



# **Probation in Europe**

## **Austria**

**Christoph Koss**  
**Christian Grafl**



The European Organisation  
for Probation

## Probation in Europe

### Austria

**Christoph Koss**

Geschäftsführer Sozialarbeit

NeuSTART

Vienna

Austria

+ 43 15459560419

christoph.koss@neustart.at

**Christian Grafl**

Professor of Criminology and

Criminalistics

University of Vienna

Austrian Center for Law

Enforcement Sciences

Austria

+ 43 1427734608

christian.grafl@univie.ac.at

December 2013

Edited by:

**Anton van Kalmthout**

**Ioan Durnescu**

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)

## **Table of contents**

1. Introduction	4
2. Historical Development of the Probation System	7
3. Legislative Basis and Mission Statements of the Probation Service System	9
4. The Organisation of Probation Services	13
5. Different Stages of the Criminal Justice Process	18
6. Probation Methodology	31
7. Finances, Accounting, Registration Systems and Evaluation Procedures	37
8. Societal Support and Clients' Views	40
9. Probation Clients Rights	41
10. Important Publications	42
11. Main Addresses, Phone & Fax Numbers, E-mail Addresses, Home Pages	47
Annex 1	48

# 1. Introduction

## 1.1 Probation organisation(s)

The organisation and system of the probation service in Austria is quite unique compared to other European countries.

In Austria **NEUSTART** - a private non-profit organisation -, is offering various services of social work for victims and offenders all over the country. Probation service in the narrow sense of a supervision order in case of custody sentences is delivered either by professional social workers or volunteers trained and guided by professionals.

All the other services **NEUSTART** offers within the field of social work in the context of criminal proceedings you will find listed below.

So Austria has one national private non-profit organisation for probation, victim-offender mediation (VOM), unpaid work as a diversion measure, unpaid work as an alternative to custody for fine defaulters and electronic monitoring.

For many years discussions had been going on whether the organisation of probation service should be under private or state administration. Political parties as well as policy makers within **NEUSTART** kept changing their points of view. In 1969, for instance, the implementation through private associations was written down in the Probation Service Act - **NEUSTART** was entrusted with this mandate. Although this was planned as a temporary provision until the establishment of a public service, the advantages of a private probation service became apparent soon: Mention the relative independence of social work practice, the opportunity to develop new services and have them tested as pilot projects, the flexibility of quick response to changes in criminal law or society and not at last, as system of social security for the employees raising less costs compared to public servants.

Formerly, in 1968, the Constitutional Court (*Verfassungsgerichtshof*) was called upon to rule whether probation falls under the jurisdiction of the federal government or of the provinces. According to the Court's decision, probation falls under the jurisdiction of the federal government. Therefore the Ministry of Justice is responsible for probation service and not the administration of the provinces of Austria. After years of having two associations organising and conducting probation (**NEUSTART** formerly known as "Verein für Bewährungshilfe und Soziale Arbeit / Association for Probation and Social Work" in 8 provinces and only in the 9<sup>th</sup> province Styria, the Association "Rettet das Kind/Save the child") work, in 1999 the Ministry decided to contract with **NEUSTART** as exclusive partner.

When Austria was going to join the European Union, the Ministry of Justice and the Austrian parliament decided to entrust the organisation of probation services to a private organisation - **NEUSTART**.

In 1994 the so called "General Contract" between the Ministry of Justice and **NEUSTART** has been established. This agreement states that the Federal Ministry of Justice is the purchaser and **NEUSTART** is the provider of services and clearly defines responsibilities, functions, rights, duties and competences of the partners. This contract for example names the catalogue of services **NEUSTART** is obliged to deliver and paid for by the Ministry, describes the controlling and reporting system, the duration of the contract and how to deal with certain future risks and scenarios.

The fact that probation services are offered by only one organisation throughout Austria provides many advantages, such as coherent and high professional standards or considerable influence in questions of crime policy.

The Juvenile Court Act of 1961 spoke of volunteer probation officers only. But it soon became clear that in many cases professional social workers with adequate training are necessary. Nevertheless still today volunteers are supervising a part – about one third - of the probation cases. For **NEUSTART**, the voluntary element is an important link to social and working contexts and backgrounds which are usually not that common to social workers.

You will find professional social workers engaged within all our services, while volunteers can be assigned for selected cases of probation service only.

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

In Austria, the court or the public prosecution imposes probation orders on offenders. Probation services are either provided as a community based option when custody is suspended (*bedingte Verurteilung*) or on conditional release (*bedingte Entlassung*).

Additionally, the Public prosecutor may offer probation service as a diversion measure during the pre-trial phase. In this case the offender's consent is needed.

In most cases probation service is offered as individual supervision; specific standards in support programmes are compulsory for certain delinquents (defrauders, stalkers, drug addicts, sexual offenders, etc.). However, group-work with offenders is possible, too: For example violent offenders - as appropriate -, may participate in anti-violence training.

Every probation activity starts with a first assessment interview on the offender's risks and needs. On this basis the following interventions are planned in the form of working concepts with transparent and evaluable goals and stages of work, which are continuously reviewed (*Rules 72 – 75, 81 - 83*).

Depending on risks, needs and responsivity of the offender the frequency of personal contacts is agreed with the offender. If possible the concepts and interventions should be defined consensually between client and probation officer. Especially in cases of high risk offenders the officer seeks consent, if not possible the officer is the one to decide (control aspects).

This principle corresponds closely to the chapter "Assessment" (*Rules 66 to 68*) of the Recommendations of Probation Rules.

Following the international developments as well as controversial discussions on these topics, probation service strengthened the focus on risks of reoffending and public security within the last 10 years: **NEUSTART** wants to find a fair balance between support and control. The legal act which defines probation service describes the dual mandate of probation service: Avoid reoffending by control and support on the basis of a positive relationship with the offender (*Rule 1, Basic Principle, rule 55*). In order not to stigmatise the offender it must be granted that a first assessment record is regularly evaluated (as stated in the *Rule 69*): **NEUSTART** has put up the standard that the survey of risks and needs has to be reviewed at least every six months.

