

Chapter 26

Portugal

Isabel Antunes

1 HISTORICAL DEVELOPMENT OF THE PROBATION SERVICE SYSTEM

1.2 The start of probation in Portugal

The Probation Service appeared in Portugal as a result of the criminal reform of 1982 with the creation of the Instituto de Reinserção Social (IRS). Its main goal is promoting criminal prevention and rehabilitation of offenders through probation or detention measures (article 2 of the Decree-Law n^o 204/83, 20th May). Its creation is related with the vast movement of reforms of the criminal system initiated during the 70's (in this period we can distinguish reform of the courts of execution of penalties and the prison reform) and to the political transformations, which have occurred in Portugal since 1974, from the promotion of the social scope of the Rule of Law in the domain of the criminal politics, as well as of the impulse of reform activated by important figures of the universities, particularly professors of criminal law of the University of Coimbra.

1.2 Important developments

In the evolution of the Portuguese Probation Service, some periods of development can be identified:

A first period was marked by the necessity of affirmation and conquest of a proper space in the justice system. The philosophy of intervention of the IRS was oriented to a logic of social intervention justice that was confirmed by the mission of the IRS proclaimed in 1995 "to assure the social intervention with the objective of protecting the rights and interests of the minors, to prevent the social marginalization and the delinquency, contributing for a legal and socially integrated life " (article 2.º, n.º 1 of the Decree n.º 58/95, 31st March). The idea of necessities of social reintegration was diffuse, more connected to the socio-economic condition of the delinquent than to the factors more directly associated with criminal behaviour.

A second period, we can point out in the end of the 90's, was marked by the evolution of the guidelines in criminal politics in a different sense of the philosophy of intervention based on the concept of social intervention of justice, compelling the IRS to question the direction and limits of its intervention. At this time, contact with the new approaches in the field of the social reintegration started. Guided by the movement What Works with Offenders, the first steps were given towards the differentiation of interventions, in function of the type of crime and of the specific necessities of the agent; the necessity of adopting levels of supervision of differentiated intensity was recognized, in accordance with the risk and identified needs of social reintegration. The ample internal reflection promoted at this time led to the publication of the first orienting document of the action of IRS "Strategic Options and Goals in the beginning of the 21st century ". In this period we must also refer to the reorganization of the services of the Ministry of Justice, determining the transference of the competences related to the promotion of the social reintegration of the prisoners to the Prison Services

(Direcção-Geral dos Serviços Prisionais)¹ and by the reform of the Law of minors that recentred IRS in the intervention to the youth offenders and transferred the intervention to minor victims to the Social Security Services. The implementation of the Experimental Program of Electronic Monitoring (Vigilância Electrónica) as an alternative to pre-trial detention (prisão preventiva) that showed preoccupying numbers, was another important challenge in this institutional period.

A third period can be identified, from 2001, with the creation of work groups with the objective of defining national standards that would be implemented in 2003 and would be monitored through plans of supervision and evaluation of results.² The internal reflection and debates had led to the approval of a new orienting document "Strategy and Institutional Commitment 2003/2005 " that updated and reaffirmed the axiological frame of reference of the IRS, taking into account the previous strategic document, the evolution of the Probation Service, the Reformation of the Public Administration, which has already begun, and the international developments. In the beginning of 2005, in the sequence of the positive evaluation of the Experimental Program of Electronic Monitoring was extended to a national level. In 2007, the execution of the Program of Reorganization of the Central Administration of the State (PRACE) that extinguished the IRS and created in its substitution the Direcção-Geral de Reinserção Social (DGRS), focused only in adult and juvenile delinquency, opening thus a new period for the Probation Services.

1.3 Probation activities in nutshell

The activity of the Probation Services is developed, essentially, in the scopes of the technical assessment (assessoria técnica) to the courts (tribunal) and execution of penalties and measures in the community (execução de penas e medidas na comunidade).

1.3.1 Technical assessment to the courts

It corresponds to the technical support given by Probation Services required by the Courts, having in mind the individualization and the adequacy of the criminal reaction applicable and the social reintegration of the agent, materialized in the elaboration of social reports, information and expertises on the personality.

1.3.2 Execution of penalty and measures in the community

It consists in the development of mechanisms of supervision (controlo/vigilância) and assistance (apoio) to the convict, often implying cooperating with other public and private institutions for the resolution of some of the detected needs of social reintegration, such as employment, professional training, social security, health, housing, education and occupation of free time.

¹ This transference in practice didn't occurred causing important problems in the management of dynamics of work.

² In the penal area: assessment to the courts, in the pre-trial phase, and community service.

1.3.3 Brief evolution

The limitation of the role and recurrence of punishment by confinement, along with the recognition of the pedagogical potential and re-socialising penalties that do not lead to confinement constituted one of the pillars of the Portuguese sanction criminal system, given in the Penal Code (PC) of 1982. Among the kinds of penalties and measures executed in the community strengthened at that time, we can distinguish the introduction of the probation (regime de prova) and community service (trabalho a favor da comunidade). To promote the use of alternative sanctions, to surpass resistances to its application and to accommodate the recommendations of the Council of Europe, in the revision of the Criminal Code of 1995, probation was substituted while autonomous penalty (being now configured as one of the modalities of the suspended sentence – suspensão da execução da pena de prisão), reconfigured the community service and modified the legal frame of the conditional release (liberdade condicional). Following and motivating the options of criminal politics that have gradually stressed the non-custodial sanctions, and with the objective of affirming and giving credibility to them, the Probation Services have invested in providing information to the magistrates in particular and the community in general, showing in the last years a great increment in the sanctions with probation content and in community measures. In this subject we underline the contribution through the application of protocols of cooperation with some hundreds of public and particular institutions for the creation of practical conditions of execution.

1.3.4 Main penalties and measures

In the Portuguese sanction system we find penalties and measures of execution in the community with a probation content, that are based on the imposition to the offenders or condemned of certain conditions, duties, behaviour rules, with control and psychosocial support of the services of probation, provisory suspension of the prosecution – (suspensão provisória do processo), the suspended sentence, the conditional release, the psychiatric probation – (suspensão da execução do internamento de inimputáveis), the psychiatric parole – (liberdade para prova), community work - community service, and substitution of fine by work (substituição de multa por dias de trabalho) - where the Probation Services must assist the court in its application, to assure the practical conditions of execution are followed. Both the probation penalties and the community work have the volunteering and co-responsibility of the offender or the convict demanding his active participation as basis.

1.3.5 Actuation of the services of probation

In the probation sanctions, the probation officer (técnico superior de reinserção social) plans the supervision, identifies the objectives to attain and defines the strategies for its accomplishment. During the execution of the plan, the probation officer evaluates the degree of implementation and adapts it to the progresses or

failures of the convict to allow that at any moment, he can verify if the predefined objectives had been reached or not. The execution involves the constitution of an individual dossier where he writes and treats systematically all the relevant information. Periodic reports of execution are elaborated to the court, giving account of the evolution of each one of the supervised cases.

2 LEGISLATIVE BASIS AND MISSION

2.1 Legislative basis

The attributions and competences of the Probation Services are currently fixed in the Decree-Law n° 126/2007, 27 April and Decree Order n° 517/2007, 30 April and came from what is legislated in the criminal laws, concretely in the Criminal Code, Code of Criminal Procedure and other legislation. In its actuation they are subjected to the general laws that regulate the functioning and acting of the public services, which are regulated in the program of the government and the annual and multiannual plans of action, that include orientations on criminal policy, as well as the instructions emanated from the Ministry of Justice. Internally, technical orientations, which in the last years were centred in the qualification of the intervention of the Probation Services through the definition of national standards, are approved by the executive or General Director. In the criminal area we can distinguish the approval and implementation of manuals of technical procedures for the assessment to courts in the pre-trial phase (legal framing and strategies of intervention), for community service and electronic monitoring.

There is not an express definition in what concerns the offences or groups of offenders subject to probation, since rehabilitation is one of the purposes of the Portuguese punitive system, acting only when judicially required. The differentiation of the intervention was made taking into account the nature and content of the sanctions applied by the courts. The age of the offender is also a factor of differentiation; there is a specific criminal regime for young adults, aged between 16 and 21 years old (Decree n° 401/82, 23 September). For the youth offenders between 12 and 16 years old (age of the criminal liability in Portugal), who committed acts qualified by the law as crime, the Educational Guardianship Law (Lei Tutelar Educativa - Law n° 166/99, 14 September) foresees the application of measures aimed at the education for the law and their integration in the life of the community in a dignified and responsible way. The Probation Services can be requested to supervise the execution of the measures of educational custody, being legally responsible for the execution of intensive support and supervision orders (acompanhamento educativo - executed in the community) and detention in an educative centre (internamento em centro educativo). The Probation Services are responsible for the management of the National Net of Educative Centres.

2.2 Mission and mission statement

The Probation Services are currently assured in all the Portuguese territory by the Direcção-Geral de Reinserção Social (DGRS); having as legal mission to define and to execute the politics of criminal prevention and young adults social reintegration, namely by the promotion and execution of measures of educational custody and of penalty and alternative measures to prison (article 2° of the Decree-Law n° 126/2007, 27 April).

