



# **Probation in Europe**

## **Czech Republic**

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October, 2018

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ISBN/EAN: 978-90-820804-0-7

This publication was funded by the Ministry of Justice and Safety of the Netherlands  
and the Dutch foundation *Stichting Nationale Reclasseringsactie*

Published by:

CEP, Confederation of European Probation  
P.O. Box 8215  
3503 RE Utrecht  
The Netherlands  
[www.cep-probation.org](http://www.cep-probation.org)

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# **1. Introduction**

## **1.1. Probation organization**

The Probation and Mediation Service promotes and implements community sanctions, provides help and support to the victims of crime, and offers restorative programs (mediation, restorative conferences). The Probation and Mediation Service is subordinate to the Ministry of Justice. The Probation and Mediation Service includes a directorate in Prague, and 74 service centres in eight judicial regions. A regional manager leads the judicial region, which consists of the individual service centres. The service centres are responsible for the implementation of community sanctions, pre-trial / pre-release reporting, restorative programs and victim support.

## **1.2 Probation activities in a nutshell**

The clients of the Probation and Mediations service are offenders, victims, and the affected community. The Service works with both juvenile and adult offenders. The initial concept for the Probation and Mediation Service was built on the assumption that the pre-trial stage is a key area of focus. During pre-trial stage, the Probation and Mediation Service provides services for both the victim and the accused directed at settling conflicts arising from a criminal offence. This involves, in particular, victim-offender mediation and pre-sentence reporting. The cooperation of the victim and the accused with the Probation and Mediation Service is voluntary at this stage; the presumption of innocence applies to the accused. At this stage of criminal proceedings, the activities of the Probation and Mediation Service can result, for example, in the pre-trial diversion or the application of suitable community sanctions and measures.

During the enforcement stage, the Service systematically follows through on the pre-trial stage activities. The Probation and Mediation Service is responsible for organising, enforcing, and supervising community sanctions and measures. It principally involves probation supervision, community service and parole supervision. The decisions of sentencers to issue community sentences are based on reports prepared by the Service during the pre-trial stage. The Juvenile Justice Act, which came into effect in January 2004, broadened the scale of measures for dealing with juvenile crime (offenders aged 15-18) and stressed the importance of probation and mediation in dealing with these cases.

## **1.3 General remarks about the implementation of the European Probation Rules**

The Probation Rules of the Council of Europe have been taken into account while the updated version of the Best Practice Framework Incorporating the Probation and Mediation Standards was being drafted (2014-2016). The practices have been developed in a manner that corresponds to the principals of the Probation Rules concerning the different judicial, administrative and organisational practices of probation work. The reporting, enforcement and assessment procedures of community sanctions have been reformed in order to follow evidence-based practice.

## 2. Historical Development of the Probation System

### 2.1 History from the origins to 2008

#### Introduction of the suspended sentence and conditional release

After Czechoslovakia became an independent national entity in 1918, a number of the measures introduced into penal legislation were quite modern for the time.<sup>1</sup> Act No. 562/1919 Coll. on Conditional Sentence and Parole introduced the institute of conditional release, which as long as certain conditions had been met, replaced the pecuniary penalty and custodial sentence. The probationary period was from one to five years long. Within the probationary period, the court could have determined a protective supervision over a conditionally sentenced person and limit them in their way of life and place of residence. In general, it imposed on them to compensate for damages and provide a victim satisfaction to their best ability. In the case of parole, the probationary period equalled the remaining sentence; however, it may not have been shorter than two years. The protective supervision and different limitations of the way of life and place of the residence of a conditionally released person could also have been a part of the probationary period. A three-member committee, “the Parole Board” established at the relevant court decided on the parole. The Board also decided on the return of a conditionally sentenced person to prison, if they<sup>2</sup> gave cause for it. Two judges and one public prosecutor were its members. The final decision on the appeal against the Board’s decision was taken by the Ministry of Justice. The protective supervision was performed by the relevant court via an employee who was called “a ward” or a protective supervisor.

After the Second World War, the development of penal policy was influenced by the ideology of the totalitarian communist regime. Nonetheless, even during this period, several legal and procedural methods were established in the Czechoslovakian legal system that was broadly similar to probation. Chief among these were suspended sentence and conditional release. Both of the measures were associated with a certain form of oversight of the offender in the trial stage, which, however, was performed by the court only through administrative questions to the police and by determining the reputation of the offender at their place of residence and, to this day, it is generally formal in character. The Criminal Code enabled interest groups, such as trade organizations, workers’ collectives, and churches, to offer a guarantee for the rehabilitation of the offender. Such an offer could influence sentencing, for example, leading to a conditional or absolute discharge. Among other measures with probation elements implemented in the 1980s, the so-called “protective supervision” originally conceived as a specific form of probation was carried out by police organizations during the totalitarian regime and was wholly regulatory, even repressive in nature. This type of supervision was often used by the former regime to restrict human and civil rights, mainly against dissidents (for example against the Charter 77 activists) and was repealed in 1990.<sup>3</sup>

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1 Ourednickova, L., Stern, P., Doubravova, D. (2008) in: Kalmthout, A. M, Durnescu, I. (eds.), Probation in Europe, Wolf Legal Publishers, p. 205.

2 We use “they” as a gender-neutral singular pronoun.

3 Ibidem, p. 205

## **Victim-Offender Arbitration – Historical Roots**

Hundreds of stone crosses and cross-shaped stones are preserved on the territory of the present Czech Republic. Their origin and meaning are explained in different ways, but one of the many explanations is that they have a conciliatory meaning. Some of the stone sights are connected with conciliation agreements, which were concluded between the family of an offender and the family of the bereaved as a confirmation of a jointly concluded conciliation and a certain material settlement of the damages. Written references to this procedure can be found on the territory of Bohemia as early as the half of the 19<sup>th</sup> century, but at least one of the preserved conciliation agreements dates back to 1513.<sup>4</sup> As the Czech historical sources show, in the 16<sup>th</sup> century and at the beginning of the 17<sup>th</sup> century, in the case of homicide, the bereaved could have either sued the offender or requested their punishment or they agreed to an out-of-court settlement. Conciliation agreements, in fact, meant the conclusion of an agreement between an offender and the victim (the bereaved) and prevented the offender's punishment. However, conciliation agreements could also be concluded during criminal proceedings and they were not excluded even in the cases when the offender had already been sentenced and was awaiting the enforcement of the punishment. A conciliation agreement evidenced that an offender had admitted their guilt and expressed contrition or they accepted their punishment. The offender's remorse was expressed e.g. by their request for forgiveness and undertaking to carry out the assignments determined by the agreement in favour of the bereaved family. The expression of contrition and repentance had different forms, one of them included erecting a conciliation stone (a stone cross) as a sign of reverence and effort to conciliate guilt from a moral viewpoint.<sup>5</sup> The similarity between the conclusion of conciliation agreements in the past and agreements made as part of the settlement institute as it is known today is obvious.

## **Social curators**

In the 1970s, under the methodological management of the Ministry of Labour and Social Affairs, a system of a post-penitentiary care was being built in Czechoslovakia, which should have dealt with the problems of ex-offenders. At the national councils of that time, social curators assisted released prisoners on a voluntary basis. In practice, the voluntariness principle was of unparalleled importance, as the state did not provide this assistance against the will of the ex-offenders but only when they were interested in receiving such services. Although the social curators had an obligation to influence released persons to accept their assistance, they successfully managed this ideological conflict. Post-penitentiary care provided by social curators included different forms of assistance and care with the aim to integrate an offender into the society.<sup>6</sup> Social curators operated at national councils. In big cities, they worked at the centres of post-penitentiary care, in which they assisted released prisoners to find a job and accommodation; in the case of a social need, they could provide them with financial aid, material assistance or a financial loan.<sup>7</sup>

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4 Urfus, V. et al. (2001), *Kamenné kříže Čech a Moravy*, Argo, Prague, pp. 20-22.

5 Ibidem, p. 29.

6 Ministry of Labour and Social Affairs (1983), *Care of Socially Unadaptable People, Methodological Guide for National Council's employees – Practical Part*, Prague, p. 6.

7 Ibidem, p. 15.

At that time, hostels for a temporary stay of released prisoners were established as a significant means of re-socialising efforts. These facilities did not have a character of a mere hostel, but they conceptually connected an option of a temporary stay with a certain educational regime. Nowadays, the probation houses or halfway houses operate in a similar way in Europe. In connection with the implementation of the practice of social curators, consultancy workplaces were established, predominantly in big cities, where ex-offenders obtained assistance in solving partner, family, and psychological issues. It was also assumed that different volunteers would cooperate with the curators. In addition to direct work with released prisoners, probation officers also operated in the then commissions for correctional and educational activities and in the area of social prevention, in particular, the prevention of crime, alcoholism and other addictions. The system of care for socially inadapted people was governed by Act No. 121/1975 Coll., on Social Security, methodological procedures were done by the Ministry of Labour and Social Affairs.<sup>8</sup>

In a similar way, a system of care of children and juveniles was gradually implemented in Czechoslovakia, which was carried out by special curators. They addressed the problems of families with children and in the case of educational problems of children or illegal acts committed by children and juveniles, they collaborated with prosecution authorities. Both the systems are used in the Czech Republic to date; they are now enacted by law and methodologically guided by the Ministry of Labour and Social Affairs.

In addition to a functional system of social curators, during the 1990s, a system of probation and mediation was built in the Czech Republic to implement alternative sentences and later also measures imposed on young offenders pursuant to a special law, which culminated in the adoption of Act No. 257/2000 Coll., on Probation and Mediation Service.

### **Development of Community Sanctions and Measures after 1989**

For the Czech Republic, as for many other countries, the coming down of the Iron Curtain in 1989 and the end of the Cold War marked a fundamental break: a new beginning and an opportunity to create new ways of doing things. It brought far-reaching reform of the criminal justice system, initially in Czechoslovakia, and then, following the dissolution, in the Czech Republic. The year 1994 saw the introduction of the first alternative sentencing concept in the criminal law – that of pre-trial diversion (the conditional cessation of prosecution). This step was revolutionary for its time in that it introduced elements of Anglo-Saxon law into the Czech continental legal system. It also created the ideal point of departure for mediation during criminal proceedings. Thus began a chain of events that has constituted one of the principal reforms of the Czech criminal justice system.

The year of 1996 saw the introduction of two other alternative concepts, out-of-court settlements, and community service.

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8 For more details, see: Ministry of Labour and Social Affairs (1978), Prague.

The same year, as a part of a government crime-prevention program, the Minister of Justice created the first official positions for probation officers at every district court in the land. It was a start from scratch, and mainly existing court officials whose principal task it was to ensure the implementation of alternative sentences, filled these positions. In 1998, an amendment to the Criminal Code brought about the adoption of further community sanctions and measures related to probation and probation supervision: conditional discharge with probation supervision and suspended sentence with probation supervision.<sup>9</sup>

### **Establishing the Probation and Mediation Service**

Since the beginning of the 1990's, new forms of community sanctions have been introduced into Czech criminal law. Individual examples could be seen across the board, without any piloting, so it was possible to introduce them rapidly. The current criminal law boasts a varied set of alternative sentences. The early years of implementing alternative sentences were also characterised by an inadequate professional infrastructure (the Probation and Mediation Service was established seven years after legislation about diversion was passed, five years after the introduction of community service orders and two years after the introduction of supervision).<sup>10</sup> Upon the regulation by the Ministry of Justice, as of 1996, first positions of probation officers were created at selected district and regional courts in the Czech Republic. Since then, probation and mediation procedures started to be applied in practice, methodological materials were introduced and valuable practical experience was gained gradually.

In 1999, the Minister of Justice submitted a proposal for further reforms to the justice system. These included a fundamental change to criminal proceedings and a new bill on probation and mediation service. It led to the Czech Parliament's passing of the Act on the Probation and Mediation Service (the PMS) in 2000, which constituted a new nationwide organization, which started operating in January 2001.<sup>11</sup> The Probation and Mediation Service was established as a governmental organisational component unit within the competence of the Ministry of Justice. Gradually, the service centres were established in all 74 judicial districts. Two specialisations were created – probation officers and probation assistants.<sup>12</sup>

Especially important was the exceptionally positive process of the Probation and Mediation Service creation where the efforts of academics and representatives of non-governmental organizations, as well as the support from the Ministry of Justice and the Supreme Court of the Czech Republic combined. It was a process Vaclav Havel called “a spontaneous motion”; something that arose out of initiatives and needs from below and that found support from above at the right moment. It provides a good example of cooperation between the governmental and non-governmental sectors to bring about important, collective, and consensual change in the area of legal practice.

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9 Ourednickova, L., Stern, P., Doubravova, D. (2008), in Kalmthout A. M, Durnescu (eds.): *Probation in Europe, Wolf Legal Publishers*, p. 206

10 Ibidem, p. 206.

11 Ibidem, p. 206.

12 While the roles of probation assistants and officers differ slightly, for the sake of simplification we will use the term “probation officer” while referring to probation officers and assistants. For details on the difference between probation officers and assistants, see chapter 4.2.1.