Supplementary to the probation activities throughout Austria, **NEUSTART** offers the following services of social work in the context of penal matters:

- Aftercare (*Haftentlassenenhilfe*) offered to persons released from prison unsupervised at full term (post-release aftercare) on a voluntary basis (since 1975) (according to *Rule 62*);
- Assisted housing (*Wohnbetreuung*) for clients of the probation service and the post-release aftercare service in two of the nine federal provinces (since 1975);
- Victim-offender mediation (VOM) in penal matters (*Tatausgleich* or short TA) for compensation between offender and victim (Act on Diversion Measures; for juveniles since 1985, for adults since 1992 in a pilot project and legal base followed 1999); (*Rule 97*)
- Acting as an intermediary for community service/unpaid work (*Gemeinnützige Arbeit*) under the Diversion Act (since 2000) (*Rules 47-52*);
- Community service/unpaid work as an alternative to prison terms for people who fail to pay fines (since 2008 after a model project 2006 und 2007);
- Trial support for victims (*Prozessbegleitung*) throughout Austria (between 2005 and 2008, and again since 2010);( *Rules 93-95*)
- Electronic monitored home curfew (*elektronisch überwachter Hausarrest*) which was established by law all over Austria in 2010 after two model projects 2006 and 2008 (*Rules 57, 58*);
- Work training (*Werkstätten*) for clients of the probation service and the post-release aftercare service in two of the nine federal provinces;
- Social work in schools in two provinces of Austria;
- Youth support in one province; this service comprises pre-sentence-reports (*Rules 42-44*)
- Prevention programmes for young drug consumers and binge drinking juveniles who were brought to hospital. (*Rule 98*)
- Additionally we are conducting a conferencing project until end of 2013.

Rule 51 states that “Probation agencies shall develop community service schemes that encompass a range of tasks suitable to the different skills and diverse needs of offenders”. NEU**START** has not developed own opportunities for unpaid work, the social workers solely cooperate with, contact, contract, and broker suitable external (non profit-) institutions where offenders shall deliver their unpaid work. (Rules 47 – 52 are considered within our duties to organise and supervise unpaid work – both as a diversion measure and instead of substitutional custody in case fines are not paid.

All data – clients, intervention, assignment - are recorded electronically., Our software also processes and presents data for statistical and qualitative surveys. (Data collection according to the *Rules 88-90*).

Talking of reporting we should distinguish two kinds of reports:

- NEU**START** cooperates with other partners on the basis of written contracts – as for example mentioned the “General Contract” with the Ministry of Justice. Our duties are defined in all these contracts, one of these duties is a periodical performance record to the contracting partner: The partner pays, NEU**START** delivers and reports. All these data are directly gathered from this electronic records. The fact that our reports contain “live” data requires a high quality of data. NEU**START** has developed a controlling system which examines the data for plausibility before creating records.

- Reports in the sense of the *Rules 88-92* are regularly provided for the assigning authorities – mostly courts or prosecution. The different services require different reports, but in principle our services provide a routine of reports within fixed periods in every case NEUSTART is working on. So for example progress reports of probation service are written at different stages, in any case of a new charges, whenever there are significant changes, report on the fulfilling of conditions, and last not least reports containing the apply to the deciding authority to alter or end the supervision, according to *Rule 82*.

All professional and volunteer workers in 9 agencies in Austria do social work. The agencies are managed by Agency Heads; the Heads of Departments report to these and, in turn, are in charge of supervising the professional workers. The volunteer probation officers are organised in teams headed by professional and specially trained probation officers.

## **2. Historical Development of the Probation Service System**

### **2.1. History from the Origins to 2007**

*The 1950s “fatherless society – revolt – pioneers’ hour”*

The societal and criminal policy framework conditions are still shaped by the hardships of the post-war era. In this “fatherless” society of the 1950s, juvenile crime increases sharply. Total institutions such as prison, workhouse, insane asylum and juvenile detention homes are the means of choice to deal with deviant behaviour. The “revolt” of four hundred juveniles in a closed institution established for youngsters with problematic behaviour in Kaiser-Ebersdorf provides the impetus to begin considering ambulatory measures such as probation services. All of these impulses lead to the first team meeting on 4 October 1957 aimed at founding the “*Arbeitsgemeinschaft Bewährungshilfe*” (“The Task Force for Probation Services”) under the direction of Dr. Schindler<sup>1</sup>.

*The 1960s “Social state – helping instead of punishing”*

In these years of recovery and a booming economy, full employment and a labour shortage prevail. The new Minister of Justice, Dr. Christian Broda, implements the Juvenile Court Act (1961), which legally anchors probation services for juveniles for the first time. As of 1963, the association goes under the name of “Verein für Bewährungshilfe und Soziale Arbeit” (VBSA) [“Association for Probation Services and Social Work”] and appoints Elisabeth Schilder as the managing director. With the guiding principle of “helping instead of punishing”, the efforts of the Probation Service towards compensatory social work through ambulatory offers of help in the form of individual-case support are brought to the point. In the centre stands the “helping relationship” as a means for successful “social therapy”.

The 1960s reach their peak and conclusion with the unanimous resolution of the Probation Services Act in the National Assembly on 27 March 1969.

---

<sup>1</sup> Dr. Sepp Schindler (1922 – 2012), psychologist, psychoanalyst, was one of the founders of the Austrian probation service.

*The 1970s “Oil shock – drug problems – therapy instead of punishment”*

With the “oil shock” in the mid-1970s, the economic boom suffers a setback, unemployment begins to rise and the “guest worker problem” is publicly discussed. Likewise addressed as a social problem is the spread of drugs in parts of the youth culture. The Association for Probation Services and Social Work establishes the first drug counselling facility in Vienna, the so called “Club Change”, and calls for the decriminalisation of the possession of small amounts of narcotics under the motto: “Therapy instead of punishment”. In the legislative sector, extensive changes come about through the major Criminal Code Reform in 1975. Amongst other topics, the Probation Service is extended to adults.

As a complementary measure, the first “*Zentralstelle für Haftentlassenhilfe*” (“Central Office for Aftercare”) is founded in Vienna in 1978 as a voluntary offer for former prisoners.