The mission, attributions and organic structure had been recently redefined in the framework of the process of modernization of the Public Administration in

Portugal; that implied the reorganization of the public services, especially to the level of the Central Administration where the DGRS is included. In this context the organisational diagnosis is updated and the strategic objectives are redefined for the next 3 years. So, having identified the main values of DGRS – to believe in the capacity of change, to ensure the promotion of human rights, to value the social reintegration, to help the community – and having evaluated the conditions (external and internal), with the commitment of all of the organisation, a Strategic Plan was made (2007-2009). We have chosen as strategic objectives the modernisation of DGRS, the qualification of the officers, the innovation of the processes and the introduction of new practices of management. As a way of applying them several specific objectives were defined to the different areas of actuation. For example:

- development, definition and implementation of national standards, particularly for the penalties and measures with probation content;
- development of programs of intervention with offenders, oriented towards the criminal behaviour in general and criminal problem in particular;
- Widening of the Electronic Monitoring to the execution of penalties;
- development of a strategy of inter-institutional cooperation;
- definition of the main vectors of cooperation with the prison services.

At the same time, to implement the strategic options and qualify its mission, DGRS elaborated a list of initiatives, which want to see converted in several projects, having in mind the presentation of candidatures to financial programmes, in the ambit of the National Strategic Reference Framework (QREN), for Portugal under the cover of the community policies of economical and social cohesion for the term of 2007-2013. We can give evidence to those related to the execution of the strategic management, formation, intervention near the aggressors in the context of domestic violence, intervention near sexual aggressors and the construction/preparation of transition houses (casas de reinserção social)³

2.3 Crime prevention

The work in the scope of the criminal prevention (prevenção criminal) has been essentially developed in cooperation with other public and particular institutions, financed in a European as well as in a national level; the Probation Services are involved in some programs and projects directed to social groups with specific problems such as unemployed, drug addicts or former-prisoners. Examples of these projects are "Opportunities", "Free" and "GPS" financed by the Communitarian Initiative Equal. In the area of juvenile delinquency, integrated in the European Programme "Prevention of and fight against Crime" of the European Commission, General Directorate of Justice, Freedom and Security, were presented the candidatures to the following projects: "Juvenile Justice.

³ Having in mind prevent reoffending and promote social reintegration of individuals (accomplishing probation measures or after the accomplishment of custodial sanctions) in the absence of stable residence or social and familiar framework, through three structures of transition houses.

Formate and Integrate” and “Prevent the Juvenile delinquency, namely the recidivism, through the qualification of the intervention”.

On a national level, the Probation Services can be requested to participate in the National Plan of Action for the Inclusion, in the National Plan against the Drug and the Drug Addictions and the National Plan of Employment. However, it is recognized that the necessity of directing the resources for the activities of technical assessment to the courts and for the execution of alternative penalties to prison determined by the courts, have not been effective priorities of Probation Services in the criminal area.

2.4 Victim protection

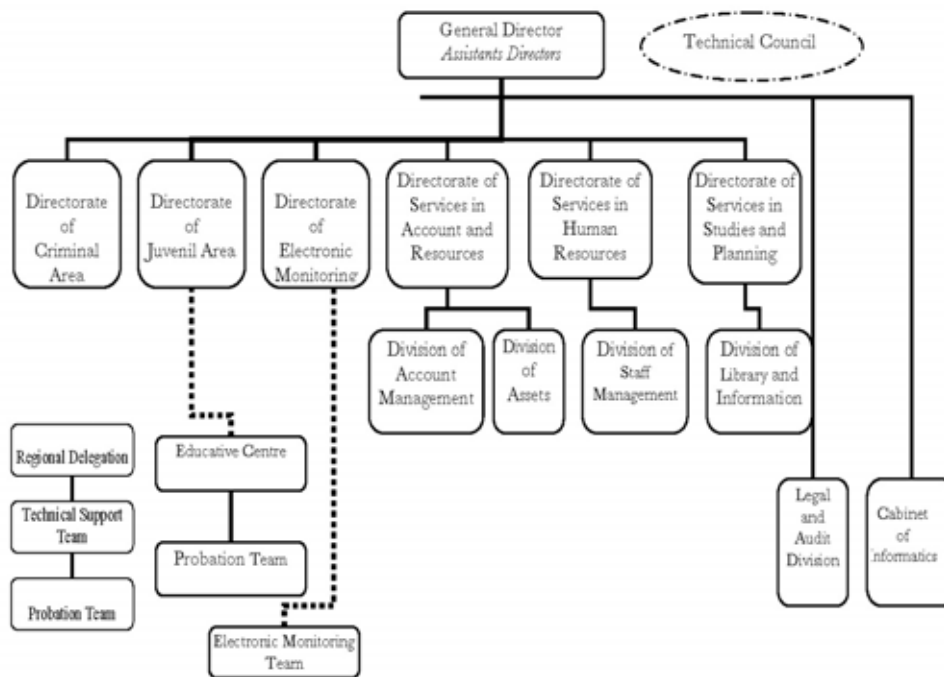
The Probation Services can be requested, in the pre-trial phase, to elaborate social reports on the victims of crimes, as well as giving support and supervision to especially vulnerable witnesses, in accordance with Law n° 93/99, 14 July. Because the legal concept of especially vulnerable witness does not correspond to the procedural statute of witness, it could include victims of crime that put their life, physical or psychic integrity, freedom or capital assets of considerable value in danger because of their contribution to the evidence of the facts. Anyway, the intervention of the Probation Services in this area is rare. The "Portuguese Association of Support to the Victim" (Associação Portuguesa de Apoio à Vítima) has an important role in the information, protection and support of the victims of crimes and their family and friends. Through a network of support and shelter houses, it provides emotional, legal, psychological and social support, in a gratuitous and confidential way, to crime victims.

3 THE ORGANIZATION OF PROBATION SERVICES

3.1 Main characteristics

The DGRS is a central service of the direct administration of the State and dependent on the Ministry of the Justice, endowed with administrative autonomy. In the scope of the preparation of the conditional release and the psychiatric parole, the DGRS collaborates with the Prison Services (DGSP), the service dependent on the Ministry of the Justice that is responsible for the management of the prison system, namely security and execution of the custodial sanctions. Very recently, by the Law n° 21/2007, 12 June, was created a regimen of criminal mediation, in execution of the article 10° of the Framework Decision n° 2001/220/JAI of the Council, that will be in an experimental period during two years, foreseeing the intervention of de Probation Services if the agreement between the offender and the victim is not fulfilled.

Figure 1: Organisation chart of the DGRS:



Operative Area

Support Area

3.2 Internal organization

Besides the Central Services offices, located in Lisbon, which assume essentially functions of management of resources, technical coordination and support to the operative activity, the DGRS has Regional Delegations - organic units decentred with an area of action corresponding to the territorial divisions (level II of the Nomenclature of Territorial Units for Statistical Ends, in short NUTS) and 9 Educative Centres. The Regional Delegations, with headquarters in Porto (Regional Delegation of the North), Coimbra (Regional Delegation of the Centre), (Regional Delegation of Lisbon) Lisbon, Faro (Regional Delegation of Algarve and Alentejo⁴), Funchal (Regional Delegation of Madeira) and Ponta Delgada (Regional Delegation of the Azores) integrate Social Reintegration Teams (44), with a territorial base and communitarian implementation or near central and special prison establishments, whose activity co-ordinates and supervises. In the area of the Electronic Monitoring there are 10 teams of Electronic Monitoring which enclose the domestic territory, functioning uninterruptedly twenty-four hours per day, in the execution of the alternative measure to the preventive custody Obligation of Permanence in the Habitation; and one team designed as National Centre of Supervision of Operations (CNAO), that also functions

⁴ The Regional Delegation of Algarve and Alentejo has two territorial units.

permanently and is responsible for the supervision of the activity of monitoring of the territorial teams and supply the monitoring when these teams have to make an interruption. The set of teams of Electronic Monitoring and CNAO have a central coordination currently constituting the National System of Electronic Monitoring (SNVE).

The probation teams are constituted by probation officers, responsible for the development of the technical operative activity and direct work with the offenders. Each team has the logistic and the necessary human resources for the development of its work, having administrative support for the tasks of secretariat, mail, archive, as well as in the areas of staff, accounting and stewardship. It is co-ordinated by a Senior Probation Officer that reports, in first place, to the Regional Commission agent or Director of Services of the Electronic Monitoring, in the case of SNVE, and is responsible for the management of teams, analysis, planning and supervision of all the technical work; he also assures the relations with the judiciary entities and other public services and particular entities, in the area of the territorial competence of the teams.

Supervision and technical support to the operative activity: the Probation Services are structuralized in a way to guarantee supervision and technical support. The probation teams follow the methodology of teamwork, promoting the discussion of cases with regularity, at least weekly. It is equally assured technical support by the Regional Delegations and Central Services offices, through specialized department's technicians. In the regional services there are staff specialized in giving technical support and following the activity in the land. In the Central Services offices, there are units of technical coordination of the operative activity, responsible for the conception, implementation and supervision of the execution of technical guidelines, functioning in narrow articulation with the regional services.

