

Legislative reform and the role of alternative to detention

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Introductory remarks

Good morning and a welcome to all of you also on my behalf, as a representative of the Ministry of Justice.

It is a great pleasure for me to speak at this conference, I recognize already many friends and, I'm sure, at the end of these two days of sharing experiences, challenges, solutions, we all will get benefits... and our friendship will increase.

I was asked to present you the legislative reform in Romania from the probation perspective. The title of my presentation, as well as the title of the conference is, somehow, connecting the probation with the idea of finding alternatives to imprisonment, but this is challenging first of all from theoretical point of view: is probation an alternative to detention? Or, better to say: is the probation only an alternative to detention?

I strongly believe that probation is, and should be, an independent concept - the adequate way to reintegrate a convicted person. It is truth that probation can absorb an important percentage a population which, in other conditions, would enter prisons, but this is only a secondary effect of the probation, definitely not its first goal.

Now, since I am supposed to present you the legislation, for the next 40 minutes, I wonder how many of you are familiar with the legal procedures for drafting and promoting legislation, being at national or European level? For those of you, less familiar with these types of procedures and language, I will try a presentation less formal, which is quite unusual for me... I'll try to be less boring, although I have legal background and it is not easy.... I would rather present you, from my personal perspective, what was the legislative evolution of probation system, as it happened to be involved in the legislative life of our probation service since the very beginning.

So, in the next minutes we will mix some history with legislation...

The beginning

In late 90,s there were in Romania only vague concepts and preoccupations related to probation. Some elements related to social reintegration were performed by the specialists working in the penitentiary system, or by some counsellors from the Ministry of Justice.

I was just graduating law faculty and recently entered the Drafting legislation department when I was asked to draft some of the Minister of Justice Orders by which several pilot projects were concluded to set up probation in Romania.

We performed some archeological work to present you the birth certificate of our probation system...here there is. **The first pilot** project was established in June 1997 in Arad County. **11 pilot projects** were developed in total in Romania between some enthusiastic NGOs, judges, prosecutors and national administration of penitentiaries. **That was the start of our probation system in Romania.**

See also an already old document, and some good reactions from the press... I found in a local newspaper a news from 25th of July 2000, a news written when the pilot project was concluded- 45 probation counselors were trained... and I quote: "Because we still don-t have a law on probation, this activity is currently carried out under an order of the Minister of Justice, but it could be regulated in this parliamentary vacation through an simple ordinance - At least so says John Durnescu, educational strategy manager in the Ministry of Justice Probation Service".

http://www.virtualarad.net/news/2000/va_n250700_ro.htm

And so it was. On the first of September 2000 it was published in our Official Journal the **Government Ordinance 92 on the organization and functioning of social reintegration of offenders and supervising the execution of non-custodial sanctions.** I remember that it took us 2 years to pass it through the Parliament the Law adopting this Ordinance of 16 article...

It was followed, in September 2001, by a Minister of Justice Order of 5 articles, to which the pilot projects ceased their work and all the candidates who passed the national exam are appointed as probation counselors in the newly established "public service".

And this was the beginning...15 years ago

They start their work in a complete new field, having some competence deriving from the Criminal Code. However, these competences were not so developed and, for sure, were not regulated, at the time, in Code, having in mind the real alternative to detention.

Thus, the probation personnel, called: counselor for social reintegration and supervision, has the following competencies:

a) ensures that a person convicted with suspended execution of imprisonment **are following**, during the probation time determined by the court, between 2 and 5 years, **certain measures** such: to be present at certain time in front of the designated judge or other organs established by the court, to announce in advance any change of residence and any travel over 8 days and return, to communicate and justify any change in their jobs, to communicate any information that can be controlled related to means of existence;

b) **oversees the obligations imposed by the court**, such us: to carry out an activity or to follow a course of education or skill; not to change domicile or

residence, not exceed the territorial limit established by the court; not to frequent certain places; not come into contact with certain persons; not drive any vehicle or certain vehicles; comply with some medical measures or treatment care.

c) **supervises the obligations imposed by the juvenile court on minors:** not to frequent certain places, not come into contact with certain persons; (at that time we had in Criminal Code only warning, supervision and custodial as penalties for minors);

c) **performs community work** for a period between 50 and 200 hours, no more than 3 hours per day, after school, on public holidays and vacation;

In addition, there were requested to drawn up at for the courts, **assessment reports** and to carry out **individual counseling** activities of offenders in terms of social behavior, group and individual; programs for special protection, social and legal assistance to juveniles and young offenders; working with volunteers and NGOs for Romanian and foreign reintegration programs.