*The 1980s “End of the boom – alternatives to homes and court proceedings – help for victims”*

Times are getting economically tougher. The second generation of “guest workers” is growing up, and some of them have become offenders. The Probation Services Act Amendment in 1981 creates the basis for the privatisation of the Probation Service. In 1980, the Narcotics Act Amendment follows the principle of “treatment instead of punishment” and confers new tasks upon the Probation Service. Work projects and housing projects are created; debtors’ advisory facilities are initiated; emergency shelters for juveniles and adults supersede socio-pedagogical homes; the first supervised flats are set up. And, above all, the model test “ATA - mediation in penal matters” for juveniles starts in 1985. For the first time, victims of offenders receive support through social work. With the Juvenile Court Act in 1988, the statutory basis for out-of-court offence mediation (ATA) is created for juveniles. The Juvenile Court Act in 1987 lays the groundwork for out-of-court offence mediation for adults and 1999 the Act on Diversion Measures (*Diversionsgesetz*) follows and extends the possibilities of voluntary support.

*The 1990s “Opening of the borders – victim protection – community services”*

The Iron Curtain has fallen and Austria joins the European Union in 1995 after a national referendum. The relation to the Federal Ministry of Justice is restructured and placed on new foundations. In a general agreement concluded on 1 July 1994, clear client/contractor structures are created between the Probation Service and the Ministry. The offender service in Austria is, in contrast to many other European countries, now privatised. The Protection against Violence Act is prepared and goes into effect in 1997 – victim protection and victim assistance are thereby given a greater importance at **NEU**START****, and are tested afterwards in projects. With the passage of the Diversion Measures Act in 2000, a criminal policy breakthrough is achieved. In addition to conflict resolution, community services (unpaid work) by now are anchored in the Criminal Code.

---

2 First wave of immigrants in the beginning of the 1970ies.

*The 2000s “Eastward expansion of the EU also creates new fears – prison release package offers new integration chances”*

EU eastward expansion stokes fears and asylum and alien laws are toughened. Re-socialisation measures take place under complicated conditions. With an organisational reform, the Probation Service is renamed **NEUSTART**. Victim-orientation also becomes a fixed component of the self-understanding of **NEUSTART**. Furthermore, **NEUSTART** is awarded the contract to operate the probation service in the German Land of Baden-Württemberg. In a model project, the first, positive experiences with electronic monitoring for those eligible for conditional release are made. Similarly, the brokering of unpaid work as a substitute for the custodial sanctions when fines are not paid is put to test and, due to the positive results, is legally anchored and offered all over Austria.

## **2.2 Recent History from 2007 to 2011**

*“Internationalisation, electronic monitoring and cost-cutting pressure”*

Start of the operation of probation services, court assistance and victim-offender mediation as of 1 January 2007 by the **NEUSTART** gemeinnützige GmbH in Baden-Württemberg (10-year contract with the Justice Ministry of Baden-Württemberg). Aftercare, as a new form of support for released convicts, is introduced in Austria. The Federal Ministry of Justice surprisingly ceases the financing of trial support for victims and victim support. **NEUSTART** celebrates its 50<sup>th</sup> anniversary in November 2008. An “electronic monitoring” project for conditionally-released offenders is started in 2008. School social work and other prevention offers are provided nationwide. The research report on the legal biographies study substantiates positive effects of the main services of **NEUSTART**. Results of the internally conducted “Social Probation” project are presented in 2009. A support stages model (frequency of contact is steered by risks and needs of the offender) for the probation service is introduced in 2010. The constantly strained funding situation requests a complete reorganisation of the association. Thereby, the main focus is placed on reducing overhead and locations, as well as optimising the services.

As of September 2010, **NEUSTART** receives the contract to conduct electronically monitored home curfew throughout Austria. In October, the Federal Ministry of Justice again awards **NEUSTART** the contract for the Austria-wide implementation of trial support for victims. Since 2011 **NEUSTART** conducts a group-conferencing model project which shall be evaluated until the end of 2013.

## **3. Legislative Basis and Mission Statements of the Probation Service System**

### **3.1 Legislative Basis**

The organisation and provision of probation services in Austria is governed by the Federal Probation Services Act (*Bewährungshilfegesetz*, hereinafter referred to as PSA – Rule 8). In addition to sections on probation services, the PSA also contains the following socially constructive measures:

- The provision of housing for clients who do not have appropriate accommodation, a fact which would jeopardise the success of probation measures (Section 13 PSA);

- Involvement of social workers in the diversion measures, i.e., victim-offender mediation (VOM) in penal matters and community service, as well as in education and training courses (Sections 29 to 29b PSA);
- Community service as an alternative to prison terms for people who fail to pay fines (Section 29b PSA);
- Social work as part of electronic monitoring within the prison system (Section 29c PSA) and
- Aftercare (Section 29d PSA).

On the basis of Section 24 PSA, a General Contract was entered into, whereby the Republic of Austria delegated these social-work duties to the association **NEUSTART**.

Probation as a measure of special prevention may, as a matter of principle, be ordered for adults and juveniles (14 to 18 years of age) in the following context, whenever punishable acts are concerned:

- When a prison sentence or preventive measure linked with imprisonment is suspended or when the convict is conditionally released from imprisonment (Section 50 Par. 1 of the Austrian Criminal Code (*Strafgesetzbuch*, hereinafter referred to as CC);
- If a juvenile has been found guilty of a criminal act under reservation of a penalty or if the service of a prison term for a punishable act committed before the perpetrator had turned 21 is postponed until the perpetrator has completed vocational education (Section 50 Par. 1a CC);
- When a diversion measure has been ordered on probation (Section 203 of the Code of Criminal Procedure (*Strafprozessordnung*, hereinafter referred to as CCP);
- When preliminary probation services are provided during criminal proceedings (Section 179 CCP);
- When a criminal report has been filed, but further proceedings or charges are dropped or suspended temporarily (Section 35 *Suchtmittelgesetz* /Act on Addictive Substances); and as a voluntary probation service, which is possible after an unconditional release from prison or after the end of a probation period in which probation services were provided (Section 27a PSA).