3.2.1 Probation workers

The workers of the Probation Services are today mainly public officers, nominated definitively to exert functions in the Public Administration. This is not the case in electronic monitoring teams and probation team of the Autonomous Regions of Madeira and Azores. For those positions, people have been contracted for periods up to three years following political orientations that have not allowed the recruitment of new public officers. Thus in DGRS workers with labour bond of public nature (83,1%) and private (16, 9%)⁵ coexist. In 31st December of 2006, there were 1,600 workers in the Services of Probation, of which 790 (49%) in teams of probation and electronic monitoring, 542 (34%) in educative centres and 268 in not operative units (17%), distributed in the following professional groups:

⁵ Data of 31st December 06, referred in the Social Balance of former IRS

Table 1

Managers	52
Senior Officers	90
Probation Officers or equivalent	609
Deputy Probation Officer	346
Administrative leadership	18
Administrative	261
Assistants and workmen	225

In the development of the activities of probation we can distinguish two professional careers with operational functions (probations officers), which represent 60% of the staff of the DGRS to whom the following functions and responsibilities are committed:

3.2.1.1 Probation officer⁶

He develops tasks in the operative area of probation of delinquents, giving technical assessment to the courts in the scope of the criminal proceedings and the processes of educative custody, executes educative custody measures and alternative criminal measures to prison and develops actions and projects of criminal prevention, namely in the domain of the prevention of youth delinquency. In this scope he elaborates information, reports, expertises and plans of execution of measures applied by the courts, gives psychosocial support to adult and young offenders whose action of the DGRS is directed, supervises and controls the fulfilment of obligations, rules of behaviour and tasks or community measures, assures the link with the family of the users and with services and entities intervening in the process of probation and or in actions and projects of criminal prevention. He guides and supervises the work of other professionals, professional technicians, namely, of social reintegration. He gives technical assessment of a high degree of qualification and responsibility in the areas of the social reintegration of delinquents and criminal prevention, assuring tasks of consultancy, technical coordination and equipment and programs management, in the scope of the attributions of the DGRS. When the exercise of his functions implies displacement, he drives cars belonging to the service, since he has legal qualification for that.

3.2.1.2 Deputy probation officer⁷

Under orientation of managers, coordinators and senior officers and applying norms and instructions, he performs his functions of technical support in the operative area of social reintegration of delinquents, pointedly in the domain of the execution of sentences that apply educative custody measures and alternative penalties to prison, individually or integrated in teams. In the scope of the

⁶ Attachment II of the Decree-Law n° 204-A/2001, 26th June.

⁷ Attachment II of the Decree-Law n° 204-A/2001, 26th June.

execution of educative custody and criminal measures in the community he assures tasks of supervision of adults and youths , under the orientation of the responsible senior officer, namely to verify and control the accomplishment of obligations, rules of behaviour and community measures, establishing contacts with services and intervening entities in the educative process and of social reintegration, collaborating in the preparation, execution and evaluation of plans of execution of the measures, as well as in the elaboration of information, reports and other technical instruments. He executes other tasks in the scope of the operative activity, namely collaborating in actions and projects of prevention of the juvenile delinquency and in the technical assessment to the courts. When the exercise of his functions implies displacement, he drives cars belonging to the service, since he has legal qualification for that.

3.2.2 Education, training requirements and opportunities

Probation officers (Técnicos Superiores de Reinserção Social or TSRS) are recruited among college graduates in the areas of Social Sciences, mainly social service, psychology, sociology and law.

The admission in the TSRS career is conditional by the approval in the period of training of probative kind with the duration of 12 months. The period of training is structuralized in two phases (phase of reception and sensitisation and theoretical-practical phase) obeying a plan, considered by the person who orientates (a TSRS with, at least four years of experience) and approved by the Director-General or the Regional Delegate. In the end, a jury assigned for this task evaluates the period of training; the evaluation is based on the results gotten in the formation actions, the evaluation of performance and the individual report of the period of training.

The Services of Probation guarantee specific initial formation and continuing training on the system of justice, legal framework of the activity of the services probation, tools, orientations and methodologies of work, being assured that the plans of implementation of national standards contemplate formation for probation officers that are going to apply and to evaluate them. In the last years, thematic meetings of a regional level have been promoted which allow the joint reflection on some areas of activity and the sharing of good practices. The development of professional skills by the participation in courses, seminaries, conferences and congresses, organized by different public and private entities are equally promoted.

The rules on the frequency of the formation, external and internal, are established in the "Regulation of Functioning of the Formation", available in the Intranet of the DGRS; also published there are the external actions of formation with interest for the staff of the DGRS. Institutionalising the obligation to send to the Library of the DGRS manuals and another documentation gotten in formation context makes them accessible to all.

3.2.3 Other organizations involved in probation work

The Probation Services, in terms of its attributions, must contribute for a bigger involvement of the community in the administration of criminal justice and

educative custody, through the cooperation with other public or particular institutions and citizens who have objectives of prevention of crime and probation. In this direction, one has proceeded to the promotion of alternative measures to prison and the application of agreements and protocols of cooperation; particularly distinguished are the actions of Beneficiary Entities of Work (Entidades Beneficiárias de trabalho) in the case of the community work that presently has 695 protocol led entities and 1,400 entities without formal protocol. In the scope of the cooperation we must refer to the participation in networks of partners, for example the Regional Nets of Employment and the Social Market of Employment and the Social Net, as well as the articulation with the Centres of Attendance to Drug Addicts

4 PROBATION IN DIFFERENT PHASES OF THE CRIMINAL PROCESS

4.1 General

The system of criminal sanctions, composed of a set of sanctions and measures to protect public safety (medidas de segurança) applicable to legally responsible and not legally responsible persons aged more than 16 years, is defined in the Criminal Code (Código Penal), although some of the penalties and measures are regulated in complementary statutes, as is the case of community service and electronic monitoring (Decree-law nº 375/97, 24 of September and Law nº 122/99, 20 of August, respectively). The Code of Penal Procedure (Código do Processo Penal) contains the legal definitions of Social Report⁸ and Information of the Services of Probation ⁹[article 1.º, g) and h)] establishing the custody, its effect and cases where they are required. In 2005, a reform of the criminal legislation was initiated, integrated in the set of a reform that the Government, in accordance with its program, intended to carry on through the system of criminal justice and that includes the revision of the Criminal Code and the Code of Criminal Procedure. The new criminal legislation was published in September 2007, conceived new penalties to substitute the punishment by confinement and extend the scope of application of the already existing ones.

⁸ Social Report – information on the familiar and socio-professional integration of the offender and eventually of the victim, is having the aim of assist the court or the judge in better knowing the personality of the offender.

⁹ Information of the Services of Probation – answer to concrete situations about the personal, familiar, school, labour situation of the offender and eventually of the victim, having the aim of assist the court or the judge in better knowing the personality of the offender.

Table 2: Activities of probation during the different stages of criminal procedures

	Pre-Trial Phase See: 4.2	Trial and Enforcement Phase See: 4.4	Post-Trial Phase See: 4.4
Preparing social report on measure of coercion (213-4 CCP)	x		
Preparing social report to provisory suspension of prosecution (281 and 282 CPP)	x		
Preparing social report to provisory suspension of prosecution (281 and 282 CPP)	x		
Preparing previous information for electronic monitoring (201 CPP and Law 122/99, 20 th August)	x		
Supervision/assistance to offenders with provisory suspension of prosecution (281 and 282 CPP)	x		
Mediation/victim support (Law 93/99, 14 th July ; Law 21/2007, 12 th July)	x		
Supervision/organizing community service (282 CPP; 58 and 59 CC; Decree-law 357/97, 24 th December)	x	x	
Supervising drug/alcohol treatment programs (Law 15/93, 22 nd January)	x	x	
Supervising electronic monitoring (201 CPP; 44 CC; 62 CC; Law 122/99, 20 th August)	x	x	x
Corrective measures applied to young adult offenders (Law 401/82, 23 rd September)	x	x	
Substitution of fine by work (48 CC)		x	
Pre-sentence report (370 CCP)		x	
Supervising sanction of probation	x	x	
Supervising suspended sentence (50-57 CC)		x	
Supervising the mental ill or retarded offenders (in-out patient orders) (94, 95, 98 CC)		x	
Supervising special measures for drugs addicts (Law 15/93, 22 nd January)	x	x	
Supervising/assisting conditional release or parole		x	
Advisory report with respect to pardon (164 – f ,CRP; Decree-law 783/79, 29 th October)		x	x

4.2 Pre-trial phase

4.2.1 General

In the pre-trial phase, the inquiry¹⁰ and the instruction¹¹, the Probation Services answer the requests of the judicial authority, not having any intervention in the detention of the offenders. They can be requested to intervene in the technical support to the decision on the measure of coercion to apply to the offender and its alteration, in the supervision and control of the execution of some of them, as well as watching and supporting the offender in the provisory suspension of the prosecution. The models of report/information adopted by the Probation Services in this phase are defined in Manual of Procedures, assigned as "Legal framing, and strategies of intervention - Technical Assessment to the Courts in the Pre-Trial Phase, in the Criminal Jurisdiction".