In June 2004, a new important competence was added to the probation system and it is still debatable whether it was a good strategy or not - the competence for victims. **The Law no.211/2004 on measures for the protection of victims.**

This law **entered into force in January 2005**, through which psychological counseling for victims of crime shall be offered by the services for victim protection and social reintegration of offenders, for a period of maximum 3 months, and the victims under 18, for a period of 6 months. With that occasion also the denomination of the probation services in Romania was changed – them being called from that moment - services for victim protection and social reintegration of offenders. This activity, however, is seldom performed since the Ministry of Justice- and the probation system, are not the main state institutions responsible for victims, only certain categories of victims are covered. For instance, the number of victims being in the competence of the probation system in 2013 were 15. I was saying that it is debatable since having both the offender and the victim under the same institutional umbrella is not an easy task, being desirable to separate those 2 competences but this is something for the future. As I was involved at that time in making this law I know that the policy decision to entrust the probation system also with victim counseling was done mainly because the probation infrastructure covered the entire territory and also contains specialized personnel but, as I said, in time putting together these 2 opposite competencies proved to be contra productive, see also the European standards in this matter.

Performing these competencies the probation services grew through the time. To sum up for the past, with some competencies in the Criminal code, however, the system grew: by 2001 – 28 services were set up; in 2002 – another 13 services. Between 2003–2010 it was the stage of institutional consolidation: specific legislation adopted, ex. *Law on the status of the probation services personnel*; employment of new staff and increased number of cases. For instance, in December 2013, probation services have registered a record for that time - 20.446 people sentenced - which represents an increase of nearly 25%

against the number of people in this category, registered on at the end of previous year, 2012. But I will come to this point later in my presentation.

THE REFORM

After more than 10 years of probation, it was decided to reinvent the system. It is among, if not the most impressive part of our penal reform.

The problem of overcrowded penitentiaries, with more than 14.000 places needed at a certain moment in time 4 years ago, is far from being a typical Romanian problem, most European countries are facing this situation and all matters arising from it. In the context of globalization and the profound economic and political crisis that has affected European state, there is an increased aggression among those who commit crimes and also a growing hardness of those called to stop the phenomenon - either the legislator or law enforcement. Thus, given that financial resources have remained at best the same, increasing the prison or probation population but offering inadequate infrastructure to deal with them will lead only to reducing the level of assistance provided, violating human rights, dividing society, worsening security in a large sense.

In this context, through the changes in the new Criminal Code, Criminal Procedure, in our organic laws, hundreds of articles were written creating a new concept, in line with European standards, to encourage magistrates decide other types of measures, not just deprivation freedom but to offer alternative to detention and also to individualized penalty more closed to the community through probation. Moreover, the probation officers role was created to go beyond simply monitoring a person - to work with the person supervised in its true sense.

In 2014 entered into force, after years of legislative efforts (the codes were written and adopted between 2006 and 2010) to create new codes and 5 years for effective preparation of the implementation of them, a coherent criminal, procedural - criminal and penal execution framework was set up and entered into force on 1st of February

2 codes

- CRIMINAL CODE - Law no. 286/2009
- CRIMINAL PROCEDURE CODE - Law no. 135/2010

3 laws on the execution of penalties

- Law no. 254 of 2013 on the execution of custodial sentences
- Law no. 253 of 2013 on the execution of non-custodial sentences
- Law no. 252 of 2013 on the organization and functioning probation system

2 laws preparing the implementation of the codes

Law no. 187/2012 for the implementation of Law no. 286/2009 on the Criminal Code

Law no. 255/2013 for the implementation of Law no. 135/2010 on the Criminal Procedure Code and amending and supplementing certain acts which would be criminal procedure

Of course, it is for the interest of this conference to present you the probation from the legislative perspective therefore, from this entire reform here there are the main aspects related to probation.

IN THE NEW CRIMINAL CODE FROM THE PROBATION PERSPECTIVE

1. **Changed the sanctioning system.** The prison penalty - unchanged (from 15 days to 30 years) was regulated along with the penalty of the fine for which we increased the number of offences, meaning that, for many offences for which previously was not possible but the imprisonment now the judge can order a fine. Moreover, if the convicted person cannot pay the amount of money we have regulated the entire system through which, under the supervision of probation system, that person can execute a community work instead.