The Probation and Mediation Service was set up in the spirit of this consensual process, primarily so that the justice system could effectively implement the new criminal law policy in the area of community penalties.

A non-governmental, non-profit organization played a very important role in the entire process. It was the 'Association for the Development of Social Work in Criminal Justice' (SPJ – Sdružení pro rozvoj sociální práce v trestní justici). Among the pivotal activities of SPJ was the organization of international seminars and the transfer of good practice from abroad, significant involvement in the creation of the education system for probation officers and assistants, and last but not least, the publication of the "Probation and Mediation Handbook". The aim was to support the establishment of the Probation and Mediation Service and to ensure the stability of the new institution in the initial years of its existence.<sup>13</sup>

### **3 Legislative Basis of the Probation System**

#### **3.1 Legislative Basis**

The Probation and Mediation Service plays a role in criminal proceedings, undertaking duties defined in the Criminal Code, the Criminal Procedure Code, the Probation and Mediation Service Act, the Juvenile Justice Act, and others. Another important internal document of the service is its Statute defining the organizational structure of the Service in detail. Act No. 257/2000 Coll., which came into effect on 1 January 2001, sets out in detail how the Probation and Mediation Service should operate, its organizational structure, and defines its duties and responsibilities regarding the work with victims and offenders. As stressed in Rule 34 of the European Probation Rules (EPR), the law also deals with the status of staff, their rights and responsibilities, the qualifications required to work in the Service, and the authorization of the Service to work in active cooperation with other agencies, not only within the criminal justice system but also with other bodies and, if necessary, to coordinate such cooperative activities (Rule 34 of EPR).

The other important legal norm defining the responsibilities of the Probation and Mediation Service is Act No. 218/2003 on the Responsibility of Youth for Criminal Acts and on Justice in Juvenile Matters (Juvenile Justice Act), which came into effect in January 2004. The Probation and Mediation Service works with adult offenders as well as juvenile delinquents and children under the age of 15 when implementing diversions, educational measures and penal measures.

The competence of the Probation and Mediation Service and with respect to crime victims are governed by the separate Act on Crime Victims (45/2013 Coll.). When working with the victims, be it victim-offender mediation, direct consultancy or projects developed and carried out by the Probation and Mediation Service (Why Me and Why Me II), the victims are clearly informed that decisions regarding the sanctioning of offenders are taken based on a number of factors, not only the harm done to a particular victim (as in Rule 95 of EPR).

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13 Ourednickova, L., Stern, P., Doubravova, D. (2008), in Kalmnthout A. M, Durnescu (eds.): *Probation in Europe*, Wolf Legal Publishers, p. 207.

The methodological procedures of the Probation and Mediation Service can be found in the Best Practice Framework Incorporating the Probation and Mediation Standards, which were approved by the Ministry of Justice in 2016. The Framework regulates all the procedures carried out by the probation officers in the area of parole, probation, pre-trial proceedings, community service, house arrest, prohibition of entering sporting, cultural and other social events, and work with juveniles and children. Children under the age of 15 do not have criminal liability but proceedings may be held against them under the Act on Juvenile Responsibility for Illegal Acts and on the Judiciary in Juvenile Matters and a number of measures can be imposed on them by the court. A probation officer carries out the enforcement of the measures. The Probation and Mediation Service obtained this competence in 2004.

While working on the updated version of the Best Practice Framework Incorporating the Probation and Mediation Standards (2014-2016), the Probation and Mediation Service took into account recommendations of the Committee of Ministers of the Council of Europe, namely in the following areas:

- Mediation (Mediation in penal matters, Recommendation N° R(19) 99),
- Alternative punishments and measures (European rules on community sanctions and measures N° Rec (92)16E),
- Implementation of alternative punishments and measures (Rec (97)12E on staff concerned with the implementation of sanctions and measures),
- Treatment of juvenile offenders (Recommendation Rec (2003)20 concerning new ways of dealing with juvenile delinquency and the role of juvenile justice).

The following rules have also been implemented:

- European Probation Rules (Recommendation CM/Rec (2010) on the Council of Europe Probation Rules),
- European rules concerning the measures imposed on juvenile offenders (Recommendation CM/Rec (2008)11 on the European Rules for juvenile offenders subject to sanctions or measures) a Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice and their explanatory memorandum (adopted by the Committee of Ministers on 17 November 2010),
- Recommendations in the area of conditional release - parole (Recommendation Rec(2003)22 on conditional release (parole),
- Recommendation in the area of work with dangerous offenders (Recommendation CM/Rec(2014)3 concerning dangerous offenders,
- Recommendations in the area of electronic monitoring (Recommendation CM/Rec(2014)4 on electronic monitoring),
- Recommendations concerning work with crime victims (Recommendation Rec(2006)8 on assistance to crime victims),
- Recommendations specifying minimum standards of crime victims' rights, support and protection (Directive 2012/29/EU).

### **3.2 Mission and Mission statement**

Through its declared mission, the Probation and Mediation Service endeavours to deliver effective and socially beneficial resolution of conflicts arising from criminal offending. At the same time, it ensures effective implementation of community

sanctions and measures, placing an emphasis on the interests of victims, protection of the community, and crime prevention. The Probation and Mediation Service has declared three basic objectives: the integration of offenders, victim support, and community protection.<sup>14</sup> The Probation and Mediation Service proceeds in accordance with the principles of fundamental human rights and freedoms and must not exceed the framework of decisions issued by the court or the public prosecutor. When the Service is involved in restorative justice processes (most common are victim-offender mediation and family restorative conferences), the offenders, victims, and community representatives are clearly informed about their rights and responsibilities. Without thoroughly informing everybody involved, the restorative process cannot be carried out (Rule 97 of EPR).

**The main principles that underline the probation activities in Czech Republic are:**

- **Transparency:** the offender, victim and the relevant prosecution authorities are informed of the commencement, progress and the result of the Probation and Mediation Service activity; the offender and the victim have a possibility to express their opinion of the reports.
- **Individual approach:** the extent and form of the intervention are selected individually so that they correspond to the specific needs and interests of both the offender and victim; the community's interests and the circumstances of the committed crime are taken into account.
- **Timeliness of the intervention:** establishing a contact with an offender and extending the offer of cooperation to the victim are made as early as possible once the service is informed about a case. One of the top priorities is to commence mediation-related activities at the earliest possible stage of the criminal proceedings.
- **Equal opportunities:** the Probation and Mediation Service always tries to balance the offender's needs, the victim's protection and interests and the interests of the affected community. All the procedures are adjusted so that they would prevent any form of discrimination.
- **Active involvement:** probation officers encourage the offender, victim and community to participate in the hearing of a criminal case. An offender is lead to accept their responsibility, remedy damages they caused and change their way of life in order not to commit crimes in the future (Rule 1 of EPR). Victims are offered free-of-charge legal consultancy and restorative programs, and, if needed, other professional care is mediated. The affected community may participate in restorative programs, i.e. a mediation or a restorative conference. The offender might carry out an activity beneficial for the community.<sup>15</sup>

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14 Ourednickova, L., Stern, P., Doubravova, D. (2008), in Kalmnthout A. M, Durnescu (eds.): *Probation in Europe*, Wolf Legal Publishers, p. 209.

15 Doubravova, D., Ourednicková, L., Stern, P. and Urban, L. (2001), Probation and Mediation Guide Association for Probation and Mediation in Justice (APMJ), Prague, pp. 1-2.

### **3.3 Crime Prevention**

The Probation and Mediation Service Act defines young offenders, young adult offenders, re-offenders, and substance addicts as priority groups (§ 4(5) of Act No. 257/2000 Coll.). The Juvenile Justice Act established a large scale of measures and new principles focused on the solution of juvenile crime. Crime prevention is a task that is permitted by law, but there is no clear definition of how it should be undertaken. At this time, the Probation and Mediation Service is a member of the National Committee for Prevention of Criminality. As part of the committee, the Probation and Mediation Service is a co-author of the overall crime prevention strategy.<sup>16</sup> Probation and Mediation representatives cooperate with relevant government authorities in creating national concepts in the area of social integration (Government Agency for Social Integration), public order and anti-drug policy (International Monitoring Centre for Drugs and Drug Addictions). Under collaboration agreements of the Probation and Mediation Service with the Police and Prison Service of the Czech Republic, the Service participates in the creation and implementation of system measures with the aim of solving crime efficiently and preventing it in the future.

### **3.4 Victim assistance**

The activities of the Probation and Mediation Service performed with respect to crime victims are based on the provision of the Probation and Mediation Act. Section 4(3) and 4(4), which cite that "[...] the Probation and Mediation Service assists to the victim and other persons affected by an offence in eliminating the consequences of a criminal offence [...] contributes to the protection of the rights of persons affected by criminal activities." Under the same Act, the Service is also entitled to arrange mediation subject to the victim and offender's consent. After putting the Crime Victims Act (45/2013 Coll.) into the Czech practice in 2013, the definition of victim has been expanded. In accordance with the law: "victim shall be every person who feels to be a victim of a crime [...] unless the opposite is revealed or unless it is an apparent misuse of the position of a victim under this act. A victim's status is not influenced by the fact whether the offender has been identified or sentenced." The Probation and Mediation Service is a victim assistance provider authorised to offer free-of-charge legal information and restorative programs.

Probation officers offer assistance and support to the victims directly at the service centres of or, when cooperating with other agencies and organizations, in other places, for example in advisory centres. In addition to legal information and a place where their story is heard, probation officers offer victims personal support and accompaniment to the court proceedings. They also inform about the possibility to draft the Victim Impact Statement and assist them with its creation. In the Czech Republic, a network of advisory centres for crime victims was established via projects implemented by the Probation and Mediation Service in cooperation with non-governmental organisations.

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<sup>16</sup> Ourednickova, L., Stern, P., Doubravova, D. (2008), in Kalmthout A. M, Durnescu (eds.): Probation in Europe, Wolf Legal Publishers, p. 210

In selected judicial regions of the Czech Republic, multi-disciplinary teams are established which consist of entities providing different services to crime victims. The teams for victims deal with current topics concerning work with victims, they map the situation in the regions from the victim's viewpoint and coordinate services' accessibility at the local level. If needed, the Probation and Mediation Service is in contact with the authorities and, together with them, it prepares measures that increase the victim's safety and protection (e.g. related to releasing the sentenced offender from prison).

For details on victim support and counselling in the Probation and Mediation Service, please see Štern, P. (ed.) (2014), *Best Practice Manual for Czech and International Use*, available online: <http://restorativejustice.org/am-site/media/best-practice-manual-on-restorative-justice-victim-support-and-counseling.pdf>.

### **3.5 Volunteer involvement**

In October 2017, a strategic document concerning the development of probation and mediation until 2025 was approved by the Czech Government. The document cites volunteer involvement as one of the top priorities. Currently, the service does not frequently make use of volunteer work.