4.2.1.1 Measures of coercion (medidas de coacção)

Although the Code of Criminal Procedure (?) gives expressly only the social report for "re-examination of the presupposed of the pre-trial detention" (reexame dos pressupostos da prisão preventiva - article 213^o, n.º 4), has been assumed the technical assessment requested for other measures of coercion, having in account the legal objectives of the services of probation in the promotion of alternative measures to the arrest and the function of the social report in these matters. Thus, officially by order of the judge or by request of the Public Prosecution Service or the offender, since that this last one agrees in its accomplishment, the Services of Probation, respecting the constitutional principle of the presumption of innocence until the conviction, as well as the principles of minimum intervention and of the proportionality, elaborate:

- report/information on the measure of coercion;
- report/information for revision of measure of coercion already applied;
- previous information for electronic monitoring;
- expertises on the personality of the offender for a decision on the revocation of the pre-trial detention.

4.2.1.2 Execution of house arrest monitored by means of long-distance control (electronic monitoring, or EM)

Foreseen in the article 201^o Criminal Code Procedure and regulated in the Law n^o 122/99,20 of August, for the cases where we can verify strong indications of

¹⁰ The inquiry is directed by the Public Prosecution Service, assisted by the criminal police and joins together the gather of diligences that envisage the existence of a crime, to determine its agents and their responsibility and gather the proofs having in mind the accusation. (articles 262 and 263 of CPP).

¹¹ The instruction has a facultative character, is directed by a judge of criminal instruction, assisted by the criminal police and envisages the judicial confirmation of the decision of deducing the accusation or storing the inquiry, and to lead or not the case to trial. (articles 268,n^o1 and 2 and 288,n^o1 of CPP).

punishable felony with punishment by confinement maximum superior to three years. It is determined by order of the judge, who specifies the places and periods of time where it is exerted. The installation of the means of electronic monitoring is initiated after, that is when the probation officer delivers to the offender a document where the duties to which he is obliged consist namely in information on the periods of monitoring, as well as, a guide of procedures to observe during the execution. To execute the EM, the Probation Services had created and keep functioning ten permanent Teams of Electronic Monitoring that covers all the domestic territory and assures all the inherent procedures to the execution of the measure. To assure and to keep the functioning of the telematic means contracted the services of a private company. All occurrences are detected by the system and reported immediately. They initiate a reaction on the part of electronic monitoring team and in case of an anomaly the measures necessary are taken quickly to try to give back the normality in the execution of the sentence. The incidents of unauthorized absences as well as of the exceptionally judicially authorized ones is verified, evaluating if the alleged purposes are made in accordance with the foreseen schedules, as well as the accomplishment of the stipulated in matters of authorized absences.

Quarterly, a report of execution of the measure is sent to the court and serious anomalies that question the accomplishment of the measure or violate its terms coarsely are always elaborated in the report of anomalies. The decision that fixes the EM is revoked when its maintenance is unnecessary or inadequate; the offender revokes his agreement; the offender damages the equipment of monitoring with intention to hinder or to make the monitoring difficult or to delude the monitoring services; the offender violates seriously his duties. Varying according to the cases, the judge fixes other less intensive means of monitoring to impose the obligation of permanence in the habitation or imposes on the offender the measure of coercion of preventive custody.

4.2.1.3 Provisory suspension of the prosecution

(articles 281° and 282; Code of Penal Procedure)

Aims to prevent the continuation of the criminal procedure until the trial phase and is applied by initiative of the Public Prosecution Service, with the agreement of the Criminal Judge of first court, verified, among others, the following:

- the crime is punishable with a not superior punishment by confinement of 5 years or with sanction different from the prison;
- the agreement of the offender and the victim;
- absence of previous conviction for crime of the same nature;
- absence of previous application of provisory suspension of process for crime of the same nature;
- there is not a measure of security internment;
- absence of a high degree of guilt;
- being foreseeable that the accomplishment of the instructions and behaviour rules could answer the demands of prevention.

In the scope of certain crimes, namely against the freedom and sexual self-determination, the Public Prosecution Service can request a social report to assist him in the decision of the provisory suspension of the prosecution, having in

account the interest of the victim. For support and monitoring of the accomplishment of the instructions and rules of behaviour imposed, the court can appeal to the Probation Services, elaborating these reports of periodic evaluation, extraordinary report of evaluation of anomalies and final report. The period of suspension can go up to two years (in the processes for crime of domestic violence or against the sexual self-determination of minor can go up to five years). If the offender achieves the instructions and rules of behaviour the criminal procedure will be definitively stopped.

4.2.1.5 Crimes practised by drug addicts

They are foreseen in special law, Decree n° 15/93, 22 January, specific measures of coercion of treatment in adjusted establishment, as well as instructions of treatment or internment in the provisory suspension of the process, with supervision of the Probation Services.

4.2.2 Pre-trial report

In this phase, the following reports/information to support the sentence can be requested:

- Reports/information on the measure of coercion: information on the familiar and socio-familiar insertion of the offender or answer to questions on personal, familiar, school, labour or social situation of the offender (in the case of the information), having indicators and consideration of evaluation on the external and internal conditions of the individual, useful to survey the necessary requirements of the measures of coercion and for the choice of what is more adequate to the case;
- Reports/information for revision of measure of applied coercion already: centred in the evaluation of the individual, has in mind his procedural situation and the eventual alteration of the circumstances that supports it. In these reports no proposals are made on the measure of coercion to apply in concrete, but the inclusion of concrete questions on a measure of coercion having been already applied or indicated by the court as perspective, is not forbidden. In this direction, the contribution of the Probation Services is towards the balance, not only of the requirements demanded for the application of a measure of coercion, but equally of the eventual consequences of the application of this measure for the offender, qualifying the court to make a balance cost-benefit between the involved interests of public protection and execution of justice and the individual interests/rights;
- Previous information for electronic monitoring: it depends on the agreement of the offender (given personally before the judge, in the presence of the defender and written) and of the cohabitants (given before the services of probation through a written declaration). This information is elaborated by teams of probation working together with teams electronic monitoring with the skills to execute the measure. It presupposes the fulfilling of "Protocol of Obligatory Verifications" for installation of the equipment of electronic monitoring and is elaborated according to a model in force that integrates evaluation parameters on the personal situation, familiar, labour or social of the offender;

- Social Report for provisory suspension of the prosecution: it follows a structure similar to the social report for determination of the sanction (see 4.3.2) with bigger focus in the current situation and approach of the psychosocial factors restricted to those that can contribute for the evaluation of the adequateness of the measure and the determination of the instructions and rules of behaviour that, in concrete, are more adequate to the offender.

4.3. Trial and enforcement phase

4.3.1 General

In the trial phase, the technical assessment to the court is mainly assured through a social report for determination of the sanction (article 370^o; Code of Penal Procedure). Besides this report the following ones can be asked:

- expertise on the personality of the offender, with the purpose of evaluation of the personality and danger, on the psychic characteristics not pathological and the degree of socialization (article 160^o, n^o1 ;
- report of socio-professional characterization for application of community service (article 496.^o and article 5.^o of the Decree-law n^o 357/97, 24 December).

By the end of the judgment, and after the sentence is pronounced, the Probation Services can be called to intervene in the following sanctions:

4.3.1.1 Penalties and measures of execution in the community

- suspended sentence (articles 50^o - 57^o; Criminal Code): it can be decreed in the cases where punishment by confinement is not superior to 5 years and if the court concludes that in the case the simple censorship of the fact and the threat of arrest are enough to satisfy the necessities of reprobation and to prevent the practice of future crimes. The intervention of the Services of Probation can occur in the situations where the suspension is subordinated to the accomplishment of duties or rules of behaviour or in those where the suspension is followed by probation, in case that the monitoring and the support is based in an individual plan of readjustment which is known by the convict, obtaining, if possible his agreement;

- community service (articles 58^o and 59^o; Criminal Code): that is a substitution penalty of the arrest up to 2 years and it can only be applied with the agreement of the convict. It consists of the gratuitous rendering of services to the State, other collective people of public law or the private entities whose ends the court considers of interest for the community. The work is fixed until a maximum of 480 hours. It can be fulfilled in working days, Saturdays, Sundays and holidays; however, the duration of the work hours cannot harm the normal day of work, nor to exceed, per day, the number of applicable extraordinary working hours (as a rule two hours). If the work is considered satisfactory, the court can declare extinguished the penalty not inferior to 72 hours, once two-thirds of the penalty is fulfilled.

The procedures and technical rules destined to facilitate and to promote the organization of the practical conditions of application and execution of the penalty of the community service, as well as the clarification of the diverse functions of the intervening ones (services of probation, beneficiary entities in the community and offenders) are established in the diploma, Decree n^o 357/97, 24 of December:

- substitution of Fine by Work - (article 48^o; Criminal Code): it is a modality of execution of the fine penalty, with subsidiary form in relation to the fine penalty that consists of the total or partial substitution of the fine for gratuitous work in

establishments, workshops or workmanships of the State or other collective people, public law, or particular Institutions of social solidarity. It is required by the convict and accepted by the court if it concludes that this way he accomplishes the penalty in an adequate and sufficient way the purposes of the punishment. The work has a maximum limit of 480 hours following a regimen of similar execution to the one of community service;

- psychiatric Probation (article 98°; Criminal Code): it consists in the conditional suspension of the internment of offenders who cannot be held responsible for their actions, applied before the internment or after the fulfilment of a minimum period of internment of three years, in accordance with the gravity and nature of the practised crime and follows a regimen of similar execution to the one of the suspension of the execution of the punishment by confinement.