2. Moreover, the **sanctioning system for minors** was completely changed- they can be applied only educational measures. - The introduction of new non-custodial educational measures (civic education, supervision, weekend consignment, daily assistance). In the context of the implementation of these measures, the probation service has an active intervention and increased powers.

3. The introduction of **new alternative** ways for executing an imprisonment sentence:

- **waiver of penalty:** the court can decide to dismiss the setting up of a sentence for a person found guilty of an offense, considering that, in view of the offense committed and the person of the offender and the conduct contemplated before and after committing the offence, a strike is sufficient. The maximum penalty for the offence should be up to 5 years. NCC 80 and the follow.

- **postponement of the penalty:** the measure can be ordered by the court also in less serious cases -when the penalty actually set is a fine or imprisonment of up to 2 years while the court considers, taking into account the individual offender and conduct it taken before and after the offense, the personal circumstances of the defendant, that the immediate application of punishment is not necessary. The maximum penalty for the offence should be up to 7 years. NCC 83 and the follow.

The court, however, imposes, **for a period of 2 years**, a range of obligations for the offender, for which the probation service is in charged. Moreover, if, during the supervision period, the probation counselor determines that it is required the modification of some of the obligations established or there is a need for new obligations to be ordered or termination of some of them, he/she will notify the court.

4. Maintain but improving the traditional alternative to detention: **suspension of the execution of penalties-** this measure can be ordered by the court -when the penalty actually set is imprisonment of up to 3 years while the court considers taking into account the individual offender and conduct it taken before and after the offense, that relative to the personal circumstances of the defendant, the immediate application of punishment is not necessary. The court, however, imposes, for a period **between 2 and 4 years**, a range of obligations for the offender, including community work, , for which the probation service is in charged. NCC 91 and the follow.

5. Finally, on **conditional release**: basically, institution is the same but with important input from reintegration into community through probation system. This institution provides for the possibility for all of our offenders to be released if they execute a fraction of their sentence (2/3 of the penalty, in case of a term of imprisonment no longer 10 years, or at least 3/4, but no more than 20 years in prison, in case of a term of imprisonment exceeding 10 years), if they are serving in an open or semi-open regime, were fulfilled completely all civil obligations established by the court, and the judge is convinced that the detainee is able to reintegrate into society. NCC 99 and the follow.

6. There has been a general **relocation of the level of penalties**, bringing them, we thought, to the normal level according to the scale of danger posed by them to the society.

From this perspective, some penalties were substantially lowered - **and mitior lex** applied. Just to give some examples:

- trespassing on some para. the maximum difference between the previous and the new code is **7 years** - 10 years imprisonment vs. and 3 years / fine;

- threat - difference of **4 years** from 5 years maximum to 1 year now;

-theft 228 NCC- difference of **9 years** from 12 years maximum to 3 years now,

- mismanagement NCC 242 - difference of **5 years** to 10 years maximum, NCP has 5 years ago;

-deception NCC 244, difference of **9 years** to 12 years maximum, NCP has 3 years ago,

- simple destruction NCC 253, a difference of **7 years** from 10 years maximum, to 3 years now and for its aggravated form there is difference of **10 years** from 20 years maximum, to 10 years now,

- forgery of money or other valuables, a difference of **8 years** from 15 years maximum to 3 years now.

It is obvious that, **having a lower level of penalty**, the judge has the possibility to decide over a broader range of ways for executing the penalty, even when this penalty is with imprisonment, still the judge can decide that the execution can be done into community.

Analyzing the statistics from penitentiaries, especially those till 2014, it can be observed that the majority of population occupying prisons was convicted for economic crimes. This is not specificity for Romania, Professor Marcelo Aebi can confirm that this is a general situation for European countries. Well, for all these persons we have had in the past the only solution as imprisonment since the level of penalty being so high (from 3 to 12 years imprisonment for thefts!), judges were reluctant to give some alternatives, they prefer to order imprisonment, even for a short period of time, but imprisonment.

Now, lowering the level of imprisonment mostly for economic crimes these persons could better serve community sanctions under the supervision of probation system. In this way we both take out of our prisons those who didn't really need to be there, allow prisons to offer for those who should really be there better imprisonment conditions and also, very important, give a better chance for those committing minor economic crimes to recover.