## **4. The Organization of Probation Services**

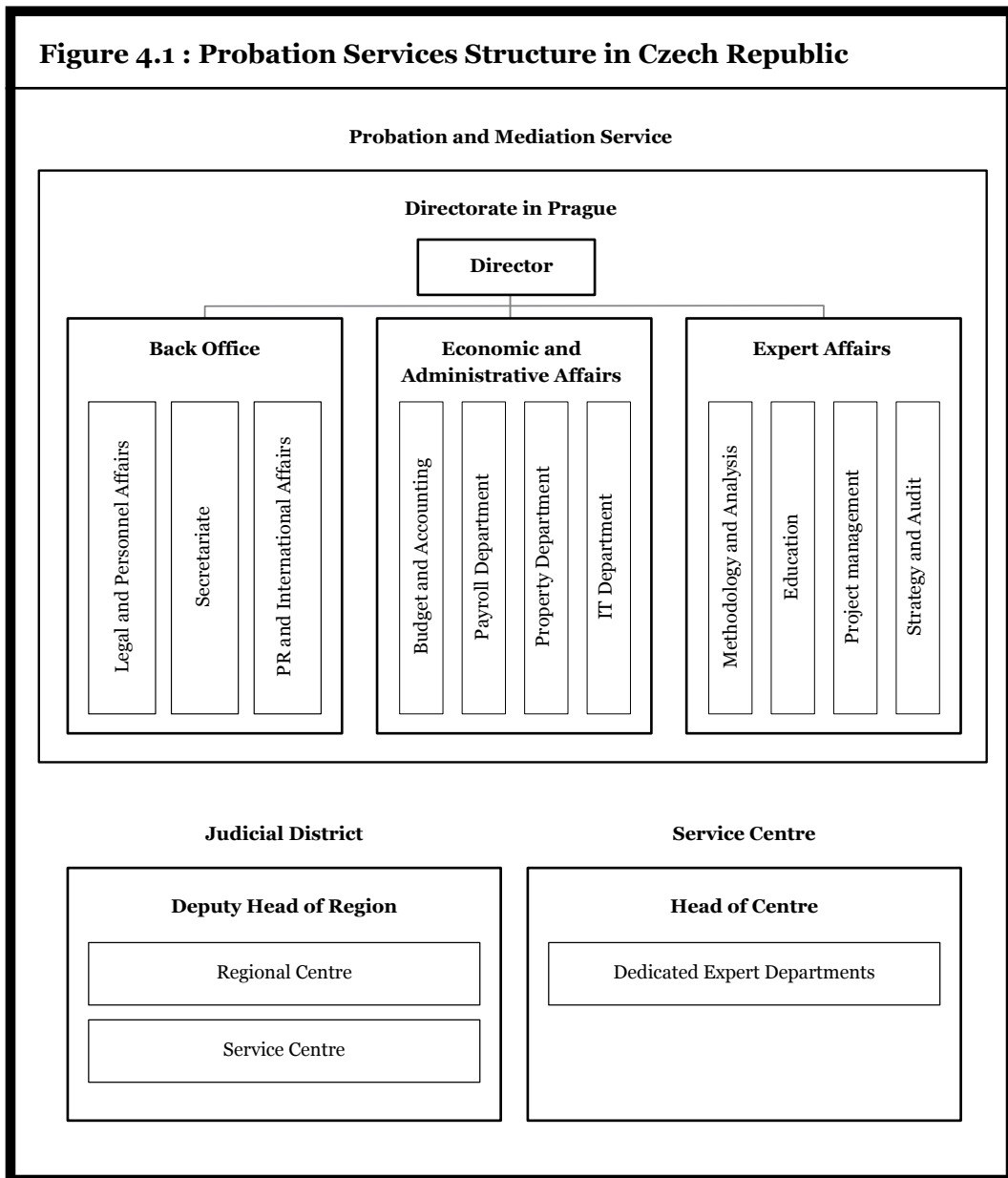
### **4.1 Main characteristics**

The Probation and Mediation Service is a governmental component unit subordinate to the Ministry of Justice. The Ministry of Justice draws general strategic guidelines for the penal policy in the whole country and it is responsible for creating due conditions for probation and mediation activities and exercises supervision over the Service. The Council for Probation and Mediation is the key advisory body of the Minister of Justice in the conceptual and methodological matters of the Service. The Council recommends the conceptual, strategic, and methodological documents to the Minister. The Probation and Mediation Service operates throughout the Czech Republic and its directorate is in Prague.<sup>17</sup> Today, the Probation and Mediation Service is a well-established and respected institution among judges, public prosecutors, police officers, local governments, public institutions, the non-governmental sector and other specialists.

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<sup>17</sup> Ibidem, p. 211.

## 4.2 Internal organization



The Probation and Mediation Service is managed by the director who is appointed by the Minister of Justice. The director manages, organizes and controls the activities of the Service and represents the service at the highest level. Under the Probation and Mediation Service Act, the Ministry of Justice has an advisory body titled the Council for Probation and Mediation to deal with the matters of strategic concepts and methodology. The management of the Probation and Mediation Service closely cooperates with the Council for Probation and Mediation and shares important documents, which are subsequently submitted to the Ministry of Justice for approval. The representatives of courts, public prosecutors, academia, research institutions, the Ministry of Interior, the Ministry of Labour and Social Affairs, the Prison Service, and probation officers are members of the Council.

The directorate is located in Prague. There are eight judicial regions in the Czech Republic. In each of them, there is a regional office of the Probation and Mediation Service (second management level). Judicial regions are further divided into 74 judicial districts; there is a service centre in each of them. A head of a centre manages the centre and the employees – probation officers. The officers have their respective specialisations. A Probation and Mediation Service centre always corresponds with the court and public prosecution office residing in the specific judicial district. The service cooperates with relevant authorities; the police, local governments, and non-governmental organisations. In districts where prisons are located, the Probation and Mediation Service closely cooperates with the Prison Service.

To ensure efficient methodological management of probation officers and development of good practice, regional methodological teams were established. The teams consist of experienced specialists (probation officers) and constitute an advisory body of the deputy head of region. At the national level, methodological issues are coordinated by the methodology and analysis department. The methodology and analysis department and the department of education closely cooperate with specialised national methodological coordinators and tutors to make sure all activities carried out by the probation officers comply with methodological standards and best practice.

#### **4.2.1 Probation workers**

At the end of 2016, 426 employees worked in the Probation and Mediation Service, with 298 probation officers, 97 probation assistants, and 31 employees at the directorate. In accordance with the Probation and Mediation Service Act, the applicant for the job of an officer must have a Master's degree in humanities. An applicant for the job of an assistant needs to have completed secondary education in humanities and needs to be at least 21 years old. Both need to obtain the basic qualification and specialisation-training course and a probation officer needs to pass a final examination. Both positions require integrity and a clean criminal record. The positions of probation officer and assistant differ in terms of qualification requirements, financial compensation, and the job contents. The officers and assistants work at all stages of criminal proceedings.

Within their respective specialisations, the officers focus on mediation, probation supervision, community service, house arrest, juveniles, and conditional release. In larger centres (i.e. 10-12 employees, the largest centre in Prague has 36 employees) specialists are divided into specialised departments, but the majority of centres are smaller (consisting of 3-5 employees) and do not have departments. The division between different specialists is not strictly given, especially in the smaller centres. The Probation and Mediation Service Act stipulates that the officer enforcing probation cannot concurrently arrange mediation in a respective case and *vice versa*. The assistants in case-based work predominantly focus on the administration of community service orders and supervisions, the officers, above all, on mediation, pre-trial diversion, parole, juveniles and high-risk offenders. House arrest orders and prohibition to enter sporting, cultural and other social events are overseen by both probation officers and assistants.

The officers/assistants prepare pre-sentence and pre-release reports, which serve as a reference for public prosecutors or courts. They are responsible for client work involving alternative sanctions and measures, provide consultations at centres and visit offenders at the places of residence. As needed in specific cases, they cooperate with offenders' families, crime victims, police officers, judges, public prosecutors, prison employees, authorities of social and legal protection of children and social curators, and other specialists from governmental and non-governmental organisations (health, educational, social and other institutions and services).

At the end of 2016, the average number of cases handled by a probation officer or assistant amounted to 104 (74 offender cases and 30 victim cases) at a time. That is a high number and it is a burden for the officers. Therefore, the management pays attention to the quality of professional activities and to human resources management. Managers undergo training, which strengthens their managerial skills; the specialists at the centres receive training courses deepening their knowledge and practical skills, and case supervisions. Quantity and quality monitoring of professional activities is carried out on local, regional and national levels. In addition to the training of probation officers and assistants, the quality of probation and mediation is ensured via continuous methodological support and by quality methodological materials and implementation of modern IT technologies, for example, a standardised instrument for assessing offenders' risks and needs, a user-friendly administrative system and so on. Probation officers share basic objectives and missions of the Probation and Mediation Service and the experience from case-based practice. The management and training of probation officers are designed to support this intention.

**Table 1. The staff structure**

Number of staff	426
Management staff	22
Executive staff	395
Supporting staff (e.g. secretary, bookkeeping staff, ICT staff etc.)	9

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

The training of staff of the Probation and Mediation Service is not provided by any outside educational institution but is done internally. The Probation and Mediation Service has a special educational system in place based on the Study Program for Qualification, Specialization and Further Education of employees of the Probation and Mediation Service, approved by the Minister of Justice every 2-3 years. Act No. 257/2000 Coll., on the Probation and Mediation Service, stipulates the obligation of completing a qualification course (for probation officers) and a specialised training course (for probation assistants).

#### **The educational system consists of four different levels.**

The first level sets the qualification prerequisites for probation staff: age over 21, integrity, and legal capacity (Rule 22). A probation officer must have a Master's degree in social sciences, while a probation assistant must have a secondary



education in social sciences. The new staff goes through a three month trial period when they receive basic training in client work, rules and regulations of the Probation and Mediation Service and they get acquainted with the principles and inner workings of the service centre they work for. New probation officers are under the supervision of the head of their respective centre who acts as a mentor and evaluates them at the end of the trial period.

The second level consists of a qualification course for probation officers and a specialised training course for probation assistants (Rule 23). Both of the courses are mandatory according to Act No. 257/2000 Coll., on the Probation and Mediation Service. The qualification course for probation officers comprises of 288 hours of training split into nine different sessions throughout the entire year, the specialised training course for probation assistants of 192 hours in six training sessions. The courses begin with a daylong adaptation course (Rule 24), which focuses on the organizational structure of PMS, core methodological standards, and an overview of the following courses. Both of the courses then concentrate on theoretical knowledge and practical skills in probation and mediation work. They also provide the necessary knowledge of the practical application of law (criminal, civil, and constitutional) and training in communication skills. The courses put emphasis on working with victims of crime, drug addicts, and on over-indebtedness.

During the courses, the staff has to go through eight days of internship at both governmental and nongovernmental organizations including criminal courts, police, Prison Service, and providers of psychological, social, and other services. A regional tutor is at their disposal, with whom they can consult specific problems they encounter during their work. Probation officers need to consult at least 4 times during their first year in office, probation assistants twice.

Internal lecturers from within the Service and external lecturers (judges, public prosecutors, university professors and others) teach the courses. At the end of the courses, the participants need to take an exam before a five-member committee (probation officers) or a three-member committee (probation assistants). The exam is quite demanding; the participants need to prove their theoretical knowledge and practical skills including casuistry. Probation officers also need to submit a video of their interaction with a client. The exam can only be repeated once in case the trainee fails (no sooner than six months after the failed exam). The Minister of Justice appoints the examiners.

The third level, the Follow-up Training System (FTS), is voluntary and allows the probation officers to bolster their expertise in a certain specialisation. For each specialisation, various specific goals are set, such as mastering a particular skill or deepening knowledge in a specific area. The different specialisations the trainees can choose from include risk assessment and management, parole, community service, over-indebtedness, and others. Special emphasis is put on practical skills and case management. At the end of the FTS, the trainee must demonstrate the acquired knowledge with casuistry, videos, and reports. The trainees must complete at least 300 hours of FTS training.

The fourth level is mandatory lifelong learning, which covers the latest amendments to the criminal code and innovative methods of probation and mediation or recent trends in criminal policy or other related areas. This level also includes mandatory supervisions reflecting upon the casework, and training for managers (Rule 25).

#### **4.2.3 Other organizations involved in probation and mediation work**

Since the beginning, the Probation and Mediation Service has been building a partnership with other authorities (police, courts, public prosecutor's offices, and prison service). The partnerships might be formalised by collaboration agreements e.g. with the police or the prison service), by joint concepts of cooperation (with the general prosecutor's office) or it can be completely informal. The Probation and Mediation Service creates and develops cooperation with relevant governmental and non-governmental organisations. In recent years, the Service has concentrated on unemployment and over-indebtedness issues, forming partnerships with employment offices, and debt consultants. The Service establishes partnerships with organisations creating a network of services for crime victims (local Teams for Victims) and the entities operating in the area of juvenile delinquency (local Youth Offending Teams). Another important network is the one with community service providers and providers of programs for offenders. This cooperation resulted in the development and gradual implementation of probation and re-socialisation programs based on similar programs used by probation services in the UK, Switzerland, and Denmark.

#### **4.3 Probation and offenders abroad**

The Service does not include specific services targeted at offenders of foreign nationality. Foreign nationals sentenced to community sanctions receive the same support services and guidance as Czech nationals.

The enforcement of a community sanctions imposed by another EU country on a Czech national or a person living in the Czech Republic permanently can be transferred to the Czech Republic in accordance with the Council Framework Decision 2008/947/JHA on the application of the principle of mutual recognition to judgments and probation decisions with a view to the supervision of probation measures and alternative sanctions. The Czech Republic has implemented the Framework Decision in its domestic law; the provisions of the Framework Decision have been transposed by Act No. 104/2013 Coll., on International Judicial Cooperation in Criminal Matters, which entered into force 1 January 2014.

In addition, the Czech Republic has implemented the Council Framework Decision 2008/909/JHA on the application of the principle of mutual recognition to judgments in criminal matters imposing custodial sentences or measures involving deprivation of liberty for the purpose of their enforcement in the European Union. The provisions of the Framework Decision were transposed into Czech law by Act No 104/2013 Coll. on international judicial cooperation in criminal matters. However, the Probation and Mediation Service is not directly involved in the process of transfer of Czech nationals detained abroad nor in the transfer of foreign nationals to their country of residence. The matter is in the hands of the Ministry of Justice and courts.