4.3.1.2 Custodial penalties

They have the minimum duration of 1 month and the maximum of 20 or 25 years, in special cases. The intervention of the probation officers is based on a legal and protocol frame, currently in revision, because of the recent reorganization of the Probation Services and the Prison Services and that it points out to the with mutual contribution in the preparation of the conditional release and probation.

- Regime of house arrest (article 44.° Criminal Code): if the convict aggress and the court concludes that this regime accomplishes the finalities of the punishment, it can be made in the regime of house arrest, with Electronic Monitoring:

- prison sentence not superior to 1 year;

- outstanding not superior to 1 year of the prison sentence that exceeds the time of privation of freedom to whom the offender was subjected in the regime of detention, provisional custody or obliged to stay at home.

The limit of 1 year can increase to two years when, at the time of the conviction, personal or familiar circumstances of the convicted don't advise the privation of freedom in a prison, namely pregnancy, age inferior to 21 years or superior to 65, illness or deficiencies, the custody of a minor. The regime of house arrest is made by the probation services, Law nr 122/99, 20 August.

4.3.2 Pre-sentence report

The elaboration of a social report for determination of the sanction can be requested in any time of the judgment, as in function of the produced proof, the court considers it necessary for the correct determination of the sanction that eventually can be applied (article 370.°, n.° 1 of the Code of Penal Procedure). Independently of the request, the services of probation can, by its initiative, send preventively a social report to the court in cases of offenders imprisoned (in the new version of the Code of the Criminal Procedure this possibility is foreseen for all situations where the supervision advises it, widening thus the technical judgment). In the technician point of view, the report must contribute for the individualization of the eventually applicable sanction and for evaluation of the possibility of application of non-custodial sanctions, approaching the relevant

psychosocial factors, as well as the main necessities related with the criminal behaviour.

Although no formal instrument still exists of obligatory application for evaluation of the risk, it is available for consultation of the Probation Officers; the preliminary version of an instrument of evaluation of the needs of social reintegration and in the manual of technical procedures for the activity of technical assessment, there are guiding chapters on factors of criminogenous risk/needs and factors of protection and on the areas and dimensions of evaluation to have in account. The social report is a document that is to be concise, with the maximum of three pages, and follows the structure defined in the manual (see annex 2). Not being expressed the consent of the offender presupposed for the elaboration of the social report for determination of the sanction the services of probation can prepare it with resource to other sources, thus respecting the principle of the presumption of innocence. In these cases, the situation of not contribution is transmitted to the court and it is not made any proposal of measure. When the offender cooperates in the preparation of the report, if the criminal frame allows it and if, in a perspective of social reintegration and of prevention of the relapse, the probation officers conclude that the offender has conditions to accomplish a sanction or measure in the community (in the case he will be condemned) can be indicated the Community Service or a measure of probation and proposals related with the content of the measure, instructions that, being adequate and feasible, can be applied or integrated or not in an Individual Plan of Readjustment.

In general, the request of the report is sent to the probation teams by electronic means through a computer platform shared with the courts, with indication of the date of the judgment, being answered by the same way, ideally in the 30 days that precede it. Besides the services of the court the report must be made accessible to the offender and his defenders. The offender, the assistant and the civil participants can have access to the process as well as getting copies, extracts and certificates, to consult for preparing the accusation and the defence in the legal stated periods (article 89.º of the Code of the Criminal Procedure)¹²

4.3.3 Probation procedures and processes

After receiving a sentence where the intervention of the Probation Services is requested, it is codified statistically and distributed by the Co-ordinator of the probation team to a Senior Officer of Probation This forms the basis of the case; the personality of the offender are elaborated by psychologists, and the caseload of each one if possible, the in the areas criminal or juvenile specialization, is taken into account. For specific programs we try to form specialized technician for its application. Community Service is normally of the responsibility of one probation officer, facilitating the articulation with the beneficiary entities of the

¹² In the new code the widening of the access to the process is foreseen, establishing itself as general rule the possibility of the offender, the assistant, the offended, the injured and the responsible civil to be able to consult the process, as well as getting copies or certificates, safe when the Public prosecution service opposes for considering, mainly, that it can harm the inquiry or the rights of the procedural participants or the victims.

community work. In what concerns the execution of the sanctions in the community, standards of intervention in the penalties and probation measures guided for the criminogenous necessities, the differentiation of the intervention based on the principles of the risk, of the necessities and responsibility of the delinquents are presently ready for implementation and on the basis of execution of programs structuralized in function of objectives guided for the overcoming or minimization of the criminogenous necessities, for the increase of its behavioural repertory and for the alteration in the way of relationship with the surrounding environment, searching for to promote pro-social attitudes. Meanwhile, on the execution of these sanctions, the probation officer grounds his intervention in a set of supervision and assistance activities. These activities are developed by the officer together with other organisms and public and private institutions that privilege the diagnosed resolution of some of the problems or necessities, namely, in the areas of employment and professional formation, of social security, health, the habitation, school formation and the occupation of free time. The officer helps the convict to face his delinquent behaviour, to accept the responsibility for his crimes, and to deal adequately with his personal difficulties. In the probation penalties (suspended sentence and psychiatric probation) the officer designs the supervision as a standard model in which he identifies the objectives to reach and defines the strategies of follow these objectives. During the execution of the plan, the officer evaluates its degree of implementation and adapts it to the progresses or failures of the convict to allow that at any moment see if the predefined objectives had been reached or not.

The assistance actions are essentially centred in the work of guiding towards the services and communitarian resources and the ones of monitoring in contact with the offender/convict and collaterals, elements of the familiar net and of sociability and employers and with police entities and other entities for verification of the fulfilment of obligations and follow the signals of alert. The regularity of the contacts/interviews and visits at home are habitually defined by the probation officer responsible for the management of the case, technically supervised by the Coordinator of the Team, and in cases of special complexity and/or mediation, the technical supervision of the services of technical support regional and/or central offices.

There are defined orientations, techniques, procedures and instruments of support to the execution for the community service that include models of reports, Recommendations for the Beneficiary Entities of the Work, Instructions for the Lender of Work and draft of Declaration of acceptance of the Work by the lender. By the special investment in the area of the technical assessment to the courts, motivated for the increased number of order of social reports, the implementation of specific problematic criminal programs are still incipient, mentioning only the following: Program STOP - Responsibility and Security - created by the Services of Probation in 1998, from the fact that about 25% of the total of convictions in the country are related to Driving Vehicles in State of Drunkenness. The program is directed toward offenders/convicts of the crime of Driving Vehicles in State of Drunkenness and in alternative measures to the arrest (provisory suspension of the prosecution and suspended sentence) and its structure has in account the main factors of risk associated to driving vehicles in state of drunkenness, being constituted by a set of actions which aim to provoke a

change of attitudes and behaviours associates to the driving of vehicles in a drunkenness state, having in mind the volunteer adoption of alternative behaviours that prevent the relapse. The Program has the duration of one year, and constitutes four components: (1) Frequency of a course on criminal behaviour and personal strategies of prevention of the relapse (12 hours); (2) Frequency of a course on safe conduction (12 hours); (3) Subjection to alcohol consultations; (4) Participation in interviews with supervision of the probation officer that supports the execution of the measure. Since its implementation 1,850 offenders/convicts had integrated in the program; in 30 June 2007 there were 358 cases executed.

The execution of all the sanctions implies the constitution of a dossier where all the information is recorded and treated systematically. The probation officer elaborates periodic reports of execution for the court, giving account of the evolution of each one of the supervisions of three types: report of periodic evaluation, extraordinary report of evaluation of anomalies and final report. The Prison Services and the Probation Services collaborate in the preparation of the conditional release and the proof in protocol terms, still not defined given the very recent reorganization of both, in the scope of the reform of the Portuguese Public Administration.

The execution of the custodial sanctions is of the responsibility of DGSP that, in generic terms, besides giving to technical assessment to the courts of execution of the penalties, has the responsibility to guarantee the accomplishment and realization of programs, activities and measures in the areas of health care, teaching, education, professional formation, work initiatives of a partner-cultural character and sport, as well as formative programs and of interaction with the community, aiming at the social reintegration of the convict. It must also promote, develop and coordinate adequate programs of penitentiary treatment to the criminological and psychological profile of the convicts and to the necessities of social reintegration, as well as elaborate, execute and evaluate the individual plans of social readjustment of the convicts.¹³ The Prison Services and the Probation Services collaborate in the preparation of the conditional release and probation in protocol terms, still not defined given very the recent reorganization of both, in the scope of the reform of the Portuguese Public Administration. However, in this transitory period, the probation's teams elaborate social reports for determination of the sanction and expertises on the personality and in accordance with the available resources and in ways that could vary if the Prison Establishments give support to the prison's administration in aspects related with the execution of custodial sanctions.