It is to be mentioned that, immediately after entering into force of the new codes, the number of persons released from prisons applying *mitior lex* were 131 and the number of persons for which the imprisonment penalty was replaced

with educational measure were 261. But in 2 years and a half of applying new legislation, **the number of persons under probation is substantively higher than those in detention.** But I will come back to this aspect when I will talk about the challenges of this new legislation.

Deriving from the Criminal Code and having competence detailed in the 2 laws on probation, we can say that now, after 15 years of existence, the main competence of the probation system is the following:

During the trial, the probation system can be asked to do evaluations of accused persons:

- the evaluation of **minor defendants** shall be performed at the request of the judiciary bodies. During the pre-trial investigation the prosecutor can ask for such evaluation and during the trial the court is obliged to have this evaluation, moreover, is obliged to ask at its session the present of the probation officer.

This report will contain, as European Probation Rules encourage us, important information about data on the family and social environment of the minor, his/her educational situation, the minor's general conduct, analysis of the offence-related behavior, the risk of committing offences, as well as any other data relevant for the minor's situation, the health condition, the minor's evolution from a physical, affective, moral and intellectual standpoint, to the extent that such aspects influenced or may influence his/her offence-related behavior. Moreover, the evaluation report may include reasoned proposals regarding the educative measure considered suitable to the minor, with reference to the nature and duration of the social reintegration programs, as well as other obligations which may be ordered to him/her, in order to reduce the risk of committing offences. For the report the probation counselor may collaborate with social assistants, psychologists, school counselor, educators, physicians or other experts.

- If deemed necessary, the prosecutor or the court may request the probation service **to evaluate an adult**, being accused person within a criminal procedures. For this case the probation service shall contain data regarding the family and social responsibilities of the person, his/her educational and professional situation, his/her general conduct, the analysis of the offence-related behavior, the risk of committing offences, as well as any other data relevant for the person's situation, the person's health condition, his/her level of moral and intellectual development, to the extent that such influenced his/her offence-related behavior. Based on these elements the probation counselor shall make, within the evaluation report, reasoned proposals regarding the measures considered appropriate in order to reduce the risk of committing offences.

This competence is popular among judiciary, as they are constant requesting reports. As can be seen from the chart.

After the trial - For adults the competence is in general related to the enforcement of supervision measures and obligations established by the court under the specific sanctions.

1. supervising the community work for unpaid criminal fine

According to our Criminal Code (art.64), when it determines that the non-payment of the criminal fine is not imputable to the convicted person, the judge can rule that the fine payment to be replaced by community service. For the enforcement of this obligation the probation counselor assesses the person's situation and needs and, depending on the activities' utility for the community, establish in which of the two community institutions mentioned in the court decision the execution shall be performed. Then, the probation counselor shall monitor the performance of the activity. (there were **70** persons in 2015)

2. supervising the measures and obligations during the postponement /waiver of penalty

According to art.83 and the following of the Criminal Code, it is possible that, for a period of 2 years, the court decision not to be issued but instead, some measures and obligations to be imposed to the offender, to be supervised by the probation service. These measures are similar with those imposed in different penal institutions involving supervision and, in essence they can be divided as: control measures and support measures and obligations.

The **control measures** are the following:

- a) report to the Probation Service on the dates set by the latter;
- b) receive visits by the probation officer appointed to supervise them;
- c) give notice of changing domicile and of any travel longer than 5 days, as well as of their return date;
- d) give notice of changing jobs;
- e) provide information and documents of a nature that will make it possible to check into their livelihood.

Also the facultative measures, imposed by the court according to each individual case, also under the supervision of the probation service:

as support measures

- a) take school classes or a vocational training;
- b) perform community service for a duration between 30 and 60 days, in the conditions ordered by the Court, except for the case where their health precludes them from performing that service. The daily number of hours to be performed shall be established as under the Law on Serving Penalties;
- c) attend one or more social reintegration programs operated by the Probation Service or given in cooperation with community entities;
- d) comply with medical checkups, treatment or care;

as control measures

- e) not communicate with the victim or the victim's family, with the persons together with whom they committed the offense or with other persons as established by the Court, or to not go near such persons;
- f) not be in certain locations or attend certain sports events, cultural events or public gatherings established by the Court;
- g) not drive certain vehicles established by the Court;
- h) not own, use and carry any category of weapons;
- i) not leave Romanian territory without securing agreement from the Court;
- j) not take or exercise the position, profession, occupation or activity they used in the commission of the offense.