## 5. Different Stages of the Criminal Justice Process

The Act on Probation and Mediation Service defines probation and mediation. Probation is defined as “organization and execution of supervision over the offender, the charged or the convicted person (hereafter “offender”), monitoring of the enforcement of sentences not linked to imprisonment, including assigned duties and restrictions, monitoring the behaviour of the convicted during a probation period of a sentence suspended from imprisonment, also individual assistance to the offender and influencing them so that they carry on a proper life style, meet the conditions set by the court or state prosecutor, and thus remediate the disturbed legal and social relations.”<sup>18</sup>

Mediation is defined as “out-of-court mediation with the aim of solving a conflict between the offender and the victim and activities leading to solving a conflict situation, which are carried out in relation to criminal proceedings. Mediation can be done only with explicit consent from the offender and the victim.”<sup>19</sup>

The Probation and Mediation Service carries out the enforcement of alternative punishments – community service, house arrest, and the prohibition to enter sporting, cultural and social events. It enforces probation supervision as a measure replacing custody or an adequate measure in case of a conditional release, conditional sentence, and as a measure replacing alcoholism treatment. In the area of juvenile criminal justice, the Probation and Mediation Service performs supervision over minors under 15 that committed an act that would otherwise be considered a crime and, in the case of young offenders, it enforces protective and punitive measures.

The Service prepares reports required for decisions taken by the competent authorities (public prosecutors and courts), seeks preliminary agreement on alternative punishments (especially community service and house arrest), and arranges restorative programs; victim-offender mediation, and restorative conferences. All the activities are always carried out in accordance with national methodological standards.

### 5.1 Pre-trial stage

In the pre-trial stage, the key activities of the Probation and Mediation Service are following:

- cooperating with crime victims; providing legal information, personal assistance, arranging professional assistance;
- implementing restorative programs – arranging victim-offender mediation and restorative conferencing;
- arranging the conditions for imposing house arrest order and community service order in the pre-trial stage, preparing pre-sentence reports;
- arranging the conditions for the diversion of a prosecution (a conditional suspension of a prosecution and settlements);
- supervision over the accused as a measure replacing custody;
- monitoring how the accused complies with the imposed measures and sanctions within a conditional suspension of a prosecution;
- enforcing educational measures imposed on juveniles.

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18 Ibidem, p. 2/14.

19 Ibidem, p. 2/14.

## **Alternative Conflict Resolution – Mediation/Restorative Group Conference**

The service itself may initiate activities, usually upon the information on the commencement of a criminal prosecution obtained from the police. In juvenile prosecution, the police shall inform the Probation and Mediation Service about all cases of criminal prosecution. In the case the offender is an adult, the police inform a probation officer or assistant about select cases where the involvement of the Probation and Mediation Service is deemed appropriate. The police inform both the accused and the victim about the possibility to cooperate with the Service. In addition, a probation officer can contact the offender and/or the victim with the offer to undergo mediation. The Penal Act and the Criminal Procedure Code does not stipulate any limits for the commencement of mediation activities, but the Probation and Mediation Service Act imposes an obligation to inform a relevant public prosecutor about the fact it started being active in a particular case.

If the victim-offender mediation might interfere with the investigation process, the Service cannot pursue it. The Service focuses predominantly on criminal cases where interpersonal relations were disrupted or a victim was physically hurt (crimes of negligence and deliberate crimes). Mediation can only be arranged with offender and victim's consent. Under the Probation and Mediation Service Act, a probation officer is authorised to collect information on an offender and victim, if it is required for mediation. Officers can enter the registry of citizens and obtain information on current residence of persons; they may screen the accused in the criminal register, the prosecuted persons register and the imprisoned persons register.

They are also entitled to obtain other necessary information from the police and make excerpts from criminal files. A probation officer is entitled to request information on an offender from relevant entities and they shall provide the information unless another law prevents it.

The Probation and Mediation Service may also begin mediation-related activity upon an incentive from an offender, victim, public prosecutor, court, social and legal protection of children authority, and cooperating persons and institutions. If the statutory provisions for the application of diversion (a conditional suspension of a prosecution and settlement) are fulfilled, a probation officer may be commissioned to discuss the possibility with the offender and the victim and initiate mediation of the settlement agreement. In the case a public prosecutor or court decide to suspend a prosecution conditionally, a probation officer may also be commissioned to monitor the fulfilment of the so-called adequate obligations and restrictions.

Probation activities in the pre-trial stage include the preparation of supervision conditions as a measure by which the custody of the accused may be replaced. In the case of court's decision to release the accused from custody and impose supervision, the Probation and Mediation Service carries out supervision over the accused. During pre-trial stage, adequate measures can be set for the accused. In that case, the Probation and Mediation Service monitors compliance with such measures. A probation officer provides victims legal information and assistance in alleviating the impacts of the crime, including assistance with the Victim Impact Statement. The Probation and Mediation Service also offers victims to participate in restorative programs.

### **5.1.1 Pre-trial/pre-sentence report**

When a community service order or a house arrest order seems like a viable sentencing option, the Probation and Mediation Service drafts a report that is to be delivered to the prosecutor or the judge. A judge or a public prosecutor is entitled to request the report. The Probation and Mediation Service is allowed to take the initiative, however, it cannot guarantee the court/prosecutor will consider such unrequested report. There is no set time frame, the probation officer usually needs about four weeks to complete the report.

A pre-sentence report serves to the court / public prosecutor in their effort to consider whether a particular punishment is appropriate as a sentencing option. The report is a part of a criminal file. The accused, victim and party to an action, their defence counsel and their agents, the public prosecutor or the police authority have the right to inspect files, with the exception of the voting record and the personal data of the witnesses. When files are to be inspected, it is necessary to take such measures to prevent access to data that may only be learnt by the law enforcement authorities and officials of the Probation and Mediation Service acting in the matter concerned. Such data include name and surname of officials, name and surname of the parties, the name, surname and address of the legal representatives, guardians, legal counsel and agents and the name and surname of any other persons who participated in the action, and in the case of the accused and the victim also the address that is specified for the purpose of delivery and other data necessary to establish or verify identities, including date of birth or birth certificate numbers.

A probation officer informs the accused a pre-sentence report is being drafted. If they are not willing to cooperate, the report is completed without their input. Their right to know the contents of the pre-sentence report is communicated to the offender during their first consultation. If the offender does not agree with the content of the report, they can express their disapproval in writing and deliver the letter to the relevant court/prosecutor.

Reaching out to a victim, considering the victim's needs and interests is a vital part of pre-sentence reporting. The probation officer contacts the victim (while avoiding secondary victimisation), evaluates their needs and searches for individualised ways of alleviating the consequences of the crime. The probation officer records the offender's attitude toward the victim and their effort to compensate for the damages. In case the offender and victim agree to undergo mediation, a specialised probation officer shall arrange it.

Risks and needs assessment of the accused is a part of the pre-sentence report. If needed, the probation officer suggests to the court the imposition of appropriate measures and sanctions (e.g. a probation supervision, an obligation to undergo substance addiction treatment, anger management etc.), which the offender should be subject to during the punishment in the pre-sentence report. The report does not need to provide a supervision plan. Supervision plan is usually drafted after the imposition of probation supervision over the offender. The Probation and Mediation Service also prepares pre-sentence reports for foreigners.

The experience of the Probation and Mediation Service shows that arranging the conditions for imposing the punishment in the pre-trial stage facilitates and accelerates the subsequent enforcement of the particular punishment.

**Table 2. Sanctioning system and probation involvement in the pre-trial/trial stage**

Sanctions/Measures/ Penalties/Conditions attached to a conditional decision or sentence	Provided in your legislation?	Probation service involvement?	Main characteristics of the probation activity (e.g. supervision, coordina- tion, reporting, referral, help&support)
Unconditional waiver by the public prosecutor	x	x	coordination, reporting
Conditional waiver by the public prosecutor	x	x	coordination, reporting
Conditional suspension of the pre-trial/remand detention	x	-	
Pre-trial/remand detention	x	x	replacement of custody with supervision
Police custody	x	-	
Bail	x	-	
Caution	x	-	
Surety	x	-	
House arrest	x	x	supervision, coordination, reporting, help&support
Electronic monitoring	x	x	EM implementation started in October 2017. EM should be fully launched in 2018
Community service	x	x	supervision, coordination, reporting, help&support
Treatment order	x	x	PMS can suggest as an adequate restriction/ obligation in combination with another punishment
Training/learning order	x	x	PMS can suggest as an adequate restriction/ obligation in combination with another punishment
Drug/alcohol treatment program	x	x	PMS can suggest as an adequate restriction/ obligation in combination with another punishment

Sanctions/Measures/ Penalties/Conditions attached to a conditional decision or sentence	Provided in your legislation?	Probation service involvement?	Main characteristics of the probation activity (e.g. supervision, coordina- tion, reporting, referral, help&support)
Compensation to the victim	x	x	PMS can suggest as an adequate restriction/ obligation in combination with another punishment
Mediation	x	x	
Semi-detention	-	-	
Attending a day centre	x	x	PMS can suggest as an adequate restriction/ obligation in combination with another punishment
Liberty under judicial control	x	-	
Interdiction to leave the country	x	-	
Interdiction to enter different cities/places	x	x	PMS can suggest as an adequate restriction/ obligation in combination with another punishment
Interdiction to carry out different activities	x	x	PMS can suggest as an adequate restriction/ obligation in combination with another punishment
Interdiction to contact certain persons	x	x	PMS can suggest as an adequate restriction/ obligation in combination with another punishment
Psychiatric treatment	x	x	PMS can suggest as an adequate restriction/ obligation in combination with another punishment
Deferment of sentence	x	-	
Fine	x	-	
Other financial sanctions	x	-	

### **Pre-sentence report on Community Service**

A pre-sentence report serves to the court in its effort to consider whether a community service order is appropriate as a sentencing option. A probation officer collects all relevant facts and assesses the suitability of a community service order for a particular offender. For this purpose, the officer needs to know the circumstances of the crime, the offender's attitude towards the crime, their motivation and specific possibilities of alleviating the impacts of the crime. The probation officer collects, verifies and assesses relevant information, assesses risks and needs of the accused, evaluates their current life situation, professional skills, and health condition and consults the offender about the type of work they could undertake and their willingness to comply with the prospective community sentence order.

In case the probation officer recommends community service order as a sentencing option, they need to arrange the work placement with a provider. The probation officer considers the offender's skills and needs while seeking the placement. The placement should support the development of skills and the social inclusion of the offender. However, under the current community service system and legislation, the availability and variety of work placement providers differ depending on the region. The Probation and Mediation Service strives to guarantee a full range of placements suitable to the different skills and diverse needs of all offenders. In the community service agenda, the challenge the Probation and Mediation service is facing now mainly concerns individuals who lack vocational, educational, and/or social skills. The Probation and Mediation Service cooperates with the Ministry of Justice, Ministry of Labour and Social Affairs, and the non-profit sector to find a suitable solution that would benefit the offenders, the work placement providers, and the community.

Community service is never undertaken for the profit of the Probation and Mediation Service, its staff or for commercial profit.

By law, when imposing a community service order, court shall take the accused person's opinion on the imposition of the community service order and their state of health into account.

If an offender does not comply with the requirements of the community service order intentionally, the court may impose more restrictive conditions on the offender. For example, the community service order may be supplemented by probation supervision or other appropriate measures and sanctions, or the community service order can be changed to another sanction (e.g. house arrest, pecuniary penalty, or a custodial sentence) by the court.

### **Pre-sentence report on House Arrest**

When drafting a pre-sentence report on house arrest, there is an initial consultation at the Centre of the Probation and Mediation Service and, afterward, with the accused's consent, the probation officer carries out a field investigation in the offender's place of residence. During a personal visit, the probation officer maps the prospective impediments to a house arrest order. In broad outline, some of the areas, which require investigation, are transporting accessibility, technical state of the place they live, the presence of co-living household members and their opinion on the punishment, untreated substance addiction of the accused, domestic abuse, and irregular working schedule.



Reaching out to the victim, and considering their needs and interests is a vital part of pre-sentence reporting.

If house arrest order is imposed, a probation officer recommends a specific schedule to the court. When making a decision, the court takes into account the offender's working hours, their obligations toward minors and other dependent persons (e.g. providing care to a disabled family member). A probation officer describes these facts in detail in the pre-sentence report and suggests to the court the most appropriate time schedule and other adequate measures and sanctions, which the offender should be subject to during the punishment. If the offender violates the conditions, the court may decide to convert the house arrest order into a custodial sentence.

House arrest order was introduced into the Czech legal system in 2010. During the seven years, the Probation and Mediation Service drafted almost 3,500 pre-sentence reports on house arrest. It recommended imposing the punishment (house arrest order) in approximately half of the cases. The most frequent reason for not recommending a house arrest order was unstable housing and/or the technical state of the abode.

### **Educational Measures over Juvenile Offenders**

Under the Responsibility of Juveniles for Illegal Acts and the Justice in Juvenile Matters Act, the Probation and Mediation Service is entitled to assist in juvenile matters in pre-trial stage. The aims are renewing disrupted social relations, the inclusion of a child under 15 or a juvenile in the family and social environment, and decreasing a risk of repeating unlawful conduct in the future. A public prosecutor or a judge may impose some of the educational measures stipulated by the law already at this stage of the criminal proceedings with the young offender's consent. Probation officers specialised in work with young people are entitled to enforce the measures, in particular, the probation supervision, probation programs, educational measures and other sanctions. The law defines a probation program as a program of social training, psychological consultancy, and programs including community service, an educational or a therapeutic program.