4.4 Post-release phase

With the objective of turning the execution of the custodial sanctions more flexible, namely in the aspects to the gradual reestablishment of relations with the society, and as a way to attenuate the harmful consequences of long periods of freedom privation, the statute that regulates the execution of these penalties (Decree n.º 265/79, 1 August) foresees the possibility after fulfilment of

¹³ Article 2º Decree-Law nº 125/2007, 27th April.

substantial part of the punishment by confinement, that the convict is authorized to leave the prison establishment in order to work, to attend professional training or go to school or to participate in programs of treatment of drug addictions in the exterior (extramural regime – regime aberto virado para o exterior or RAVE) or of to be simply authorized to work, or to integrate a program of treatment of drug addictions, in the prison perimeter, subject to discontinue monitoring (intramural regime – regime aberto virado para o interior or RAVI). The convicted can equally be authorized to leave the prison establishment, without custody, for determined periods, namely:

- precarious exits until the maximum of sixteen days per year - granted by the Court of Execution of the Penalties to the prisoners condemned to penalty superior to six months, that already have fulfilled one-fourth of the penalty;
- exits of short duration, up to forty-eight hours, a time in each trimester - granted by the director of the prison establishment to the prisoners who are placed in an open regimen;
- exits of preparation for the freedom up to eight days, during last the three months of the accomplishment of the penalty - granted by Director-General of the Prison Services.

The measures of flexibility of the accomplishment of the punishment by confinement depend on the agreement of the prisoner and must ensure the safeguard of the demands of general and special prevention. The teams of probation near the prison establishments are often requested to present information and reports of support to the prison administration in the scope of the respective processes of concession and evaluation.

4.4.1 Conditional release or parole (articles 61° - 64°; Criminal Code)

Consists in the anticipation of release of a prisoner punished by confinement, during a period not superior to 5 years, after having fulfilled a minimum legal period of reclusion. It always depends on his agreement, and could be subordinated to the accomplishment of rules of behaviour or followed by regimen of probation, as occurs in the suspension of execution of the punishment by confinement. Up to four months¹⁴ before the date established for the admissibility of the conditional release of the convict, Court of Execution of the Penalties request to the Probation Services:

- individual plan of re-adaptation;
- social report analysing the effect of the sanction;
- social report with other data important for the decision.

The convict to a minimum of six months of arrest can be placed in conditional release in some stages of the execution of the penalty. When a half of the penalty is fulfilled if: (a) By waiting that the convicted, once in freedom, will have a responsible life, without crimes (having his mind the circumstances of the case,

¹⁴ Up to two months before the date established for the admissibility of the conditional release of the convict, the Prison Services send to the Court a report made by the prison technicians about the execution of the penalty and the behaviour of the prisoner, as well as a based on facts opinion about the concession of conditional release, made by the director of the establishment.

his/her previous life, personality and evolution during the application the prison sanction); and (b) The freedom is according to the defence of order and social. When two-thirds of the penalty is fulfilled by waiting that the convicted, once in freedom, will have a responsible life, without committing crimes. The convict punished by confinement superior to 6 years is placed in conditional release as soon as he will have fulfilled five-sixths of the penalty. In the cases where the convict has been in prison for more than five years, is equally sent a plan of individual readjustment.

To the adaptation to parole, having verified the conditions of the concession of parole, the collection in parole can be anticipated by a court, to a period maximum of one year, being the convicted obliged to, besides the accomplishment of the other conditions, house arrest and electronic monitoring. The reports, as well as the individual plan of readjustment¹⁵ are prepared in accordance with technical orientations for the structure of its contents. The conditional release is supervised by probation teams of the area of residence of the convict, in similar ways to the ones followed for the suspended sentence. This team is often requested to participate in the process of preparation of the parole, namely through the elaboration of a "Study of Familiar and Social Characterization". Periodic reports of execution of the conditional release are sent to the Court of Execution of the Penalties, and if necessary, extraordinary reports of evaluation of anomalies and a final report.

4.4.2 Psychiatric parole (articles 94° and 95°; Criminal Code)

Involve suspending placement in a therapeutic facility for offenders who cannot be held responsible for their actions. The court, before the question of the ceasing of the state of danger, if it is not possible to reach a definitive judgment of prognosis, places these offenders in a probation regimen. This measure is aimed to guarantee that the definitive freedom is preceded by a period of reintegration in the community, with control and in free environment. This measure follows a regimen of execution similar to that of the suspended sentence.

4.4.3 Amnesty and pardon

The concession of amnesty¹⁶ is a political decision of the Portuguese Parliament having the form of law. It has a general character, enclosing definitive types of crimes or delinquents. It extinguishes criminal procedure and, in the case of a conviction, removes the execution of the penalty as well as of the measure of security. The Portuguese Parliament approved the last laws of amnesty in the 90's, signalling important dates or events. The pardon¹⁷, partial or total, is of the responsibility of the President of the Republic, having heard the Government. It is individual, it extinguishes the penalty, in all or part, or substitutes it for a more

¹⁵ It is obligatory for the convicts who are in prison for more than 5 years.

¹⁶ Legal regimen: article 161º, f) of the Constitution of the Portuguese Republic and articles 127º and 128º, nº2 Penal Code.

¹⁷ Legal regimen: article 161º, f) of the Constitution of the Portuguese Republic and articles 108º to 117º, of the Decree-Law nº783/76, 29th October.

favourable one foreseen in the law. The probation officer elaborates a report for instruction of the pardon process, in accordance with structuralized as technical orientations defined for the effect, approaching personal and social elements, as well as the perspectives of social reintegration, with the purpose of assisting the Court of Execution of Penalty in the grounds of the opinion it must emit. Every year, on the 22nd of December, the President of the Republic grants pardons, habitually to the individuals convicted to the punishment by confinement and the accessory penalty of expulsion.

4.5 Care and after-care outside the criminal justice system

The intervention of the Services of Probation depends on the request or sentence that legitimises it. Thus, being declared extinct the penalty or judicial measure in execution it also ceases the intervention passing the delinquents to other communitarian services. Exceptionally, it is granted for short-term social or financial support to former delinquents for the necessities or emergencies that are not immediately supplied by any service or public organ.

5 FINANCES, REGISTRATION, EVALUATION AND OUTSIDE OPINION

5.1 Finances

The Services of Probation make use of incomes proceeding from the Budget of the State, transferences of the Ministry of Justice (IGFIJ, IP) and of their own income. The budget is organized by divisions and subdivisions that are submitted to the Government for approval. In the beginning of the year the budget is distributed by the central services offices, regional delegations and educative centres. The General Director is responsible for the supervision and management of the Budget, it oversees the legality of any expenditure and authorises payment.

Table 3: Budget executed in 2006 and for 2007, for financing source (Euro)

	2006 (execution)	2007 (budgetary)
State Budget	39.358.845	19.388.278
IGFIJ, IP	0	18.269.669
Own income	1.849.507	1.959.793
Sub-total	41.208.352	39.617.740
Projects	0	0
PIDDAC (Plan of Investment for Public Administration)	1.306.894	1.541.997
Sub-total	1.306.894	1.541.997
Total	42.515.246	41.159.737

Table 4: Probation Services and Prison Services (2006)

	Probation Services	Prison Services
Total current yearly expenditure	42.515.246 €	193.875.241 €
Salaries and other expenses with staff	31.580.965 €	139.399.974 €
Number of employed staff (31 st December)	1 600	6 115
Number of offenders/clients (31 st December)	11408	12 636

5.2 Accounting

The accounting system is based on the public services financial classification system, adopted in the State General Account. The accounts are submitted to the Audit Court of the Ministry of Finance for approval.

5.3 Registration systems and evaluation procedures

Since 2003, the requests of technical assessments to the courts or of execution of measures are obligatory written in a computer application in language SQL (Structured Query Language), accessible through the Intranet, designated by "Web Statistics". In the date of the request the probation team fills an application where they introduce the following data: date of entrance; name, date of birth and sex of the person; number of the process of the court; number of the Process of the DGRS; entity which requests; code of the request and technician to whom it is distributed. The intervention being finished, the date of closing is put and the condition of the closing (execution, anticipated or not executed execution) and the reason of the anticipated execution (amnesty, deceased, revoked, decision of the court or other) or of not the execution (amnesty, absent, deceased, lack of collaboration, lost of opportunity, revoked, decision of the court, annulled or other justification). The application, when necessary, allows the transference of the request to another probation team. Maps and listings that allow constructing pointers of the activity of the probation and electronic monitoring teams can be removed. Annually these pointers are treated in a document - Statistics Diffusion - that is divulged internally and externally. Through the "Web Statistics" it is also possible to consult and gauge the caseload for the technicians of the teams of probation, defined for the first time in 2006.