The aims of an probation officer are described in Section 52 Par. 1 CC (Rule1):

Probation has the legislative mandate to actively “strive to help the offender towards a way of life and attitude which will prevent him/her in the future from committing criminal acts which are subject to sanctions” (Section 52 Par. 1 CC,..)

Diversion measures e.g., probation (Section 203 CCP), victim-offender mediation (VOM; Section 204 CCP), community service (Sections 201 and 202 CCP) and education or training courses (Section 203 CCP) are primarily proposed by the public prosecution and, in a few cases, by the judge, if the facts of the case are sufficiently clear; the punishable offence is dealt by a single judge and not a panel of professional and lay judges or a jury (usually when the maximum penalty does not exceed 5 years of imprisonment); no serious fault is assumed; the act did not result in loss of life (section 7 par. 2.2 JGG Juvenile Court Act); a penalty instead of a diversion measure does not seem indicated with a view to special or general prevention. Diversion measures require the consent of the suspect. Charges are dropped with final effect if

the diversion measure was successful.

Performing community service is envisaged as an alternative to ordering a custodial sanction, which would be implemented due to the failure to pay a fine (Sections 3 and 3a Penal Procedure Code [*Strafvollzugsgesetz*]). Four hours of community service correspond to one day of custodial sanction.

Custodial sentences with an expected penalty period of maximal 12 months can be implemented in the form of an electronically-monitored house arrest (Sections 156b to d of the Penal Procedure Code). Essential preconditions for this form of penalty are a high degree of social integration, as well as the consent of the cohabitants.

Pursuant to Section 66 CCP, victims who could have been exposed to violence, a dangerous threat or an impairment of their sexual integrity are entitled to psychosocial and legal trial support (*Prozessbegleitung*). Also entitled are relatives of a person who was killed. NEU**START** is one of the organisations in charge of trial support for victims.

### **3.2 Mission and Mission Statement**

A criminal policy committed to human rights sees the constitutional state as the guarantor for the protection of civil rights and liberties. Measures involving deprivation or restriction of liberty are, however, also to be applied according to the principle of commensurability and social responsibility for the integration of lawbreakers in society.

The custodial sentence should only be used as a last resort, as an “ultima ratio”, for the purpose avoiding future offences. A broad application of social-constructive measures such as probation service, compensation, victim-offender mediation and community service is to be given preference. These sanctions, which demand active services from the offender, but thereby allow individual leeway, benefit society more than a solely punitive sanction policy, as they also establish elements of restorative justice.

The statutes in Paragraph Two “Purpose of the Association” point out the direction for NEU**START** and stand at the top of its goal pyramid:

“The goal of the association is to win society, political decision-makers and state administration over to measures to avoid delinquency, to alternatives to punishments, to offender support, as well as to measures to support victims of punishable offences. It sees its mission in influencing the public in this sense to participate in measures to protect endangered persons and groups of persons (including the scientific investigation of their situation and the methods of social work), as well as promoting and operating institutions that serve comprehensive, judiciary social work and the avoidance of social conflicts in general, and judicially punishable acts in particular”.

Further goals and measures are described in the association’s mission statement:

“Not merely what is feasible is essential for the mission statement of NEU**START**. The utopia of a prison-less society admittedly offers no immediately viable set of guidelines, but constantly reminds us that official punitive measures, especially imprisonment, particularly need to be justified, and their expediency and commensurability are to be brought into question”.

“NEUSTART stands up for a humane, tolerant, democratic and solidly united society in which cultural differences are respected, socially disadvantaged persons are actively supported and safeguarded from social marginalisation, equal opportunities – particularly also for women and men – are promoted, socially deviant behaviour is responded to in an appropriate and rational manner, constructive conflict resolutions with civil and political means are given preference over repressive measures, a fair compensation and the reconciliation between the offenders and the victims is sought and achieved with a minimum of force”. (*Rule 2 – 5*)

“The goal of NEUSTART is not to socially marginalise delinquent people, but to integrate them into society. NEUSTART thereby helps to prevent (recidivistic) criminality (prevention), making an essential contribution to public safety, as well as to the protection of potential victims”.

“Offender support and victim support are not opposites, but rather stand in a relationship of necessary supplementation to each other”.

For compacted outward communication, the following positions are available:

Vision:

We are an organisation that offers supports and solutions to society to manage conflicts and to thereby protect it from criminality and its consequences.

Mission:

It is our mission to provide support and help to our clients, in a respectful, professional manner through the offered services, in finding individual goals and solutions for constructive crisis management, also in conflict situations.

We take the specific/different needs of our clients, especially those of the victims and perpetrators of criminal offences, seriously:

- To come to terms with the past
- To cope with the present
- To secure the future.

Position:

**Life without criminality. We help.**

### **3.3 Crime prevention**

Crime prevention is provided by NEUSTART in the form of the following services (*Rule 98*):

- social work in schools
- pre-sentence reports and support for juvenile delinquents
- drug prevention project for binge drinkers and drug users when they pop up for the first time
- online service offers anonymous counselling to anyone in context with delinquency – helps to find ways out of risky situations

### **3.4 Victim protection**

Under Austrian law there is no obligation for probation officers to see victims and offer them help. However, in probation services it is important to confront perpetrators with the acts they have committed and to make the impact on and consequences for the victims clear. Stalking offences are special cases. There is an internal guideline for probation officers to get in touch with the victims. Victims are offered support against the stalker who is seeking contact with the victim with all

means. If the stalker tries to make contact, the victim can turn to the probation officer immediately. The stalker has to sign a written note of caution according to which he/she has to expect to be reported to police and charged if he/she tries to make contact with the victim. The goal is to enable the victim to be undisturbed and live free from anxiety, and to make the perpetrator stop.

In 1999 NEUSTART launched its crime victim support programme. The reason for this was that Austria had no qualified services for social work offered to victims with the exception of women and children suffering from domestic violence. NEUSTART crime victim support offers assistance in the form of visits from social workers to victims of mainly serious violent crimes. Children who had been victims of domestic violence were referred to the specialized institutions also women if they wished so. 2005 psychosocial and legal trial support became an additional service offered to the victims of violent crimes. Social workers and lawyers accompany victims to court so that the victim feels stronger and safer in the proceedings and asserts his/her rights. This support programme is highly successful; it is funded under a contract with the Federal Ministry of Justice. In Austria, numerous other associations offer trial support. In 2007 the Ministry of Justice decided that the work with victims and offenders should not be carried out in one organisation. As a consequence NEUSTART had to close down its victim support as well as the psychosocial and legal trial support by the end of the year. In succession the organisation “*Weisser Ring*” took over the services for victims and is now placed as the important organisation for victim support in Austria.