As long as the required quality standards are met, a probation program is accredited and it appears on the list of probation programs, which is maintained by the Ministry of Justice. The Probation and Mediation Service cooperated on the creation and implementation of the accreditation procedure of these programs. Now, the Service is directly involved in the implementation of probation programs where the providers are non-governmental organisations or private persons. Via different projects, the Probation and Mediation Service itself or in cooperation with various project partners also develops its own programs – e.g. a probation program strengthening social skills, a program increasing legal awareness and a program reducing violent demonstrations in juvenile behaviour.

### **5.2 Enforcement stage**

Imprisonment is carried out in closed prison facilities. Imprisonment regimes are governed by the law on imprisonment no.169/1999 Sb. Offenders are allocated to one of four types of prison (monitored, supervised, secure and maximum security); transfer to a different category is decided upon application from the offender, by

the prison director, the state prosecutor or the court. Specialist social workers work in prisons and teachers and psychologists contribute to special behavioural and re-socialization program provided during the prison sentence. During the custodial sentence, every offender is assigned a treatment program based upon the risks and needs assesment. The offender's progress is regularly evaluated and the program is adjusted when needed. Before release, a release preparation program is provided, to make the transition to life outside the prison easier for the offender.

In addition to prison personnel, the offender can be in contact with a social curator if they are interested. The social curator may visit them in prison, provide social counselling and can help them prepare their release and return to freedom (for example, help in finding employment, accommodation, maintaining contact with their family, etc.). Prisoners may also use the services of a social curator after being released. Curators provide similar services for juvenile offenders. Assistance for spiritual needs is provided by a chaplain.

Within the enforcement stage, the Probation and Mediation Service ensures the supervision of non-custodial sentences, supervision over conditionally sentenced offenders and supervision over offenders who were conditionally released from prison. In addition to that, probation officers arrange victim-offender mediation at this stage of the criminal proceedings. The Probation and Mediation Service Act stipulates that: "The officer of the Probation and Mediation Service may not execute in the same case the tasks of probation and mediation." If the offender and the victim are interested in undergoing mediation, a different probation officer (a mediation specialist) than the one handling the enforcement of probation arranges the victim-offender mediation to guarantee the impartiality of the mediator.

Contacting victims is a standard part of the probation officers' work, which consists of providing legal information, mediation or professional assistance, personal assistance and support in the creation of the Victim Impact Statement.

To increase the efficiency of punishments, measures and sanctions and to increase the protection of public against recurring crime, the Probation and Mediation Service closely cooperates with the courts, prosecutors, the Police, the Prison Service of the Czech Republic and a broad range of other governmental and non-governmental organisations. Non-governmental organisations provide a spectrum of training courses (e.g. financial literacy, vocational training), professional, therapeutic and other programs (for example addiction treatment). During all stages of criminal proceedings, the Probation and Mediation Service works with adults, juveniles, and children under the age of fifteen.

### **Key court decisions involving the Probation and Mediation Service**

- conditional discharge with supervision;
- suspended sentence with supervision;
- community service order;
- house arrest order;
- prohibition of entering sporting, cultural and other social events;
- supervision over the sentenced who was discharged from protective therapy (§ 99 CC);

- cooperation with crime victims, providing legal information, personal assistance, arranging professional assistance;
- restorative programs – arranging victim-offender mediation and restorative conferencing;
- protective and punitive measures imposed on young offenders;
- supervision over minors under 15 who committed an act otherwise criminal.

**Table 3. Sanctioning system and probation involvement in the enforcement stage**

Sanctions/ Measures/Penalties/ Conditions attached to a conditional sentence	Provided in your legislation?	Probation service involvement?	Main characteristics of the probation activity (e.g. supervision, coordination, reporting, referral, help&support)
Imprisonment	-	-	
Suspended sentence	x	-	
Conditional sentence	x	x	conditional sentence with supervision of a probation officer
Affidimento in prova	-	-	
House arrest	x	x	supervision, coordination, reporting, referral, help&support
Electronic monitoring	x	-	EM implementation started in October 2017. EM should be fully launched in 2018
Community service as sanction	x	x	supervision, coordination, reporting, referral, help&support
Semi-liberty	-	-	
Semi-detention	-	-	
Treatment order	x	x	compliance monitoring when it was imposed in combination with other sentences
Training/learning order	x	x	compliance monitoring when it was imposed in combination with other sentences
Drug/alcohol treatment program	x	x	compliance monitoring when it was imposed in combination with other sentences

Sanctions/ Measures/Penalties/ Conditions attached to a conditional sentence	Provided in your legislation?	Probation service involvement?	Main characteristics of the probation activity (e.g. supervision, coordination, reporting, referral, help&support)
Educational measures	x	x	compliance monitoring when it was imposed in combination with other sentences
Compensation to the victim	x	x	compliance monitoring when it was imposed in combination with other sentences
Mediation	x	x	
Attending a day centre	x	x	compliance monitoring when it was imposed in combination with other sentences
Interdiction to leave the country	x	-	
Interdiction to enter different cities/ places	x	x	compliance monitoring when it was imposed in combination with other sentences
Interdiction to carry out different activities	x	x	compliance monitoring when it was imposed in combination with other sentences
Interdiction to contact certain persons	x	x	compliance monitoring when it was imposed in combination with other sentences
Fine	x	x	compliance monitoring when it was imposed in combination with other sentences
Day fine	-	-	
Other financial penalties	x	x	compliance monitoring when it was imposed in combination with other sentences
In/out patient order (psychiatric treatment)	x	x	compliance monitoring when it was imposed in combination with other sentences

Sanctions/ Measures/Penalties/ Conditions attached to a conditional sentence	Provided in your legislation?	Probation service involvement?	Main characteristics of the probation activity (e.g. supervision, coordination, reporting, referral, help&support)
Security measures	x	x	compliance monitoring when it was imposed in combination with other sentences
Combined order	x	x	
Community punishment	x	x	
Conditional release / Parole	x	*	with explicit consent of the offender – pre-release reporting
Automatic release	-	-	
Open prison	-	-	
Penitentiary program outside the prison	-	-	

### 5.2.1 Measures for juveniles

Pursuant to the provision of § 11 of the Criminal Code, a person who has not reached fifteen years of age at the time of an offence does not have criminal liability. After reaching this age limit, full criminal liability does not apply as in the case of an adult perpetrator, rather so-called modified criminal liability is used. Valid Czech criminal law specifies the term “juvenile person”. A juvenile person is a person who has reached fifteen years of age but has not exceeded eighteen years of age at the moment of committing a criminal act.<sup>20</sup> A juvenile offender may be sentenced by a juvenile court to protective measures, reformatory measures (they can be also used in the case of conditional discharge) and criminal measures. The Probation and Mediation Service plays an important role in the enforcement of the measures.

- a) Reformatory measures (may be imposed during the pre-trial stage with the juvenile’s consent) include probation supervision over a juvenile, the obligation to participate in a probation program, the obligation to live with one’s parents, the obligation to pay a designated amount to the Crime Victims’ Assistance Fund, community service order (a maximum of 60 hours), and others.
- b) Protective measures include juveniles’ obligation to subject themselves to protective rehabilitation or protective education; protective measures also include confiscation of a thing or other property value.

<sup>20</sup> Helena Valkova, “Czech Republic Juvenile Criminal Law in the Czech Republic,” *Revue Internationale de Droit Pénal* 75, no. 1 (2004): 277–91.

- c) Criminal measures include a community service order, house arrest order, prohibition of entry to sporting, cultural and other social events, conditional conviction to the punishment by prison sentence with supervision, imprisonment, and others.

A child who has not reached fifteen years of age at the time of committing a crime is not criminally liable. For such a child who committed an otherwise criminal act, measures necessary for reform and protection can be used, since these acts require a suitable reaction. The measures are imposed by juvenile courts not in criminal but in civil court proceedings, pursuant to either this law or the family law in relation to the law on social and legal protection of children. The measures include probation supervision, a child's obligation to participate in a therapeutic, psychological or another suitable educational program in an educational care centre, protective education (may only be imposed on minors over 12), an admonition with a warning, educational restrictions and educational obligations. The measures are imposed without a time limitation; the court may revoke the sentence at any time if it decides the measure served its purpose. Some of the measures that can be imposed fall within the competence of the Probation and Mediation Service (probation supervision, monitoring of compliance of the other measures mentioned above).

Since 2004, when the Juvenile Justice Act (218/2003 Coll.) took effect, the Probation and Mediation Service was involved in more than 40,000 cases, more than half of them took place in the enforcement stage.

### **5.2.2 Probation Supervision**

According to the Criminal Code, probation supervision is defined as a regular personal contact of an offender with an officer or assistant of the Probation and Mediation Service, which is carried out according to a supervision plan. The plan is created by a probation officer in cooperation with the offender during the first consultations at the Probation and Mediation Service centre. The plan describes a specific method how the sentenced shall perform their obligations and comply with the conditions determined by the court order and the way the probation officer will monitor the compliance. The Plan also clearly states the offender's rights and obligations during the supervision. The supervision plan is based on the conclusions of the risks and needs assessment, i.e. the offender's previous way of life, their criminal past and current crimes committed, including the impact of the crime on a victim's life. Risks and needs assessment is done via a structured procedure and the Probation and Mediation Service is developing and gradually implementing an electronic assessment instrument "Comprehensive Offender Assessment System".

By signing the supervision plan, the offender confirms its contents and their willingness to comply with it. The supervision plan is regularly re-evaluated by the probation officer. A probation officer informs a relevant judge about the course of the supervision and the results (no less than once every six months unless a court states otherwise). During the supervision, the offender shall cooperate with a probation officer, provide information about their current address and job, and they shall observe the conditions of the supervision stipulated by the court. A probation officer is entitled to visit the sentenced at the place of their residence at

any time and can also verify the details supplied by the offender or turn to relevant authorities and persons with the request for information needed for the purpose of the supervision.

A probation officer may also carry out supervision over the sentenced who was discharged from protective therapy because it was clear with regard to the character of the offender that the purpose of protective therapy could not be reached. Such supervision is used especially in cases where the court deems the offender's behaviour dangerous for the society. Since 2001, the Probation and Mediation Service has recorded approximately 90 such cases, roughly 20 % of the cases included violent and sexually motivated crimes.

During probation supervision, the probation officer is in contact with the authorities, and with a number of governmental and non-governmental organisations – e.g. the employment office, a healthcare facility, the offender's employer, debt advisor, provider of a program, which the offender participates in (e.g. educational, re-socialising, therapeutic). If the supervision is over an offender of (self-proclaimed) Roma nationality, a probation officer cooperates with a Roma mentor.

### **5.2.3 Community Service Order**

The Probation and Mediation Service is responsible for the organization and management of the sentence, arrangement and supervision of work placements (in this regard, the Probation and Mediation Service cooperates with municipalities, non-profit organisations, and health, social and educational institutions – the list is available on the website <https://www.pmscr.cz/>) and for individual work with the offender during the sentence. Individual work with the client involves providing guidance and developing the offender's motivation to comply with the punishment, monitoring the completion of the sentence and providing the court with progress reports. If other obligations have been imposed by the court, the Probation and Mediation Service is expected to encourage the client to observe these and ensure they are fulfilled. Apart from monitoring the offender, the probation officer provides them with support and helps them solve their current life problems, thus trying to reduce the relapse risk to a minimum.

To simplify and accelerate the community service order, a secured application was created where authorised personnel (a judge, a probation officer) can monitor work placements available to the offender, specific requirements of the work placements, and the number of hours the offender has already put it. The work placements typically range from cleaning and auxiliary construction work, assistance to physically disabled persons to creating websites, working in a zoo or helping a fire brigade. The probation officer is in a regular personal contact with the provider of the work placement, they randomly inspect the offender's work. If the provider of the work placement encounters any problems with the offender, the probation officer helps to solve them. Probation officers also offer assistance to crime victims as described above.

A court may order the offender to carry out 50 to 300 hours of unpaid work in a period that must not exceed two years. Between 2001 and 2016, probation officers

carried out over 180,000 community service orders. About 24 % of offenders fail to comply with their community service order. Community service is not of a stigmatising nature. When offenders carry out community service orders, they are virtually undistinguishable from regular workers/employees of the work placement provider. It is essential that probation officers and work providers treat offenders with respect and preserve their dignity. The work is never done for the benefit of the Probation and Mediation Service or its employees but for the benefit of the community.

#### **5.2.4 Prohibition of entering sporting, cultural and other social events**

This punishment was introduced in the Czech practice in 2010 and the Probation and Mediation Service was entrusted with a partial decision-making competence within the punishment. A court may impose this kind of sentence for up to ten years. The offender is obliged to cooperate with a probation officer in a prescribed way, especially to adhere to a designated probation plan, perform designated programs of social training and correction, programs of psychological counselling. If the probation officer deems it necessary, the offender is also obliged to report at a designated unit of the Police of the Czech Republic during the time imminently related to the prohibited event.

