half as long since this measure was fully implemented towards the end of 2006. In order to also reduce the prison waiting list, which is considered to be a much larger problem, measures have been proposed to increase the use of community sentence instead of prison. These include an extension of the possibilities to combine a prison sentence with a community sentence. In addition, the use of home detention will be increased by extending the legal possibilities for this type of execution of a prison sentence. In connection with this, an experiment will be started with the use of electronic monitoring. There will most probably be a large role for the Probation Service in that respect. A third measure is the extension of the Drunk Driving Programme to a larger category of intoxicated drivers. Those sentenced for driving under the influence of narcotics or illegal or legal medication may also receive a conditional prison sen-

tence with the condition of being able to participate in the – adjusted – Drunk Driving Programme.

The actual contents of the White Paper is of course not known at the time of writing, but the general mandate states very clearly that a reduced use of imprisonment shall be the central element in this important political document. Much attention is given to alternatives to imprisonment and alternatives in imprisonment. There are also indications that principles of restorative justice will obtain a more prominent place. The Probation Service is very strongly involved in the whole process and the White Paper is expected to bear the marks of this involvement.

## **8 IMPORTANT PUBLICATIONS**

Most publications concerning Norwegian Correctional Services are only in Norwegian, some with English abstracts. The most extensive list of publications may be found at the following website:

<http://www.kriminalomsorgen.no/index.php?id=431829>

Specific information on the Norwegian community sentence may be found at the website of the CEP, under „publications“: report on workshop on community sanctions, Lillehammer, 2005.

<http://www.cep-probation.org/publications/reports/ReportOC2005-E.pdf>

## **9 CONTACT DETAILS**

All telephone- and fax-numbers must be preceded by +47 when called from abroad.

### **Central Level**

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Correctional Services IT-centre  
Kriminalomsorgens IT-tjeneste KITT  
Kirkeveien 61, 5<sup>th</sup> floor  
P.O. box 8151 Dep

0033 Oslo  
Tel. 33 08 43 00, Fax 22 93 33 30  
postmottak@kitt.no  
home page: www.krus.no/

Specialised library  
Kriminalomsorgens utdanningscenter - address above Criminal statistic data-bases  
Central bureau of statistics - Statistisk sentralbyrå,  
P.O. box 8131 Dep  
0033 Oslo  
Tel. 21 09 00 00, Fax 21 09 49 73  
ssb@ssb.no  
www.ssb.no/

Associations of Probation Services workers  
Norsk Fengsels- og Friomsorgsforbund - NFF  
Møllergt. 10  
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Association of convicted SON - Straffedes organisasjon i Norge  
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Association of relatives of prisoners  
Foreningen for fangers pårørende - FFP  
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## ANNEX 1

### 1. Criminal Statistics

#### Input offender statistics for Probation Service

**Table 1.1: Main sanctions executed by the Probation Service**

	2004	2005	Increase 2004 - 2005	2006	Increase 2005 - 2006
Completed hours commu- nity sentence	144 685	178 350	23 %	182 649	2 %
Number of started sen- tences community sen- tence	2 094	2 544	21 %	2 683	5 %
Started Drunk Driving Programmes	421	501	19 %	475	-5 %

**Table 1.2: Place of serving an imprisonment sentence, in days, 2005**

High security prison	743 725	65,2 %
Low security prison	307 604	27,0 %
Contract ward	12 920	1,1 %
Daytime release	26 672	2,3 %
Regular leave	15 110	1,3 %
In hospital	6 473	0,6 %
In a treatment institution	27 840	2,4 %
Total	1 140 344	100 %

**Table 1.3: Type of Imprisonment, in days, 2005**

Remand	213606	18,7 %
Prison sentence	859165	75,3 %
Preventive detention	27627	2,4 %
Fine default	39946	3,5 %
	1140344	100,0 %

## 2 Average offender population statistics

**Table 2.1: Probation Service activities on 1 September 2006 and 1 march 2007, in number of active cases**

Activity	1.9.2006	1.3.2007
Pre-trial report	246	261
Community sentence	999	1136
Conditional release from prison	340	276
Conditional release from preventive detention	25	29
Drunk Driving Programme	400	401
Home detention	7	15

### Some statistics on community sentences 2006

Community sentence is mostly used for fraud-related offences (18.4 %), theft (17.4 %) and dealing drugs (17.3 %). Categorised more broadly, property crimes are about 44 % of the all community sentences. Violent offences take up 17 %, and among these (N = 458) there are 85 for robbery (3 %). Sexual offences were sanctioned with a community sentence in eight cases.

**Table 2.2: Results in community sentence 2006**

Result	%
Completed without breach	58,9 %
Completed with new offence	3,2 %
Completed with breach of condition	22,9 %
Completed with new offence and breach of condition	0,2 %
Completed in total	85,2 %
Terminated because of new offence	4,2 %
Terminated because of breach of condition	7,0 %
Terminated because of new offence and breach of condition	2,3 %
Terminated because of various other reasons	1,2 %

Terminated in total	14,7 %
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### 3 Staffing statistics

**Table 3.1: Full-time equivalent posts in Norwegian probation**

Job code	15.06.2007	2006	2005	2004
Unit manager	18	18,5	19	17
Assistant unit manager	16,4	15,9	14,8	11,4
Senior adviser	3	3	3	0
Adviser	2,8	2	2	2,6
Senior consultant	11,5	8	6,3	5,5
First consultant	202,1	186,9	169,5	153,6
Consultant	22,1	22,8	18,8	18,2
Secretarial	21,5	21,8	25,6	24,2
Other	6,6	6,1	9	12,9
Total	304	285	268	245,4

The larger units have separate advisory posts. A number of (first) consultant-posts are secretarial. Sick leave in the Norwegian Probation Service varies strongly per county and numbers will often vary as a result of specific individual cases, since the total number of employees is relatively low. The numbers below are averages for the whole country, minus one region. They are therefore not complete, but give a good indication of the overall situation.

**Table 3.2: sick leave in the Norwegian Probation Service**

Year	%
2004	9,9
2005	7,4
2006	8,1

There are no official numbers on turnover rates within the Probation Service, but the general impression is that these are not very high.