(there were **7988** persons in 2015)

3. supervising the measures and obligations during the execution of the suspension of a sentence under supervision.

This is a way of individualizing of a imprisonment sentence – a measure that can be ordered for a decided imprisonment of maximum 3 years, meaning that this can be also ordered in some serious cases. Instead of sending the person to detention a court can decide to suspend the execution imposing in the same time for the offender a probation period – between 2 and 4 years, and also with supervision measures and obligations. Those are similar with the measures presented previously.

The measures are:

- a) to report to the probation service, on the set dates;
- b) to receive visits from the probation officer assigned to his/her supervision;
- c) to inform, in advance, any change of residence and any travel exceeding five days;
- d) to communicate any change of job;
- e) to provide information and documents likely to allow control of his/her livelihood.

There are also facultative obligations to be set up by the court according with each specific case:

- a) to attend school or vocational courses;
- b) to attend one or more social reintegration programs run by the probation service or organized in collaboration with institutions from the community;
- c) to accept medical control, treatment or care measures;
- d) not to leave the Romanian territory without court approval.

Moreover, during the supervision period, a convict shall perform community work for a period between 60 and 120 days, under the terms set out by court, unless his/her health prevents him/her from performing such work.

All of these are under the direct supervision of the probation service shall notify the court if:

- a) certain reasons justifying either a change of the obligations imposed by the court or cessation of some of them have appeared;
- b) the supervised person does not comply with the supervision measures or fails to fulfill the obligations incumbent upon him/her under the established conditions;
- c) the supervised person has not fulfilled the civil obligations set forth by the court judgment no later than three months before expiry of the supervision term.

(there were **12484** persons in 2015)

4. supervising the measures and obligations during the conditional release. As I mentioned, if the remaining part of the penalty is, upon conditional release, of 2 years or more, the convict shall comply with the certain measures:

- a) to report to the probation service, on the set dates;
- b) to receive visits from the probation officer assigned to his/her supervision;
- c) to inform, in advance, any change of residence and any travel exceeding five days;
- d) to communicate any change of job;
- e) to provide information and documents likely to allow control of his/her livelihood

Moreover, according to each case, the court may require a convict to perform one or more of the following obligations:

- a) to attend an educational or vocational training course;
- b) to attend one or more social reintegration programs run by the probation service or organized in collaboration with institutions from the community;
- c) not to leave the Romanian territory;
- d) not be in certain places or at certain sporting, cultural events or other public meetings indicated by the court;
- e) not to communicate with the victim or members of his/her family, with the participants to the offense perpetration or with other persons indicated by the court, or to stay away from them;
- f) not to drive certain vehicles established by the court;
- g) not to hold, use and carry any type of weapons.

The role of probation service in supervising all these measures and obligations is very important as the probation officer should verify the way they are fulfilled and is obliged to notify the court if certain reasons justify either the change of the obligations imposed or cessation of some of them or in the case when the supervised person does not comply with the conditions imposed.

(there were **63** persons in 2015)

After the trial - for minors

In the case of supervising minors during their execution of educative measures, **the probation service is the most important actor**, since imprisonment for juveniles becomes extremely exceptional and the range of other measures were regulated instead, all of them being under the control and supervision of the probation.

Thus, the competence related to juveniles is completely changed in comparison with the past. There are new measures possible to be taken according to the new Criminal Code, there are not penalties but educative measure, and the difference is not pure terminological but also in substance.

Therefore, **there are 4 measures for minors who committed crimes**, for specific measures with no deprivation of liberties:

a) civic training stage - supporting the minor in becoming aware of the legal and social consequences he/she exposes himself/herself in case of committing offenses and his/her accountability concerning his/her behavior. The civic training courses are drawn up based on the framework-program in accordance with national curricula, in maximum 60 days (4 month) from the enforcement of the decision. (there were **110** persons in 2015)

b) educational measure of supervision, minor is supervised and guided during the execution of the educational measure of supervision by his/her parents, the persons who adopted him/her or the guardian. If they cannot ensure the supervision in satisfying conditions, the court orders the assignment of the minor supervision, for the same time interval, to a reliable person, preferably to a close relative of the minor, upon his/her request; controlling and guiding the minor regarding his/her daily schedule for 2 up to 6 months in order to assure the attending to school classes or training courses. (there were **716** persons in 2015)

c) weekend consignment – in order to avoid the contact of the minor with certain persons or his/her presence in certain places which predisposes the minor to manifest a criminal behavior. The interdiction is for leaving the house between Saturday at 00:00 and Sunday at 24:00, with certain exceptions, the measure being executed during consecutive weekends - for 4 until 12 weeks. (there were **113** persons in 2015)

d) daily assistance – a daily program is set up and the minor has to comply with and the activities jointly established by the probation counselor and the parents, guardian or other person who takes care of the minor, with his/her consultation.