The probation officer closely cooperates with the police; especially with the departments specialised in fan violence and extremism. Upon a comprehensive assessment of the situation, a probation officer creates a time schedule and a plan of the punishment. If there were any other obligations and restrictions imposed by the court, the officer also monitors the offender's compliance. Again, victim assistance is a vital part of the probation officer's responsibilities.

#### **5.2.5 House Arrest Order**

The house arrest order was introduced in the Czech legal practice in 2010. The Criminal Code defines two forms of monitoring the punishment – via random inspections carried out by a probation officer and via electronic monitoring. In the first five years of the existence of the punishment, the Probation and Mediation Service carried out 45.500 random inspections. The electronic monitoring system implementation started in October 2017. EM should be fully launched in 2018. The probation officer monitors other reasonable obligations and restrictions imposed by the court, most often it is alcohol testing. A probation officer motivates the offender to lead a law-abiding life and offers help with problems (usually with unemployment, over-indebtedness, substance addictions etc.). They encourage the offender to assume responsibility for the damages they caused, therefore, the probation officer contacts the victims and offers them collaboration.

The total number of house arrest orders imposed was almost 1.500 between 2010 and 2016. A house arrest order can be combined with conditional release; the Probation and Mediation Service monitored roughly 90 such cases. Only 13% of the cases were changed into a custodial sentence for non-compliance so far.



### **5.2.6 Cooperation of the Probation and Mediation Service with providers of programs for crime offenders and victims**

Since its establishment in 2001, the Probation and Mediation Service has placed emphasis on the cooperation with specialised services and program providers for both offenders and victims. In the Czech Republic, most of the programs are created and implemented by providers, typically non-governmental non-profit organisations. The organisations need to be accredited, which means they are granted the right to deliver a specific program to offenders/victims. Accreditation is necessary to receive funding from the government. The process of accreditation (and, subsequently, application for funding) is demanding and complicated for both the applicants and the individual ministries. The rules do not allow more than one-year financing, and resources for the development and efficiency evaluation of the programs miss completely. The shortcomings of the system are demonstrated by a decreasing number of high-quality program providers.

To overcome the obstacles described above, the Probation and Mediation Service preferred projects funded by the EU and other foreign program titles. With the funding, the Probation and Mediation Service developed and implemented a number of programs for adult offenders, e.g. a cognitive and behavioural program changing problematic behaviour (a program for drivers who drive under influence, a mentor program for offenders of Roma nationality, a mentor program for offenders released from prison, and a program that provides debt consultancy). Special emphasis was put on programs for young offenders: a program focused on strengthening legal awareness, a behavioural program focused on the change of problematic behaviour, a program focused on reducing violent behaviour, and a restorative program of family group conferencing was developed and tested.

Two restorative programs were created; victim-offender mediation and restorative group conferences. For victims, a comprehensive consultancy program was created. The Probation and Mediation Service always develops and implements the programs in close collaboration with non-governmental non-profit organisations and, where applicable, with the Prison Service of the Czech Republic.

### **5.2.7 Conditional Release with Supervision**

The Probation and Mediation Service Act allows the involvement of a probation officer while the offender is in prison, in particular when the offender plans to apply for conditional release. The Criminal Code does not stipulate the obligation of the offender to cooperate with a probation officer prior to the conditional release, neither does it exclude such cooperation given the consent of the offender.

Once a third, a half or two-thirds of a custodial sentence has been served, the court may conditionally release the offender. When conditionally releasing a prisoner, the court may set a probationary period of one to seven years and may place the offender under the supervision of the PMS. The offenders are obliged to cooperate with the PMS, and the arrangements for supervision and reporting to the court on their progress are similar to those for conditional sentencing with supervision or conditional release from punishment with supervision. Providers of probation programs, which are available as a condition of the supervision, are also involved in conditional release. The Probation and Mediation Service is responsible for ensuring

compliance with the conditions and for coordinating work with the providers. If the offender requests cooperation with the Probation and Mediation Service prior to applying for conditional release, a probation officer is assigned to the case. In a report for the court, the probation officer expresses their professional opinion on the offender's preparedness for the early release and states all the available facts related to the offender's release from prison. The probation officer closely cooperates with prison employees who assess the offender's behaviour during the custodial punishment. The officer evaluates all static and dynamic factors that lead to offending or could potentially lead to future re-offending. The probation officer contacts the offender's closest social group, carries out a field investigation in the place where the offender plans to live after the release and verifies the feasibility of their potential employment.

According to the offender's risks and needs assessment, the probation officer suggests adequate measures, which the offender should be subject to within the probationary period – e.g. a house arrest, a probation program, a halfway house (this method of work with offenders was piloted in 2015/2016). The probation officer also contacts the crime victim or the bereaved and offers them assistance. They also closely cooperate with social curators and providers of different services for persons released from prison (health, professional, educational, social, etc.), and with governmental organisations and local administration.

Since 2008, the Probation and Mediation Service has piloted the use of Parole Boards in the Czech justice system. The project has been implemented in selected prisons. In the Czech Republic, a court is the competent body to decide the possible release of a sentenced person, taking into account all the relevant circumstances. Nevertheless, in the selected judicial districts of the Czech Republic, Parole Boards have become a part of the process. The aim is to assess the offender's situation at three stages of their life – at the time when the crime was committed, during the custodial punishment and at the time of a planned return to freedom. After the parole hearing, the Parole Board prepares a comprehensive report for the court with a clear (non-)recommendation of early release. The Board also suggests imposing appropriate measures, which the offender should be subject to after their release. The Parole Board takes into account the Victim Impact Statement and relevant opinion of professionals who worked with the sentenced (the prison staff, probation officer, mental health professionals etc.).

The probation officer informs the crime victim about the offender's request for a conditional release and the Parole Board hearing and offers them cooperation. The cooperation takes the form of consultancy and information on the course of the proceedings provided to the victim. The officer identifies the persisting effects of the crime on the victim and recommends further assistance for crime victims delivered by cooperating governmental and non-governmental organizations. A probation officer also offers assistance in drawing up a Victim Impact Statement and accompaniment to the Parole Board hearing and court proceedings.

If the court decides on a conditional release with supervision over a released offender or determines other measures which the offender needs to be subject to in a probationary period, a probation officer begins the supervision and proceeds in a similar way as described in the probation supervision chapter above (for details, see Chapter 5.2.2).

### **5.2.8 Individual Pardon and General Amnesty**

In accordance with the Constitution of the Czech Republic, the President of the Republic may grant a pardon to a sentenced person and declare amnesty, including declaration of the conditions of the amnesty application. A pardon may be also granted to a sentenced person conditionally under certain terms and conditions. In the application of pardon and amnesty, the Probation and Mediation Service has no powers and obligations stipulated by the law.

**Table 4. Other probation activities in the enforcement stage**

Providing support to the families of the offenders/detainees	-
Coordinating volunteer prison visitors	-
Preparing offenders for (conditional) release	x partially
Preparing prisoners for home leave and/or providing support during home leave	-
Providing support to persons that have been pardoned or amnestied	-
Providing advisory report with respect to amnesty or pardon	-

Under Act No. 101/2000 Coll., on the Protection of Personal Data, no information can be offered to the offenders' families. The Probation and Mediation Service involves and informs the family (legal guardians) only if the offender is a juvenile or a child.

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

Once all post-release obligations have been met, the Probation and Mediation Service does not offer aftercare services to ex-offenders on a voluntary basis. The Probation and Mediation Service can only recommend aftercare services (usually provided by social curators and non-governmental organisations) based on their regional availability.

## 6. Probation methodology

### **Theoretical Bases of Probation and Mediation in the Czech Republic**

Since their introduction in the 1990s, probation and mediation were influenced by the principles of restorative justice based on restitution with input from victims and offenders as described by Howard Zehr<sup>21</sup> and other authors dealing with the theories of retributive and restorative justice and their application in practice. From the beginning, the Probation and Mediation Service built on procedures where offenders, victims and affected communities are involved in alleviating the impact of crime. The very fact that probation and mediation are carried out by one umbrella organization emphasises the importance of including victims and affected communities when dealing with crime.

The Probation and Mediation Service is accountable to the Ministry of Justice and subject to regular inspection and monitoring. The Best Practice Framework Incorporating the Probation and Mediation Standards (2016) provides an overview of PMS' approach to its work with offenders, victims and communities. The Framework and the Standards incorporate the principles of the European Probation Rules with regard to the limitations imposed by the Czech national law. The Service does not only 'ensure sentence compliance, challenge offending behaviour and minimise harm', the purpose is 'to develop responsible citizenship' (EPR 76), restore relationships affected by crime, and public protection. The frequency of home visits and meetings are set by the Best Practice Framework, the frequency varies depending on the type of punishment imposed and the severity of the crime committed.

According to the Framework and Standards, the probation officer must:

- Act in accordance with applicable laws and internal regulations of the Service;
- Act in accordance with the Code of Ethics of the Service;
- Respect and protect human rights and freedom, human dignity;
- Adhere to the principles of restorative justice;
- Act transparently toward victims and offenders;
- Act responsibly and objectively;
- Know their competencies and boundaries;
- Cooperate with the authorities and other organizations of state administration, local government and non-profit organizations;
- Be familiar with the network of social service providers.

The assessment and management of risks is taken care of from the initial point of contact with the offender, very often since the pre-sentence report stage. The assessment should be explicitly linked to the sentencing proposal, generally, we can say that the more serious the offence, the more detailed the assessment. A risks and needs assessment manual must be followed to facilitate a standardised approach to the assessment. This type of professional interview with the offender provides a structured method to assess criminogenic needs and encompasses three domains: Offending, Personal and Social. It allows the probation officer to assess the risk of re-offending. The officers are trained to understand the value and limitations of the assessment.

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21      Howard, Zehr: The Little Book of Restorative Justice, Good Book, 2002

The purpose of risks and needs assessment is to evaluate the offender's situation while considering the victim's needs and interests. It forms the basis on which the probation officer plans the strategy of further work with the offender, in order to reduce the likelihood of re-offending and to minimise the potential risk of harm to the victim and the public. The Probation and Mediation Service is developing and gradually implementing an electronic assessment instrument "Comprehensive Offender Assessment System".

The probation officer's key role is in monitoring the change. Pro-social practice as a broader approach to the supervision of offenders is dominant. It includes collaborative problem solving and role clarification.<sup>22</sup> Except the interventions targeting 'offending behaviour', the attention is directed towards supporting desistance-based practice, which goes beyond conceptualising offenders as 'risk subjects'. Building a positive working relationship, ensuring the necessary practical support, providing the opportunities for change and promoting self-efficacy are articulated in the best practice framework. Partnership and community-based work are also embraced. Probation intervention often involves linking people to a range of NGO services such as drug and alcohol treatment and employment services. Linking to community-based services reflects the philosophy of promoting a view of the offender within the 'wider social context'. The programs' availability varies in different regions. The probation officer decides which programs are suitable for the client, however, if the court does not impose a particular program as an appropriate obligation, the probation officer must seek the client's consent.

The enforcement phase begins when the decision of the community sanction has been sent to the regional service centre and the client is referred to a specific probation officer. The first meeting takes place within a period ranging from a few days to a month depending on the type of community sanction. In the first meeting, the probation officer explains the terms, conditions and contents of the community sanction in question and starts planning the enforcement. Every client should have the general work form, which consists of the following sections:

- 1) Risk and needs assessment: the criminogenic factors affecting the offending are identified based on previous criminality, dynamic risk factors (e.g. substance abuse, lifestyle and social relations, thinking and behaviour, attitudes, accommodation, employment, education, and health), desistance factors (e.g. substance abuse treatment, functioning family, a new relationship, child care, education). The initial assessment generates a profile of each client, which forms the basis for conclusions.
- 2) Conclusions: In this section, the probation officer evaluates what the risk factors and strengths are and how the interventions (e.g. treatment for substance abuse, anger management, etc.) should be directed. At this stage, the offenders are asked extensively if they consider the suggested interventions appropriate and if they have their own suggestions for interventions they need.

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22 Chris Trotter, "Pro-Social Modelling," *European Journal of Probation* 1, no. 2 (2009): 142–152.

- 3) **Planning:** In the planning section, the goals are set based on the conclusions. The goals should be specific, measurable, attainable, relevant and timely. They should be further divided into small attainable steps, which are easy to evaluate during the enforcement. The probation officer uses the conclusions as a basis for a probation plan. The plan is updated regularly based on the developing situation of the offender.