In March of 2007 the process of dematerialization of acts and processes has began, managed by the System of Information of the Social Reintegration (SIRSB) which intends to make the management of all exchange of correspondence between the services of the DGRS and the courts, abandoning gradually the traditional means of communication (post office and fax). Through a shared information platform, the court sends to the probation team a message with the order that can contain annexes in format PDF (Portable Document Format) and the team answers to the requests in the same way and format. For the use, as well for "Web Statistics" as for "SIRSB" was assured initial formation and there are available manuals of procedures and user. An integrated model for measurement of the efficiency and effectiveness of the work of the Service of Probation still does not exist, nor are consistent methodologies of evaluation of the quality defined. Thus, an investment has been made in the level of the evaluation of the instruments of technical assessment to the courts, in the presentence phase, for the application of grates that evaluate its conformity with standards. Annually, a report of activities is elaborated, sent to the Ministry of Justice, giving account of work done.

5.4 Societal support and clients' views

Until this moment, the Probation Services had not made scientific studies that allow evaluating the level of credibility to specific groups (politicians, authorities judicial, policies, users) or public in general. To spread the developed activity exist regularly meetings in the courts, with particular incidence in the promotion of the penalties and measures of execution in the community. As an example of a successful strategy of promotion to specific groups (magistrates, judicial employees, lawyers and polices) and favourable to the public opinion, is the one

followed for the Electronic Monitoring based in actions of spreading and information especially conceived for the effect and that had in account the specificities of the different groups of addressees.

6 PROBATION CLIENTS' RIGHTS

The Constitution of the Portuguese Republic establishes that all the citizens have the same social dignity and are equal in the law. Nobody can be privileged, be benefited, prejudiced, private of any right or exempt of any duty because of ancestry, sex, race, language, territory of origin, religion, political ideas, instruction, economic situation, social condition or sexual orientation (article 13.^o). To the principle of the equality are subordinated the legislative, executive and judicial powers. In the actuation of the Public Services, this principle is reaffirmed in the article 5.^o of the Code of Administrative Procedure (Decree n.^o 6/96, 31 of January) and in the "Ethical Letter of the Public Administration".

The Portuguese Constitution also gives in the Chapter of Rights, Freedoms and Personal Guarantees, the right to the moral and physical integrity (article 26.^o), to the good name and reputation, the right to privacy of the private and familiar life and to the legal protection against any forms of discrimination (article 26.^o, n.^o 1). It also proclaims that the law will establish effective guarantees against the abusive attainment and use, or contrary to the dignity of human being, of information concerned with the people and families (article 26.^o, n.^o 2). Complementarily, the Disciplinary Statute of the Civil Servants and Agents of the Central, Regional and Local Administration (Decree-law n.^o 24/84, 16 January) and the article 87.^o of the Decree-law n.^o 204/83, 20 of May tie the probation officer with the duty of confidentiality, that consists of keeping in secret the facts that he knows in virtue of the exercise of his functions and that are not destined to be of the public domain, constituting its breaking infraction to discipline.

The Code of the Criminal Procedure foresees the possibility that the offenders present to the court can, in any phase of the process, make expositions, memorials and petitions that have the purpose of the safeguard of their basic rights (article 98.^o). The services of an interpreter for procedural participants, people who do not know the Portuguese language (article 92.^o, n.^o 2) as well as for persons with hearing deficiency or deaf person who must make declarations in criminal proceeding (article 93.^o, n.^o 2) is also foreseen free of charge. Besides the recourse to the courts, the offenders/convicts, as any another citizen, have the right:

- to present complains of actions or omissions of public power to the ombudsman, that appreciates them without having the power to decide, directing to the competent agencies the recommendations necessary to prevent and to repair injustices (article 23.^o of the Constitution and Law n.^o 9/91, 9 April);
- to present petitions, representations, claims or complaints for the defence of his rights to the agencies of sovereignty, agencies of government of the autonomous regions or to any authorities, as well as the right to be informed, in reasonable time, on the result of the respective appreciation (article 52.^o, n.^o 1 of the Constitution);

- to present petitions, claims or complaints in the agencies of the public administration having the duty of pronouncing (article 9º of the Code of the Administrative Procedure).

In the public services that ensure services to the citizens is obligatory existence of the book of complaints, assigned as "Yellow Book". The complaints engraved in the book, as well as all the ones that happen on the functioning of the service, must be sent to the cabinet of the member of the government that has the custody of the Service (in the case of the Probation Services the Ministry of Justice) and to the member of the government that has the custody of the Public Administration within the period of 5 working days. In this stated period, the public services can adopt corrective measures of the situations concerning the complainant to communicate them about the complaint. If necessary, the member of the government that has custody the Public Administration must make diligences in the sense of the accomplishment of audits, in the terms of the applicable law. The plaintiff must always be informed of the decision on the presented complaint (Resolution of the Cabinet of Ministers nº 189/96, 28 September, Decree-Order nº 355/97, 28May and Decree-law nº 135/99, 22 April).

The offenders/convicts in their relation with the Probation Services have the right of being informed of the course of their process and have the right of access to administrative documents, respecting the norms of internal and external security, the criminal inquiry and protection of privacy. They also have the right to the protection of their personal data.

7 NEW DEVELOPMENTS

The penalties and measures of execution in the community have acquired an increasing importance in the criminal politics with consequent reduction of the scope of application of the punishment by confinement, the solutions given in the criminal reform in course. The recent reorganization of the Probation Services, integrated in one vaster administrative reform, redefined and clarified the areas of intervention of the Probation Services refocusing the juvenile and criminal delinquency. An organizational model was adopted which intends to be more functional and adjusted to its basic mission of responsible service for the politics of criminal prevention and social reintegration. A new stage that, coinciding with the landmark of 25 years of the Probation Services in Portugal, is framed at a moment where the theses of the conceptualism of the "dejudicialisation" and the repairing are gradually imposing themselves, namely in the widening of the provisory suspension of the process initiated the introduction of the criminal mediation, foreseeing the widening of the Electronic Monitoring to the execution of short penalties of arrest or in the anticipation of the conditional release after having been affirmed as an alternative the preventive custody. The Portuguese criminal system is oriented clearly in the direction that the international recommendations as the internal reports of evaluation point out. The challenges are great in the field assessment technique to the courts, in the execution of penalty and measures of execution in the community. In the technical assessment to the courts the consolidation and development of processes,

methodologies and instruments for the expertises on the personality of the offenders, as well as an evaluation of results in a perspective of efficiency and effectiveness will be given priority.

In the execution of penalty and measures it is intended to bring the paradigm of intervention up-to-date, guided by the criminogenous necessities, receiving one of the most consolidated assumption of the execution of the penalties and measures, based in the differentiation of the type and intensity of the intervention based on the principles of the risk, the necessities and the responsibility. For that it will be determinative the consolidation of the instrument of evaluation of the risk and the necessities of social reintegration, that exists in preliminary version, and the structure of the content of the intervention by means of conception and application of programs supported in already tested theoretical models, guided for the acquisition of specific skills (for example: pro-social resolution of conflicts, capacity for the change, autonomy, forms of equal relationships), multi-modal and endowed with operational device of evaluation of their execution proceeding and the impact in the addressees.

The making of this projects implies a strong investment in what concerns formation and training of the probation officers; it requires the reinforcement of cooperation with university institutions and specialists in these matters, having already stimulated but that it does not excuse the accomplishment of internal studies that allow a characterization, in a sociological and criminological perspective of the offenders/convicts which must be developed. On other hand, the widening of the Electronic Monitoring to the penalties and measures, besides provoking a new contract for the supply of services of electronic monitoring, in a logic of public-private partnership, implies the widening of the net of teams of monitoring and a new strategy of spreading to the courts, polices, lawyers and public in general. The spreading of the activity is one of the important factors for the credibility of the Probation Services, that is why another option will fall again into the development of a policy of spreading the work of social reintegration and its results, marked for the well cared for preparation of the contents, adjusted the different addressees.

In the plan of the inter-institutional articulation the redefinition of the framework of cooperation with the Prison Services assumes special relevance in the preparation of the conditional release and psychiatric parole, establishing institutional articulated methodologies of work that contribute for the definition of a paradigm of complementing intervention, with clear definition of timings and roles aiming a continued intervention of the process of social reintegration of the prisoners. The public and particular partnerships and cooperation with the services and institutions of the community, with intervention in the areas of the professional formation, employment, health, social solidarity, will also be intensified, such as the strategy of institutional representation to the level of the Social Net having in mind the increase of qualified answers to the necessities of social reintegration that are diagnosed in these areas.

8 IMPORTANT PUBLICATIONS

J. Figueiredo, João, coord. *Cidadão Delinvente: Reinserção Social?, Instituto de Reinserção Social*, 1983, It designates the creation of the Portuguese Probation Services, congregating texts of detached personalities, namely, of universities, judiciary and politician environments. Besides the historical evolution it perspectives the future.

Dias, J. Figueiredo, M.C. Andrade, *Criminologia – O homem delinvente e a sociedade criminógena*, Coimbra Editora, 1984, It is a treaty of criminology that contains the basic concepts and knowledge in the domains of the criminology and the criminal politics.