In 2010 NEUSTART again signed a contract for trial support for victims and currently is working in this field together with more than 40 organisations. All things considered, it can be said victims have been the central issue of crime policy discussions in the past few years. This engagement with the victim led to numerous victim rights, mainly aiming at respectful treatment during proceedings, comprehensive rights to information, compensation and professional support.

### **3.5. Volunteers involvement**

Volunteer work is only done in the area of probation. It requires standards like recruitment, training, and selection of eligible cases, supervision by professional staff and a limitation of the caseload from between one to five cases. With some exceptions (sexual offenders and clients with multi problems are excluded) voluntary staff does the same probation work as professionals (Rule34).

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

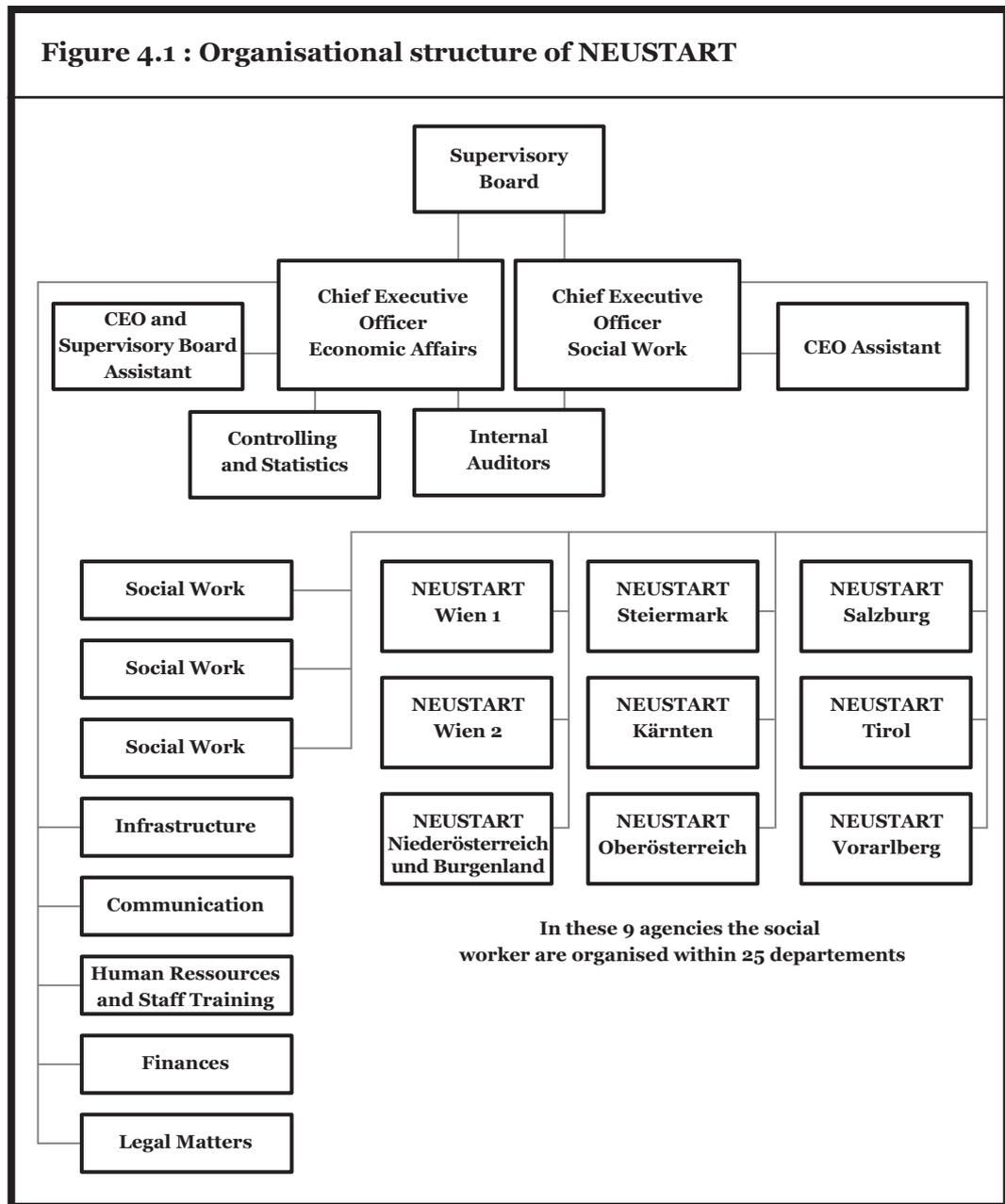
### **4.1 Main characteristics**

In 1994, the association NEUSTART was mandated to provide probation services nationwide under a General Contract with the Republic of Austria represented by the Federal Ministry of Justice. In accordance with its organisational form as a non-profit association, its supreme body is the General Assembly (*Generalversammlung*), which elects the Supervisory Board (*Aufsichtsrat*) for a term of three years. By majority resolution, the Supervisory Board appoints one or more Chief Executive Officer/s (currently two), or CEO/s (*Geschäftsführer*) for a period of five years. The CEO(s) appoint(s) the top level executives for five years. NEUSTART has its own internal audit unit department directly reporting to the CEO(s) (*according to Rule 15*). The

staff of the audit department is hired with the consent of the Federal Ministry of Justice. Moreover, NEUSTART has a 100% subsidiary called NEUSTART gGmbH, which is active in the German Land of Baden-Württemberg. In 2007 NEUSTART gGmbH was entrusted with providing probation services, trial support and mediation in penal matters for adults within all parts of Baden-Württemberg.