The client data system provides the following enforcement plan formats:

- 1) Probation supervision plan (supervision of conditionally sentenced or conditionally released offenders; a slightly modified version is available for juvenile offenders (15-18 y/old) and children under 15): is an individual work plan created after the conditional sentence/release. The frequency of the supervision meetings and the content of the supervision as well as the possible programs and other measures are confirmed in the plan based on the initial risks and needs assessment. The programs (e.g. anger management) and other interventions (e.g. treatment for alcohol abuse) are defined in the plan. The plan includes information on the frequency of the meetings and the goals of the supervision period as well as the means to reach the goals. In accordance with the plan, different themes are covered in the meetings. Participation in various groups and courses is also possible during the supervision period.
- 2) Supervision plan (prohibition of entry to sporting, cultural and other social events) is an individual work plan created after the sentence. The plan specifies the frequency of the supervision meetings and provides a list of the prohibited events including a schedule. If the probation officer deems it necessary, the offender has to stay at a designated police station while a prohibited event takes place. The plan includes the goals of the supervision period as well as the means to reach the goals. In accordance with the plan, different themes are covered in the meetings. Participation in various groups and courses is also possible during the supervision period.

Supervision and assistance are inseparable, it is difficult to distinguish clearly between the elements of control and support because work with each offender is highly individualised. In the probation work, the main principle is to achieve compliance with the help of co-operation rather than force, which requires that the client's consent is taken into account in most measures except those imposed based on breaches of the terms.

Probation officers inform the court about the offender's progress and compliance once every six months unless the court determines otherwise. The progress report must contain information on:

- The dynamic risk factors,
- The extent of the offender's compliance,
- The extent of the offender's compliance with the supervision plan (if there is any in place, there is a supervision plan only in case of probation supervision and prohibition of entry to sporting, cultural and other social events),
- The willingness to alleviate the impact of the crime (taking responsibility, paying for damages, apologising, participating in mediation etc.).

The offender is entitled to know the report's contents. For a probation officer, reporting is an opportunity to reflect on the ongoing collaboration with the offender. The officer identifies the causes of eventual non-compliance and adjusts future work plan (i.e. creates and follows a new probation plan). An assessment is also made at the end of the punishment in a final report submitted to the court.

The employees should have a comprehensive knowledge of different sanctions and related procedures and processes so that they would be able to answer for the enforcement of different sanctions flexibly if necessary. This is especially important in smaller service centres where there might be only three employees. Specialising in a certain sanction has been necessary in offices in bigger cities where the clientele is wider.

## 7. Finances, Accounting, Registration Systems and Evaluation Procedures

### 7.1 Finances

The Probation and Mediation Service is a governmental component unit and an accounting unit. It receives funding from the Department of Justice as set out in the Government Budget. The annual budget excluding project activities is approximately 8 million €. The Probation and Mediation Service may obtain other funding granted by European Social Funds, EEA Grants etc. As of May 2017, the Probation and Mediation Service implements four different projects with a total budget of 7,759,276 €. There are no other sources of funding.

**Table 5. Prison / Probation expenditure**

	Probation Services	Prison System
Total current yearly expenditure	12,868,491 €	362,874,682 €
Average number of employed staff	426	10,934
Daily average number of offenders/clients dealt with	1975	22,796 prisoners (1,838 in pre-trial detention) by March 24, 2017

### 7.2 Accounting

Finances are managed by the Department of Economic and Administrative Affairs. A financial audit is conducted regularly pursuant to Act No. 320/2001 on Financial Audit. The internal processes and competencies of authorised persons are set within the scope thereof and the internal regulations. Only the director may sign contracts. The service centres may use local imprest accounts (a form of advance payment) to pay for small items such as mail, stationery, small repairs, etc. Larger items, such as purchase of furniture or IT, are dealt with by the Department of Economic and Administrative Affairs as bank transfers. The Department of Justice supervises the

expenditure of the Probation and Mediation Service using an accounting software system that provides regular reports for the Department (once every ten weeks), and final accounts are submitted each year. The annual grant of funding prescribes expenditure under specific heads, such as salaries, taxes, insurance fees, operational costs, cost of services, loans, etc. Expenditure must follow this budget structure. Thus, an effective and transparent public finance management is ensured.

### **7.3 Registration Systems and Evaluation Procedures**

Apart from probation/mediation activities, a probation officer is required to handle administrative work, i.e. they keep records on their case-based work. The records of cases are performed via the information system as well as in printed form. The system includes data on all forms of community sanctions. The register supplies summary reports for managerial purposes as well as for various research and policy development needs. When keeping records, the Probation and Mediation Service proceeds in accordance with the Probation and Mediation Service Act (No. 257/2000 Coll.) and the Personal Data Protection Act (No. 309/2001 Coll.).

Every client has an individual folder in the system. The folder contains information on the client and a detailed documentation of the supervision process. The folder includes the following items: personal data and living conditions, type of community sanction, risks and needs assessment sheet, goals defined in the assessment, and their realisation during the sentence planning. The probation officer is responsible for the follow-up on the client's progress during the supervision including any areas of concern, such as employment, substance abuse and offending, by keeping detailed notes on the meetings and other contacts, e.g. by telephone or e-mail, as well as on the different types of measures and interventions. The information must be kept up to date in order to provide an accurate record of the changes in the client's behaviour and the possibilities of avoiding future offending. At the end of the supervision, a final assessment is written.

Quantitative indicators (statistical data and other quantitative details) and quality assessment of professional activities are both used to monitor the effectiveness and efficiency of probation/mediation work. Quantitative monitoring allows collection of data on the extent of case-based work of the Probation and Mediation Service and the results of such work (offenders' success rate in the enforcement stage, number of mediations, amount of money paid as a compensation for damages, number of hours completed within community service orders, etc.).

(Anonymised) data is collected in cooperation with probation officers at the service centres and through the information system used for keeping records on case-based work. Subsequently, the data is summarised, analysed and assessed by the directorate of the Probation and Mediation Service. Monitoring and assessing the quality of probation and mediation services is conducted either by methodological visits at the service centres by experts dedicated to a specific area of professional work and by assessing the quality of randomly selected written case-work documents. The documents (i.e. probation supervision plans, pre-trial reports, progress or final reports) must meet set criteria. The assessment is carried out by regional methodologists, national methodological coordinators and methodologists from the Department of Expert Affairs. The quality assessment serves predominantly as



a quality indicator and as a source of information whether new measures should be implemented in the area of methodological guidance and training of probation officers.

The Probation and Mediation Service does not, with some exceptions (such as targeted questionnaires), carry out its own research, predominantly due to understaffing. Nevertheless, the Probation and Mediation Service collaborates with respected research facilities, i.e. the Institute of Criminology and Social Prevention, Institute of Psychology, Academy of Sciences of the Czech Republic, and Charles University in Prague. The research was conducted e.g. in the area of efficiency of supervision over conditionally sentenced offenders, victim-offender mediation, efficiency of alternative sanctions, in particular community service and probation supervision.

## **8. Societal support and Client's Views**

### **8.1 Societal Support and public opinion**

A PR and International Affairs Department was established in the Probation and Mediation Service in 2016. The department informs the media, general public and legal professionals about the work of the Probation and Mediation Service to encourage a better understanding of its role and value in society. A website, a Facebook and Twitter account and leaflets are used for that purpose. Media campaigns focused on crime victims and on people having difficulty managing their debts were launched in national media, on billboards and in public transporting in the recent years. Other, local campaigns and events are being held during relevant awareness days (European Day for Victims of Crime, Mediation Settlement Day etc.). The Probation and Mediation Service's representatives appear on radio and TV and publish articles. The Probation and Mediation Service holds round tables, professional seminars, conferences and other educational events focused on the general public and legal experts. The PR and International Affairs Department carries out continuous press monitoring, i.e. watches and assesses its public image and forms long-term media strategies.

The Probation and Mediation Service publishes a commented annual statistical report on its website.

### **8.2 Client's Views**

There is no available data on the client views on the work of Probation and Mediation Service. However, Jan Tomasek et al.<sup>23</sup> acknowledged it is an important topic in dire need of research in "Probation as an Effective Tool for Reducing Recidivism". In the chapter "Benefits of probation from the clients' perspective", the authors used feedback the offenders gave to their probation officers, hence, the information was not provided to the researchers directly by the offenders and should be taken with a grain of salt. The research indicates the clients valued referrals to other services, advice regarding personal struggles, having someone attentive to talk to, motivation and support. Surprisingly, probation supervision was mentioned as an aspect most praised by the clients, who feel it provides structure and guidance in their life.

<sup>23</sup> Jan Tomášek, Simona Diblíková, and Miroslav Scheinost, *Probace jako efektivní nástroj snižování recidivy*, 2016.

## **9. Probation clients' rights**

The Probation and Mediation Service clients are offenders, crime victims, and the community affected by crime. The Probation and Mediation Service can cooperate with all relevant agencies during the entire process of criminal proceedings. It serves crime victims even before criminal proceedings start or if they do not take place at all. The Probation and Mediation Service obtained this competency in 2013 when the new Crime Victims Act took effect in the Czech Republic. The Probation and Mediation Service focuses on the preparatory proceedings and pre-trial proceedings where the emphasis is put on victim-offender mediation and the activities related to pre-trial diversion (a conditional suspension of a prosecution and settlements) and the imposition of alternative punishments (especially community service and house arrest order).

In general, the clients of the Probation and Mediation Service have the same rights as other citizens. The system of civil rights is based on ratified international agreements and standards, European agreements and standards set out in the Document of Basic Rights and Freedoms and other legal standards, mainly those in criminal laws and codes, and the law on detention and incarceration. From 2000, clients have the right of access to a public defender of rights/ombudsman (349/1999 Coll., effective 28 February 2000). In the Czech Republic, the ombudsman protects individuals when dealing with the authorities and other public administration bodies if the actions of such authorities do not correspond with the principles of the rule of law. If the ombudsman's office discovers any mistakes, it can ask the Probation and Mediation Service to remedy the situation.

The specific rights of Probation and Mediation Service clients are defined indirectly, that is, implied in the prescribed responsibilities of the probation officers. They are required to work within the limits of the law, and respect and defend human rights, freedoms, and personal dignity (Act on the Probation and Mediation Service no. 257/2000 Coll., §7, §8). They must also maintain confidentiality about all matters revealed to them in the course of their duties, except where disclosure is required or permitted by law. Clients have the right to complain about the behaviour of Probation and Mediation Service employees under an internal regulation of the Probation and Mediation Service (Internal Regulation for Dealing with Complaints of Clients). Guidelines for filing complaints must be posted in a visible place at each service centre; they are also available to the clients on the Probation and Mediation Service website. The clients also have a right to send their complaints directly to the Ministry of Justice, which usually refers the case back to the Probation and Mediation Service Director for investigation.

A significant step for improving the quality of services was the adoption of the Best Practice Framework Incorporating the Probation and Mediation Standards effective January 2017. The system of methodological standards is also important for the transparent assessment of clients' complaints against the approach taken by the probation officers. Everyone who claims that he does not speak Czech has the right to use their own language during criminal proceedings. However, the Probation and Mediation Service is not formally a part of those proceedings, and there is, therefore, some doubt and varying interpretations as to whether Probation and Mediation

Service clients are so entitled, even if this may be necessary during probation and mediation work in the proceedings.

In the pre-trial stage, clients are free to decide to take an advantage of mediation and/or probation intervention. Participation in victim-offender mediation is voluntary. In the enforcement stage, the relationship between the clients and the probation officers is a product of the decision of the court. The sentence defines the requirements imposed on the client, which are clearly set out in the supervision plan. The probation officer must act in accordance with the law and the principle of adequacy of the intervention. All offender-related work in the enforcement stage must always be carried out with the knowledge of the client, even if their approval is not required (for example, obtaining their criminal record).

The victims always cooperate with the Probation and Mediation Service on a voluntary basis. In the preparatory proceedings, the voluntariness principle also applies to the accused, except when custody is replaced by probation supervision. In the enforcement phase, the obligation of the sentenced offenders to cooperate with the Probation and Mediation Service is stipulated by law. The Probation and Mediation Service works with adult offenders as well as juvenile delinquents and children under the age of 15. Children under the age of 15 do not have criminal liability but proceedings may be held against them under the Act on Juvenile Responsibility for Illegal Acts and on the Judiciary in Juvenile Matters and a number of measures can be imposed on them by the court. A probation officer carries out the enforcement of the measures. The Probation and Mediation Service obtained this competency in 2004.

## **10. Developments to be expected**

### **10.1 Developments in coming years**

Generally, we see the tendency of closer cooperation between the individual justice system components, which allows for a more individualised, continual and effective treatment of offenders. The strategic goals of the Probation and Mediation Service are outlined in the Strategy for Probation and Mediation until 2025. The main goals are to guide the offender towards law-abiding life through control and support so that the offender has the best chance to reintegrate into society after serving the sentence and to extend the already existing support for the victims of crime while implementing the principles of restorative justice. All the methods used by the Probation and Mediation Service should be evidence-based.