M.A.V. Jardim, *Trabalho a Favor da Comunidade: a punição em mudança*, 1988, Livraria Almedina - it includes the legal frame of the community service in the criminal reform of 1982 and in the Comparative jurisprudence. It approaches the sanctions of work in the frame of the not superior to three months punishments by confinement and explores the perspectives of application associated with the suspension of execution of the penalty, probation, conditional release, provisory suspension of the prosecution and corrective measures applied to young adults.

“Opções Estratégicas e metas no início do século XXI 2000-2003” (2000) - Instituto de Reinserção Social – it is the first strategic document of the Probation Services that, besides remembering its past, points out the problematic one of the social reintegration and the justice of minors in the international panorama, and affirms the values institutional and perspectives the future tracing goals for the intervention.

“Vigilância Electrónica 2002 -2004” (2005), Instituto de Reinserção Social - it divulges the texts and more significant statistical data related with the Experimental Program of Electronic Monitoring, between 2002 and 2004, making public the work of construction of a new paradigm in the domain of the control of offenders and of the concept of freedom. It includes the evaluation of the program, the opinion of the Commission of Follow-up, statistical pointers, the texts of events promoted during the execution of the program and applicable legislation.

9 CONTACT DETAILS

Main offices of the DGRS

Serviços Centrais
Avenida Almirante Reis 101
1150-013 Lisboa
Tel. 213176100
Fax. 213176171
Correio.dgrs@dgrs.mj.pt
www.reinsercaosocial.mj.pt

Delegação Regional de Lisboa
Rua Augusto Rosa, 42
1149-074 Lisboa
Tel. 218 814 500
Fax. 218 814 555
correio.drl@dgrs.mj.pt

Delegação Regional do Norte
Rua Joaquim Kopke, 64
4200-346 Porto
Tel. 225 076 000
Fax. 225 501 495
Correio.drn@dgrs.mj.pt

Delegação Regional do Centro
Rua Brigadeiro Correia Cardoso - nº 73
3000-86 Olivais
Tel. 239797600
Fax. 239797625
Correio.Drc@irsocial.mj.pt

Delegação Regional do Algarve e Alentejo
Urbanização Montinho - Lote I-J, 15 R/C-A
8005-325 Faro
Tel. 289 895 820
Fax. 289 895 828
E-mail: Correio.dral@dgrs.mj.pt

Delegação Regional da Madeira
Rua dos Capelistas, 18 - 2º
9000-063 Funchal
Tel. 291 230 627
Fax. 291 230 628
Correio.Drm@dgrs.mj.pt

Delegação Regional dos Açores
Rua Dr. Armando Narciso, 7 - Bairro Vitória
9500-185 Ponta Delgada
Tel. 296 286 012
Fax. 296 287 024
Correio.Dra@dgrs.mj.pt

Library of the DGRS

Divisão de Biblioteca e Informação
Serviços Centrais
Avenida Almirante Reis 101

1150-13 Lisboa
Correio.dgrs@dgrs.mj.pt
www.dgsi.pt

Other important organizations in the probation field

A União, Obra de Auxílio e Recuperação aos Ex-Reclusos e suas Famílias
Rua do Breiner, 97
4050-126 Porto

O Companheiro, Associação de Fraternidade Cristã
Rua Manuela Porto 8 – B
1500-422 Carnide
geral@companheiro.org
www.companheiro.org

Associations of probation services clients

ACED – Associação Contra a Exclusão e para o Desenvolvimento
antonio.dores@iscte.pt
<http://iscte.ppt~apad/ACED>

Criminal statistics databases

- Estatísticas da Justiça – www.dgpj.mj.pt
- Relatório anual de Segurança Interna – www.mai.gov.pt
- Relatório Anual da Procuradoria-Geral da República – www.pgr.pt

ANNEX 1

Criminal Statistics

1 Input offender statistics

Table 1.1: Convicted in criminal proceedings by penalties and measures

() Provisory data (July 2007)*

Penalty/Measure	2004	2005*
Reprimand	1 091	1 081
Fine	51 183	49 542
Fine as substitute for prison	2 241	1 684
Suspended sentence	10 413	10 275
Immediate imprisonment	4 270	3 822
Weekend detention/semi-detention	66	73
Measures to protect public safety	73	61
Non-imposition of penalty	301	254
Others	5	20
Total convictions	69 643	66 812

Table 1.2: Suspended sentence (31 December)

Suspended sentence	2004	2005	2006
• with condition of conduct	1 720	1 902	1 981
• with probation	1 992	2 332	2 738
• Other	37	42	49
Total	3 749	4 276	4 768

Table 1.3: Other community sanctions and measures (31 December)

() Provisory data (July 2007)*

Sanction/Measure	2004	2005	2006
Pre-trial phase			
• Provisional suspension of prosecution	3 023	3 559 *	-
• with the involvement of the Probation Service	682	774	890
• Electronic Monitoring	253	407	509
Trial phase			
• work sentence	1 009	1 399	1 818
Post-trial phase			

• conditional release 3 483 3 363 3 441

Table 1.4: Persons sentenced to custodial sanctions and measures (31 December)

	Total	Unconvicted	Total	Convicted						Measures to protect public safety
				Total	Prison				Relatively indeterminate sentence	
					≤ 6 months	> 6 months and ≤ 3 years	>3 years ≤ 9 years	> 9 years		
2004	13 152	3 000	9 895	9 839	227	1 637	5 850	2 125	56	257
2005	12 889	3 044	9 588	9 535	238	1 577	5 628	2 092	53	257
2006	12 636	2 921	9 455	9 408	259	1 649	5 403	2 097	47	260

2 Average offender population statistics

Figure 2.1: Offenders subject to custodial and non-custodial sanctions and measures (31 December)

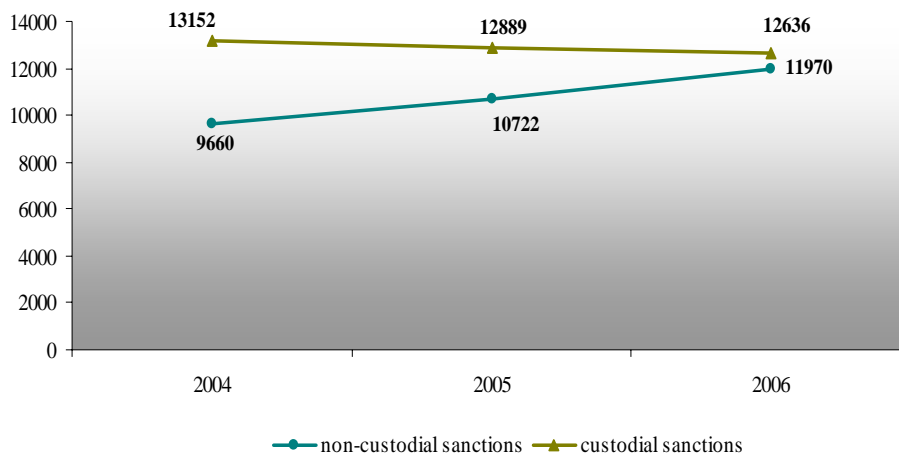
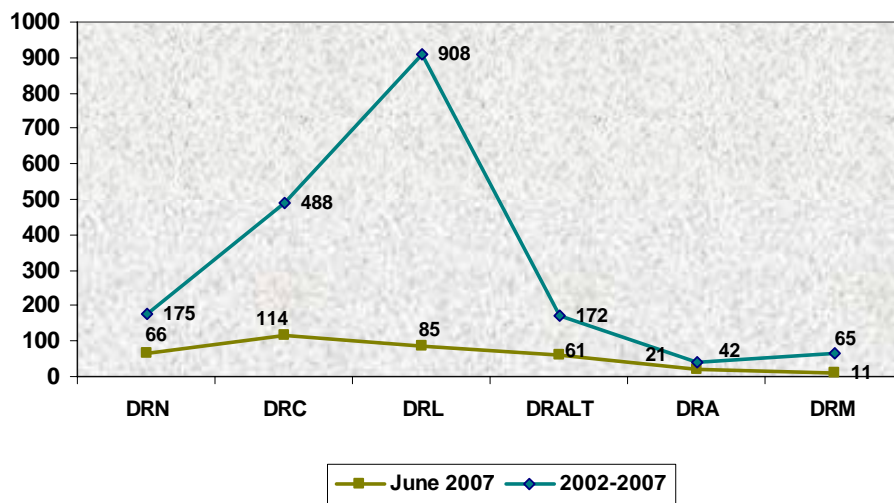


Figure 2.2: Graphic: Convicted to attend Program STOP



3 Staffing statistics

Table 3.1

	2004	2005	2006
	Probation Team/Electronic Monitoring Team	Probation Team/Electronic Monitoring Team	Probation Team/Electronic Monitoring Team
Managers	1	1	1
Probation officers or equivalent	520	532	521
Deputy Probation Officers	29	99	93
Administrative staff	125	121	120
Workmen and assistants	58	60	55
Total	733	813	790

Table 3.2

Index of absent (total)	2004	2005	2006
	8,9%	6,5%	6,3%

Table 3.3

Main reasons for absent	2004	2005	2006
Disease	62%	68,3%	62%
Maternity/paternity	12%	23,5%	11%
Others	8,4%	3,0%	27%