Obligations which can be imposed to minors:

- To attend an educational training or to acquire a qualification;
- Not to cross the territorial limit fixed by court without the agreement of the probation service;
- Not to be in certain places or certain sportive, cultural or other public places;
- Not to get contact with the victim or the victims relatives, with the participants to the offence or with other persons;
- To attend the meetings established by the probation service
- To comply with the treatment and medical measures.

(there were **831** persons in 2015)

As I mentioned before, there are also absolutely exceptional measures that imply **the deprivation of liberty**:

- a) confinement in an educational centre;
- b) confinement in a detention centre.

For these there are fewer competencies for probation system, rather more competence is given to the specific personnel allotted within the National Administration of Penitentiary. Therefore, for these situations the probation counselors are involved in conditional release committees and also in supervising the juveniles during the post release period. (there were **305** persons in 2015)

To sum up, the educational measures without deprivation of liberty are executed in the community, during their execution being provided the maintenance and strengthening of the connections of the minor with the family and community throughout the programs, in order to train him/her in the spirit of responsibility and respect towards the rights and liberties of others. **The execution of the educational measures without deprivation of liberty is organized, supervised and controlled under the coordination of the probation service.**

Where are we now?

The activity of our probation system **increased by years**, with good cooperation with civil society and good understanding of the need to embraced methods and programs adjusted to the need of the persons supervised, easily to observe from

the chart presenting the increasing number of pre-sentence reports and also of the persons under supervision.

Our people, beautiful people, who work hard to build probation from nothing,
Have created a modern system, with modern instruments.

Now on central level: there is a National Probation Agency (NPD) and **on local level:** 42 probation services, one in each county of Romania.

I present you here some images for the **opening of workshops in different cities, in cooperation with an ONG-s**, in which the supervised persons will either dismantle for recycling electronic components or are creating objects for recycled material. See also an example of several workshops opened in cooperation with an NGO and our Swiss partners.

Moreover, instruments were developed - modern and well-adjusted to the real needs of Romanian society, just to mention some of them:

- **„One to one”** – for developing skills and positive beliefs,
- **"Development of social skills to minors"**
- **"Stop! Think change "** for people who have a paternal crime, a program that helps to identify patterns of thinking dysfunctional and promote the principles of thinking alternative,
- **" Developing social skills for adults "** for reducing Risk of Recurrence for preparation for release and support post - execution of criminal detainees in the last three months of imprisonment
- **"Drink and Drive"**
- **My choice**, for consumers of alcohol and drugs/who have addictions
- **Civic Education for minors**
- **Mentorind program** - mainly for convicted persons of Rroma origin
- **Anger Management.**

We must recognize, however, that this legislation has brought **enormous challenges. A huge effort for all the practitioners to learn the new provisions**, to apply them properly, all the actors involved: judges, prosecutors, police officers, NGOs, along with the probation system.

And, as I said already many times during this presentation, **the activity of the probation system increased dramatically in the last years.** As can be seen from the chart presented at the last year Annual Report, the total number of supervised persons is much higher than ever. In my opinion this is a sign that the probation system, totally reborn, becomes a major actor for the Romanian executional regime.

I don't know, and, please, correct me if I'm wrong, any other European state in which, through substantial criminal reform, not pardon or amnesty, in only 2 and a half years to completely change the mentality and the perspective with spectacular results. Thus, applying these new provisions, we managed number persons supervised probation to exceed those of people in prison, and the

difference is significant. Because, following new regulations, Romania faces now, for the first time ever, a total change of mentalities and a new paradigm: the number of persons under probation is substantively higher than those in detention, **more than 42 000 under probation versus 27636 in prison in September 2016.**

Can we face this challenge? Are we prepared to deal with all of these persons in proper conditions? The European ration for one probation officer is around 60 persons (in Nordic countries even less). In our case now is more than 140. For sure that means we cannot do probation in proper conditions. The legislative reform is now finalized and we need now to focus on implementation and to increase and strengthened the probation system, for sure.