#### 4.2 Internal organisation

The structural and procedural organisation of NEUSTART conforms to the principles of a matrix organisation and is based on regional responsibilities and the business process model underlying these. On the one hand, the focus is on having one officer in charge whose central task it is to keep the outcome of processes and the related operational principles geared to the needs of the service recipients and to optimise them; on the other hand, processes also have to be designed in such a way that the quality of services rendered is as required and the same throughout Austria.



#### 4.2.1 Probation staff

In addition to 9 directors of regional agencies who are in charge of the operational side, i.e. the practical provision of services in the regions, there are central services in charge of internal support processes nationwide, e.g. legal issues, marketing, personnel development, finances or the service “social work” for defining, ensuring uniquely high quality of deliverance and developing new social work services; these central services bear overall process responsibility. Decentralised agencies are structured into 2 to 4 Departments. Depending on the size of the region the agencies serve, agencies may run additional locations to make sure that services are within optimum reach of clients. The departments are managed by Department Heads who are in charge of supervision of 12-20 social workers assigned to each department. The administrative workers report directly to the Agency Director.

**Table 1: Staffing levels on 31 December 2010  
(1 stands for one full-time equivalent, except for volunteers)**

Staffing levels	Probation work total	Management	Social work	Volunteers	Supporting staff
NEUSTART - total	429.241	55.368	293.483	950 (persons)	80.39
Percentage of female workers	63.21%	42.47%	54.42%	59.58%	94.26%
Percentage of part-time workers	36.79%	53.42%	51.02%	100.00%	85.25%
Average age	44.68	46.56	43.77	44.19	48.21
Length of service	13.34	16.34	13.76	7.17	15

429 full-time jobs are staffed with 557 persons

**Table 2: The assignment of specialised personnel (social workers) on 31 December 2010 in the following areas:**

Probation Services	179.5	Work training	1.6
Community Service (Diversion and alternative to prison)	19.84	Trial Support for victims	0.77
Victim-offender mediation	42.9	Assisted Housing	6.33
Aftercare	25.6	Drug Prevention (province of Carinthia)	1.26
Youth support (province of Vorarlberg)	1.95	Social Work in Schools	1.26
“Saftladen” (Restaurant in Salzburg)	3.5		
Electronic Monitoring	4.97	950 volunteers in the probation services	

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

The skills and qualifications required from professional social workers in charge of counselling and support in the individual service areas are evidenced by a diploma from a senior technical college (*Fachhochschule*) for social work. For all other positions, qualifications required depend on the central tasks and may be from a wide range of educational institutions.

NEU**START** has developed a standardised recruiting procedure using harmonised tools (e.g. questionnaire), which regards skills as well as attitudes. *Rules 21 as well as 22 do very well correspond with the procedures which are standard within NEU**START**.*

The whole personnel development system tries to be consistent and match with the specific aims and needs of the organisation. This begins with strategic recruiting and reaches via harmonised hr development measures to programs for older employees. (*Rules 25-27, 32-34*)

All specialised personnel in the agencies are organized in departments that have regular meetings. Reflection on cases is done in groups (for 5-10 participants) that exist in all the agencies offering a framework for an intense weekly exchange on conducting cases and case management. Up-to-date job profiles exist for all functions in the organisation, describing objectives, responsibilities and detailed tasks.

Organisational regulations comprise rules and guidelines, which differ by degree of binding force and include a detailed description of services and processes. An online quality management manual is available for all employees.

(*Rules 29-31*) The Heads of central services (social work, personnel etc.) are in charge of updating and describing services. Quality workshops, which employees of all hierarchical levels participate in, serve the purpose of regular evaluation of processes and work aids so as to determine potential needs for change and development. Newly hired employees are carefully introduced to their jobs. On a nationwide level new employees are obliged to participate in a basic training minimum three weeks.

Additionally, job mentors in the same location give practical guidance for one to two years, the new job experiences are reflected with external coaches. The central service “Personnel and Personnel Development” prepares the introductory seminars and draws up an extensive annual continuing-education programme. This programme is put together by strategic and methodical aspects, the needs for training and education identified as well by supervisors and employees and new developments. (according to *Rules 71, 23 – 26*) The average number of days social workers spend at continuing-education events is five working days per year. Development needs of employees are agreed upon in the annual appraisal interviews seniors have with their staff, results of these interviews are systematically analysed and where necessary integrated into the yearly catalogue of education and training offers.

*Rule 27:* The catalogue of seminars contains methodological seminars for supervision of offenders with specific offences (sexual offences, violence, theft,

#### **4.2.3 Other organisations involved in probation work**

Probation work is only provided by NEUSTART in Austria. Our Agencies co-operate closely with other social/welfare institutions in the regions and have entered into co-operation agreements with the Public Employment Service (*Arbeitsmarktservice* or AMS), the social welfare offices, agencies for the homeless, work projects, therapy institutions and others. (in correspondence *with Rule 37*)

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

NEUSTART does not offer support for offenders of Austrian nationality in other countries because there is no mandate and payment from the Ministry of Justice to carry out such a work. Therefore this has to be done by the foreign ministry via embassies and consulates.

Offenders of foreign nationality having committed a crime in Austria may receive a probation order from the court and thus they become clients of NEUSTART. The same applies if the prosecutor refers a case for victim offender mediation or community service.

Foreigners, especially if they are serving a prison sentence, quite often have to return to their home countries as a measure of the Aliens Police Act (*Fremdenpolizeigesetz, FPG*).

Regarding the Council Framework Decision 2008/909 on the application of the principle of mutual recognition to judgements in criminal matters imposing custodial sentences or measures involving deprivation of liberty for the purpose of their enforcement in the European Union the Austrian parliament passed the law on January 1<sup>st</sup> 2012.

However, the Council Framework Decision 2008/947 on the application of mutual recognition to judgments, probation decisions and alternative sanctions has not been passed the law by the Austrian parliament until April 2013.

## 5. Different Stages of the Criminal Justice Process

Generally we can say that most of the Rules of the Recommendations come into life within the Austrian Probations Services as stated in the Recommendations.