To reach these goals, a number of strategic goals were established to develop best practice and cooperation in the key areas. One of the biggest practical changes that the Probation and Mediation Service is trying to bring about is to improve the preparation of prisoners for conditional release and to intensify the work with high-risk conditionally released offenders by establishing a permanent network of halfway houses. The halfway houses would provide monitoring and support to offenders with a high risk of reoffending or lacking social support in the crucial initial post-release stages. The Service also plans to become a provider of basic probation programs to ensure their quality and regional availability.

The implementation of an electronic monitoring system will bring new tools and possibilities regarding alternative sentences and probation work. The implementation of EMS started in October 2017. EMS should be fully launched in 2018.

The Service plans to establish an equivalent of the English and Welsh Multi-Agency Public Protection Arrangement (MAPPA).

The Probation and Mediation Service carries out three projects co-financed by the ESF through the Operational Program Employment:

### **On the Right Path! II**

(The implementation of new resocialization programs and restorative justice programs for juvenile criminal offenders; strengthening expert cooperation among institutions)

The project “On the Right Path! II” focuses on developing and implementing innovative ways of dealing with juvenile delinquency. The project is a continuation of the project “On the Right Path!” implemented by the Probation and Mediation Service in 2012-2015. The project expands activities of the formerly created Youth Offending Teams in four judicial districts of the Czech Republic and deploys their practice in six other newly selected judicial districts. Another objective of the project is to give the employees of the Probation and Mediation Service the evidence-proven expertise of family group conferences and thus expand the practice to all judicial districts in the country. The third objective of the project is the training of trainers who work with violent juvenile offenders. The activity is called “Against Violence” and will be implemented in three districts of the Czech Republic. In the follow-up project, the program will be redesigned for use with young adult violent offenders.

### **Fragile Chance II**

(The development and expansion of the existing practice of Parole Boards, the introduction of new restorative programs and systemic changes in parole in the Czech Republic)

Conditional release is one of the tools for timely and effective social inclusion of offenders. The project Fragile Chance verified the practice of Parole Boards in the current system of conditional release in nine prisons in the Czech Republic. The purpose of the follow-up project Fragile Chance II is to extend the practice to nine different judicial districts (prisons) and to link the activities with the newly introduced programs - a specific program for offenders and the development of the cooperation among the regions and the prisons during the treatment of incarcerated offenders and their preparation for release. The project is breaking new ground by establishing a platform for experts on conditional release in the Czech Republic, which aims to analyse the current practices and the preparation of a proposal for their amendment, including proposals for a legislative change. The project will use the experience and lessons learned from past implementation of Parole Boards (since 2009); it will increase the professionalism of staff working in this area and take steps to improve the current practice of conditional release in the country.

## **Why me? II**

(Comprehensive counseling for victims of crime)

The project builds on a previous project called “Why me?” implemented by the Probation and Mediation Service from 2012 to 2015. The project will continue providing complete support to the victims of crime but it will also offer a comprehensive counseling program for particularly vulnerable victims. The program will adapt to the needs of the different groups of victims. The program is based on international experience and is aimed at people whose ability to cope with the consequences of crime is low due to the nature of the offense or the victim’s handicap or impairment. As a new element of the follow-up project, the PMS will develop interdepartmental cooperation at the regional level, create multidisciplinary teams for victims with specific outcomes, such as the implementation of assistance to victims in regional strategic documents and concepts dealing with crime prevention. The project will also train social workers and workers in social services so that they could identify signs of criminal activity and support crime victims in exercising their rights. Project activities will be expanded from 40 to a total of 55 locations.

A lot of inspiration comes from other probation services around the world, especially Germany, Austria, Switzerland, the Netherlands, the UK and Canada. Through the implementation of international partnership projects (e.g. Phare, Transition Facility, programs financed by the Norwegian funds, the Czech-Swiss cooperation project), the employees could gain experience and implement new approaches in the Czech environment. For example, the Czech Youth Offending Teams or Interdisciplinary Teams for Crime Victims were inspired by best practice of the UK. The Parole Boards draw inspiration from Canada and the UK. The halfway houses reflect the experience gained in England and Wales, Finland, Norway and Canada. Currently, the Probation and Mediation Service also draws from the experience in electronic monitoring system implementation, especially the UK, Portugal, Finland, Norway, Poland and Slovakia.

### **10.2 Implementation of EU Framework Decision 947**

In the Czech Republic, the EU Framework Decision 2008/947/JHA on the application of the principle of mutual recognition to judgments and probation decisions with a view to the supervision of probation measures and alternative sanctions came into effect January 1, 2014 by the act on international judicial cooperation in criminal matters (104/2013 Coll.).

## 11. Important publications

Doubravova, D. Ourednickova, L. Stern, P. Urban, L. and col., *Prirucka pro probaci a mediaci (Probation and Mediation Handbook)*. Association for Probation and Mediation in Justice, 2001, Prague.

The publication contains information on the development of probation and mediation services around the world and lists the recommendation of the Council of Europe related to probation and mediation. It further defines the legal framework of probation and mediation in the Czech Republic and defines the area of activity in probation and mediation services. A separate chapter is devoted to the professional training of Probation and Mediation Service officers.

Ulehla, I. (1996), *Umění pomáhat (The Art of Helping)*, Renaissance, Písek.

A textbook on the method used in social work. It is aimed at differentiating between the mechanisms used to provide assistance and perform checks when working with clients.

Kroftová, A. Ourednickova, L. (2005), *Sociální práce v rámci probační a mediační služby (Social Work in the Frame of Probation and Mediation Service)*, in Matoušek, O. Kolářková, J. and Kodymová, P. (eds), *Sociální práce v praxi (Social Work in Practice)*, Portál, Prague, pp.283-298.

This chapter describes the theoretical background of probation and mediation as well as the individual areas of activity within probation and mediation services. There are also examples of specific cases in practice.

Zeman, P. (ed.) (2017), *Research on Crime and Criminal Justice in the Czech Republic (selected results of research activities of IKSP in the years 2012-2015)*, IKSP, Prague.

This publication provides English summaries of monographs dedicated to the following strands of research: (a) the needs of society in the field of criminal and sanctions policy and resulting suggestions for changes in penal legislation, better law enforcement, and improvement of the system of sanctions; (b) serious forms of crime presenting significant security risks for the state, including risks arising from opening up society and phenomena related to globalisation; (c) trends in crime, its selected forms and related socio-pathological phenomena, offenders and victims of crime; (d) possibilities and methods of prevention, evaluation of the effectiveness of prevention programs and methods. Available on the Institute's website ([www.kriminologie.cz](http://www.kriminologie.cz)).

Tomášek, J. - Diblíková, S. - Scheinost, M. (2016), *Probace jako efektivní nástroj snižování recidivy (Probation as an Effective Tool for Reducing Recidivism)*, IKSP, Prague.

This publication summarises research findings on the efficacy of probation in terms of reducing recidivism. The study was carried out by the Institute of Criminology and Social Prevention based on a contract by the Ministry of the Interior of the Czech Republic. The subject of the study was an analysis of the existing methods used in the context of probation and a retrospective evaluation of their efficacy. The primary goal was the comprehensive identification of recidivist or desistance

factors, determining their importance in the context of probation and the application of these findings in practice.

Rozum, J. - Tomášek, J. - Vlach, J. - Háková, L. (2016), *Efektivita trestní politiky z pohledu recidivy (The effectiveness of criminal policy from the perspective of recidivism)*, IKSP, Prague.

The publication focuses on the implementation of criminal and sanctioning policy and its influence on the character and size of the prison population. The aim was to analyse the main development trends in sanctioning policy after the adoption of the new Criminal Code. The results of the project also offer proposals for legislative and conceptual measures aimed at ensuring that criminal policy provides better protection to the people from crime while not concurrently leading to an excessive increase in the number of prisoners. The aim of the research was also to generate a proposed system of regular monitoring and evaluation of recidivism among convicted persons in the Czech Republic that will allow long-term, conceptual monitoring of data about recidivism.

Štern, P. (ed.) (2014), *Best Practice Manual for Czech and International Use*, available online: <http://restorativejustice.org/am-site/media/best-practice-manual-on-restorative-justice-victim-support-and-counseling.pdf>.

The publication presents experiences of good practice from cooperation between public and non-governmental organisations, experiences of good practice where the Probation Service can organise and implement counselling and assistance for crime victims: experiences of good practice in supporting and developing cooperation between public and non-governmental organisations at the local level to the benefit of crime victims, and experiences of good practice in motivating and inspiring police officers, public prosecutors and judges in supporting and getting involved in similar activities.

### **Foreign Publications**

Zehr, H. (2002), *Little Book of Restorative Justice*, Good Books, PA.

Zehr, H. (1995), *Changing Lenses*, 1995, Herald Press, Scottsdale, PA.

Miller, W.R., Rollnick, S. (2002) *Motivational Interviewing: Preparing People for Change*, Guilford Press.

## **12. Main Addresses, Phone & Fax Numbers, E-mail Addresses, Home Pages**

*Ministry of Justice (Czech Republic):* Vyšehradská 16  
Praha 2 120 00  
[http:// www.justice.cz](http://www.justice.cz)  
+420-221 997 111

*Probation and Mediation Service:* Hybernská 18  
Praha 1, 110 00  
[http:// www.pmscr.cz](http://www.pmscr.cz)  
+420 224 424 456

### **Cooperating entities and organisations:**

*Prison Service of the Czech Republic:* Soudní 1672/1a  
140 00 Praha 4  
[http:// www.justice.cz](http://www.justice.cz)  
+420 244 024 111

*Judicial Academy of the Czech Republic:* Hybernská 1006/18  
110 00 Prague  
[http:// www.justice.cz](http://www.justice.cz)  
+420 573 505 185

*Public Defender of Rights (ombudsman):* Údolní 39  
602 00 Brno  
<http://www.ochrance.cz>  
+420 542 542 111

*Ministry of Interior:* Nad Štolou 3  
170 34 Praha 7  
[http:// www.mvcr.cz](http://www.mvcr.cz)  
+420 974 811 111

*Ministry of Labour and Social Affairs:* Na Poříčním právu 1/376  
128 01 Praha 2  
<http://www.mpsv.cz>  
+420 221 921 111

*Supreme Public Prosecutor's Office:* Nám. Hrdinů 1300/11  
140 00 Praha 4  
<http://nsz.cz>  
+420 261 196 111

*Supreme Court of the Czech Republic:* Burešova 20  
657 37 Brno-střed  
<http://nsoud.cz>  
+420 541 593 111



## ANNEX I



### SUMMARY INFORMATION ON PROBATION IN THE CZECH REPUBLIC



#### General Information

- Number of inhabitants: 10,000,000
- Prison population rate per 100,000 inhabitants: 211
- Link to Probation Service: <https://www.pmscr.cz/en/>
- Links to websites: <https://www.pmscr.cz/en/>
- Member of the CEP in: 2009

#### Characteristics of the Probation Service

- The Probation and Mediation Service was established in 2001.
- It is a governmental component unit subordinate to the Ministry of Justice.
- The basic probation units are the regional service centres.
- There are 74 service centres in the Czech Republic in eight judicial regions.

#### Tasks

- The probation tasks consist mainly of the enforcement of community sanctions (community service, house arrest, entry ban, supervision of conditionally sentenced offenders, supervision of conditionally released offenders and duties related to it).
- The enforcement of community sanctions means mainly client work in form of supervision and reporting
- The duties also include control tasks, such as intervention in breaches during the enforcement, and interactive work, which aims to reduce recidivism.
- Additionally, the client is assisted in getting the services they need from society, e.g. substance rehabilitation. The amount of these kinds of case management tasks is increasing in the probation service.
- To an increasing extent, the tasks also consist of evidence-based interventions and case management.
- The Probation and Mediation Service provides assistance to the victims of crime, victim-offender mediation and other restorative practices.

#### Number of staff (average numbers in 2017)

- |   |            |
|---|------------|
| - Probation Officers:                       | 395        |
| - Probation Managers, all grades:           | 22         |
| - Administrative support staff, all grades: | 9          |
| - Community Service Supervisors:            | x          |
| <b>Total:</b>                               | <b>426</b> |

- **Daily average number of offenders dealt with: 1975**

### New developments

- Electronic monitoring system implementation
- Establishment of a network of halfway houses
- Deepening cooperation with relevant governmental and non-governmental organizations to provide comprehensive services to both offenders and victims of crime

### Probation during the different stages of the criminal procedure

	Pre-Trial Phase	Trial and Enforcement Phase	Post Release Phase
Preparing pre-sanction report	x	x	
Supervising etc. sanction of probation		x	x
Supervising etc. conditional sentence		x	x
Supervising etc. special measures drug addicts		x	x
Supervising etc. community service		x	x
Supervising training or learning projects			
Interventions with young offenders	x	x	x
Supervising etc. suspended sentence		x	
Assistance/support of offenders in prison/detention		x	
Preparing pre-release reports, prisoners		x	
Supervising conditional release/parole			x
Supervising post custody, sex offenders		x	x
Preparing victim impact reports	x	x	x