So what to do in the future?

There are still **some by-laws or other specific normative acts** to be adopted for consolidating the status of probation personnel and for enhancing the working methodology: such the law on the Status of probation personnel, Minimum standards for probation work in community institutions, the Code of Ethics probation staff.

But much more is needed on the **level of human resources** – there is a huge need to increase the number of probation counselors. ..

And, of course, a huge effort would be **to train them** properly. Working for this presentation, I found in my papers done 1997 in cooperation with those specialists in probation at that time a proposal lost in years... And maybe now it is time to reiterate it – **A National Institute of Probation.**

Of course, more to be done **also in for the infrastructure and IT** and to **consolidate the independent now National Directorate of Probation.**

We are not alone in our way, we've never been, as there were traditional European partners (UK, Netherland) who walked besides us from the very beginning or who help us now to develop (Norway). There are also European bodies who show us the way to do it – and it is time to mention not only the Council of Europe standards that we had in mind creating the new legislation, but also the debates and preoccupation of the dedicated expert group – PCCP- from which I had the honor to be part of it, and in which, under the excellent leadership of Vivian Geiran, present here, now it is analyzed a new Recommendation replacing Recommendation Rec (2000) 22 and Recommendation (92) 16 on the European Rules on community sanctions and measures.

We can admit, we are victims now of our own success, since there important legislative was not followed in proper time by organizational and infrastructure changes. Now the probation system has in total 352 probation officers in the territory, dealing with 50.000 persons supervised. It was good that it was done **maybe in the most difficult part – changing the mentality and practice** of the magistrates, but it is hard to continue without the necessary investments. It

is also true that the change in the paradigm did not necessarily release us from the historical overcrowding in the penitentiaries. It did, however, change substantially **the need to invest** in the penitentiary system and it made us to realize that the efforts should be done in the same time – for both probation and penitentiary.

That's **why this year the Government adopted a Memorandum related to the intention of the European Court of Human Rights to adopt a pilot judgment on Romania for cases concerning prison conditions.** This document is containing legislative measures, measures concerning human resources and infrastructure related to Ministry of Interior – for pre-trial detention, National Prison Administration and also related to the probation system. This memorandum is providing to time schedule for measures to improve conditions of detention and probation system, and, for the period 2016-2023, a value of 21.47 million Euros is promised for the National Probation Directorate out of 838.45 million euros dedicated for the entire program. It also envisaged to supplement gradually the number of counselor as to reach 808 by the end of 2017 (565 have been already allotted and 184 financed at this very moment).

In conclusion, the legislative reform took **overall 7 years** to be created, adopted and prepared to enter into force. Now, after having it in place for more than 2 years it still challenge us **for years to come** from the perspective of ensuring the necessary infrastructure to properly apply it. Beyond all these huge difficulties encountered, **one main conclusion remain – probation is the future for our executorial system,** it is not the Cinderella anymore. Legislative reform in Romania has considered predominantly reducing prison population but also encouraging practitioners to move towards new forms of criminal punishment. In this respect it creates a different, stronger and bigger probation system. Now it is time to help this system to properly perform its competences, taking into account that the effort should be done not be only from the state side but also from the community - looked at in terms of the agencies providing work, opinion formers (the media, politicians, local councils, and so on), victims and society at large.

There are many signs that recently **the Romanian community has changed** and we are grateful to all of those who support this process, no matter in what form- being journal articles, documentaries, public debates or movies, to promote the values and importance of the probation work.

Let me finish my presentation with a short story...Now, a detainee, when release, is given a very small amount of money to be able to take public transportation on one way. For some of them, 2 lei and 60 cents represent a stigma for their entire life. But **2 lei and 60 cents** is also a title of a new movie, not yet launched, about the challenges of a former convicted person in the society. A movie based not only on the stories told by 60 detainees, but also on the scientific research conducted within the Bucharest Faculty of Sociology - called The Ethnography of the Prisoner's Transition. Thanks Prof. Ionut Durnescu and film director Camelia Popa for letting me to announce, in advance, this movie.

So, my legislation story ends here and now we are ready for real stories, stories of some of our citizens. Let the art speak now, Enjoy the movie!

...and thank you for you attention!