We could discuss about the enforcements of the following Rules:

- Rule 9: The partnership between the Ministry of Justice and the private non-profit-organisation **NEUSTART** gives quite broad autonomy to **NEUSTART** within the frame of the contract. So the responsibility does stay within the state authorities, although daily realisation is organised by **NEUSTART**.
- Rules 9, 34: Although the emphasis of the recommendations is not laid on volunteer probation officers, the Austrian system of supervision is a well-balanced mix of professional and volunteer probation officers. The idea minimising the risk of reoffending by rehabilitation instead of segregation should not only be realised by professional social workers but also by ordinary citizens who look at questions of delinquency and rehabilitation from another angle.
- Rules 14, 99-101: Although within **NEUSTART** we have established a complaint procedure for offenders, there is no legal provision for a complaint procedure.
- Rules 63-65: Until the end of 2012 the framework decision 2008/947/JI has not been adapted.

### 5.1 Pre-trial/remand stage

This chapter describes probation activities, mediation in penal matters and intermediary activities for community service in the pre-trial stage. These are social-work interventions that make it possible to waive criminal proceedings or the enforcement of a sanction. All social work services are subject to job profiles and relevant minimum and maximum standards defined for social work in the respective fields.

In Austria, pre-trial reports can be prepared for juvenile suspects. This is not compulsory, in one region of Austria (Vorarlberg) **NEUSTART** prepares these reports. (*Rules 42-44*). *Pre-trial reports are not ordered systematically, NEUSTART can be assigned to prepare an pre-trial-report whether supervision would be suitable for and accepted by the suspect in case of conviction*<sup>3</sup>. § 15 of the Probation Act states that courts can assign probation officers to give an assessment whether probation is appropriate in this case.

---

3 §15 BWHG

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

Sanctions/Measures/ Penalties/Conditions	Provision in legislation	Probation service involvement	Main characteristics of the probation activity
Unconditional waiver by the public prosecutor	x	-	
Conditional waiver by the public prosecutor	x	x	Victim offender mediation, community service orders, probation period with and without orders and in case of drug related offences, if the offender agrees treatment
Conditional suspension of the pre-trial/remand detention	x	x	Provisional probation until the end of the trial (supervision, reporting and support)
Pre-trial/remand detention	x	-	
Police custody	x	-	
Bail	-	-	
Caution	-	-	
Surety	-	-	
House arrest and electronic monitoring	x	x	House arrest as electronic monitoring in remand detention supervised by probation (in practice rare)
Electronic monitoring	x	x	In remand detention supervised by probation (in practice rare). If applied the tasks are supervision, coordination, reporting and support
Community service	x	x	Coordination, reporting
Treatment order	x	x	Supervision, coordination, reporting and support
Training/learning order	x	x	Supervision, coordination, reporting and support
Drug/alcohol treatment program	x	x	Reporting and support
Compensation to the victim	x	x	Reporting and support

Sanctions/Measures/ Penalties/Conditions	Provision in legislation	Probation service involvement	Main characteristics of the probation activity
Mediation	x	x	Coordination, mediation and reporting
Semi-detention	-	-	
Attending a day centre	-	-	
Liberty under judicial control	x	x	Provisional probation
Interdiction to leave the country	x	x	With or without probation order. With probation: reporting and support
Interdiction to enter different cities/places	x	x	With or without probation order. With probation: reporting and support. In practice no judge forbids to enter a city.
Interdiction to carry out different activities	x	x	With or without probation order. With probation: reporting and support
Interdiction to contact certain persons	x	x	With or without probation order. With probation: reporting and support
Psychiatric treatment	x	x	Supervision, coordination, reporting and support
Deferment of sentence	-	-	
Fine	x	-	
Other financial sanctions	-	-	

### Diversion

Diversion plays an important role in Austria: between 40.000 and 50.000 cases a year are dealt with this way mainly by prosecution/ only to a small amount by courts. Diversion is – according to *Rule 7* – always an offer to the accused person. A denial of this diversion offer entails no negative effects or disadvantages for the accused. **NEUSTART** carries out the so-called social constructive measures (involvement of social work) in Austria: All these require the offender's informed consent and in cases of victim offender mediation with adult offenders the informed consent of the victim. (*Rule 7*)

- Victim-Offender Mediation (VOM) for juveniles and adults;
- Community service orders/unpaid work (for juveniles and adults) in close cooperation with other public and private non profit organisations and local communities
- Diversional suspension of the prosecution for a probation period in case the suspect consents to supervision by a probation officer and/or to fulfilling specific orders
- Temporary suspension of proceedings in case of drug-related offences if the suspect consents to supervision by a probation officer;
- Provisional probation

The police cannot apply these diversion measures. **NEUSTART** therefore only takes action when assigned by the public prosecutor or of a judge.

#### Victim-Offender Mediation (VOM, „Tatausgleich“)

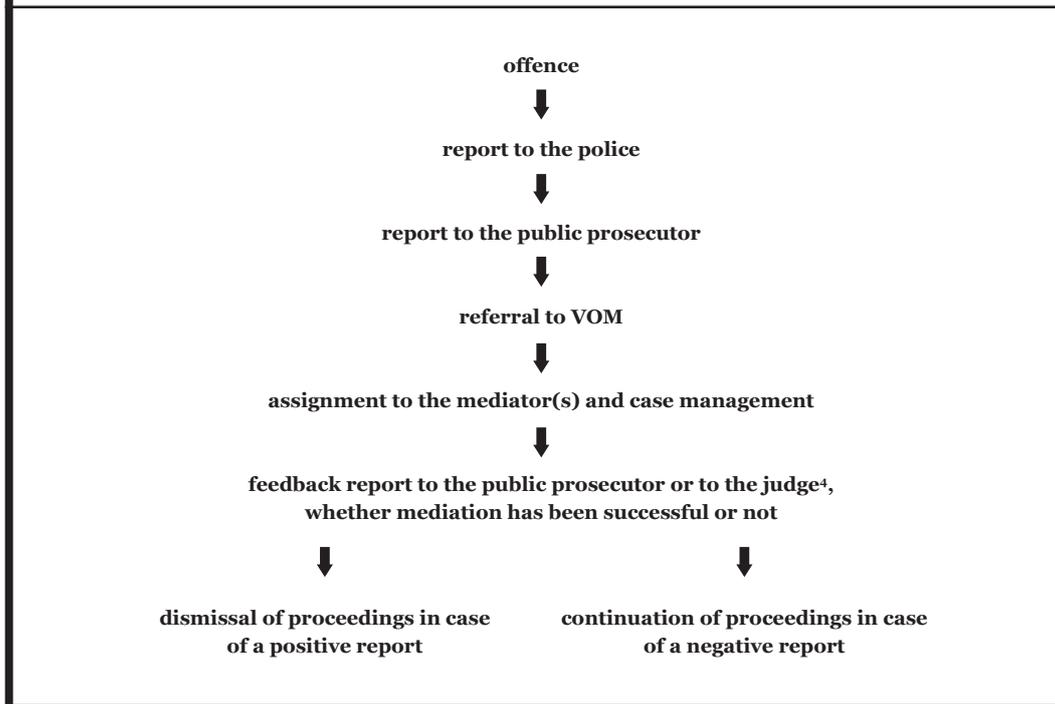
VOM started in Austria in 1985 as a model project for juveniles. Its success founded a legal basis – a chapter in the juvenile criminal code - in 1989. With this positive experience as a role model a second pilot project started in 1992 - VOM for adult offenders. As the outcome was very convincing again, in 2000 VOM was given a statutory basis together with other measures of diversion in the code of criminal procedures. VOM can be ordered either by the public prosecutor (which is almost exclusively the case) or by a court. The following requirements must be met:

- The circumstances of the case must be sufficiently clarified (An admission of guilt is not necessary. The acceptance of VOM is not a requirement for the public prosecutor but for the mediation process. If either the offender or the victim does not agree the case is referred back to court, so the informed consent of both – offender and victim is required; Rule 7 of the European Probations Rules, hereinafter the Rules). There is one exception to this rule in cases of juvenile offenders if they try to restore the harm they caused but the victim's only wish is punishment. In such a situation the prosecutor or judge decide on the seriousness of the juvenile offenders efforts.
- Sanctions must not be deemed necessary in order to prevent the suspect from further offending or to prevent others from offending;
- The offence must be within the jurisdiction of a single judge (applies to most offences with a maximum penalty of 5 years);
- The suspect's guilt must not be deemed grave, and
- The offence must not have resulted in the death of a person (section 7 para. 2.2 JGG Juvenile Court Act).

Requirements for VOM are similar under juvenile criminal law. The most significant difference to the adult criminal code is that the public prosecutor can order VOM in cases of maximum penalties of up to 10 years and the courts in all cases (no maximum penalty ceiling).

VOM is the most important and most frequently used socially constructive diversion measure in Austria.

**Figure 5.1 : The mediation process**



Objectives of VOM are:

- The victim has the possibility to receive restitution, both emotional and material (*Rules 94, 97 are met*);
- Needs and emotions of the victim are taken seriously;
- The suspect is given the opportunity to consider how to make good the offence. The suspect is not in a defensive position as during a trial but can take an active role to repair the harm caused;
- VOM aims at the personal, sustainable settlement of the conflict as well as at the reparation of material harm (*Rule 97*);
- The dismissal of proceedings after a positive report avoids a criminal record with its possible negative consequences;
- A viable agreement negotiated by the suspect and the victim offers the chance for durable social peace (55% of VOM cases originate in the nearer social environment).

Types of offences and conflicts

84% of all referred cases are offences related to aggression, in particular assault and battery, others include serious threats, coercion, harassment and in some cases robbery (*Raub*). The remaining 16% comprise mainly property offences, i.e. theft, burglary, vandalism.

With regard to conflict types and environments particularly important for mediators handling cases, 55% concern the nearer social environment, i.e. partnerships (mainly domestic violence), family and friends, work place, school, as well as the most

4 In 90% of the cases, cases are referred by the public prosecutor. In 10% of the cases the order comes from a judge.

difficult type of conflict to mediate: escalated conflicts between neighbours. As the negotiated solutions should be sustainable, it is of particular importance to work out a perspective of what future contacts could be like.

#### Organisation and methods

Victim-Offender-Mediation is organised as a specially defined field of practice. This means that without exception only specialised and trained mediators carry out mediation in penal cases.. Depending on the type of conflict different methods may be employed. One or two mediators may work on individual cases (Co-mediation). A female and a male mediator, for instance, will handle cases of domestic violence as a team.

#### Acceptance and success

81% of the cases involving juveniles and 68% of the cases involving adults are concluded by the mediator(s) submitting a positive report to the public prosecutor. The recidivism rate is 14% within a period of 2 1/2 and 3 1/2 years (Forschungsbericht Dez. 2008/Hofinger & Neumann/Legalbiografien von NEU**START** Klienten<sup>4</sup>).

#### Co-operation between other institutions and the probation service

There is intensive co-operation particularly with referring institutions such as the public prosecutors and, to a lesser extent, with the judges. These contacts involve questions relating to individual cases as well as to the development of joint concepts as to which cases are suitable for VOM (indicators). Depending on the problems additional co-operation is undertaken with other social organisations, lawyers, therapists, for example for referral for legal advice, debtors' advice service, referring a couple for partnership therapy. This co-ordinated and complementary inter-agency and inter-disciplinary work is due to the complex needs of offenders and victims (Rule 12 )

If the mediation process shows that a suspect needs supervision by a probation officer, the mediator(s) will try to obtain a probation order from the court. There are also a few model projects involving co-operation with the police. In these cases the police submit its report to the public prosecutor together with a proposal for a VOM.

#### Community service/unpaid work

Since January 2000 community service can be ordered throughout Austria for juveniles and adults<sup>5</sup>. In 2010 the public prosecutors or courts referred a total of 4325 persons to NEU**START** for brokering community service. They are required to work for a maximum time of 240 hours (120 hours for juveniles).

To obtain a community services order is a service provided by NEU**START**. As soon as NEU**START** has received a penal law case from the public prosecutor or the court, the social workers first task is to select an institution and a work which is adequate to the offenders personality and to his offence.

---

4 Hofinger, Veronika; Neumann, Alexander. "Legal Biographies of NEU**START** Clients. Legal Probation according to Out-of-Court Offence Resolution, Community Service and Probation Service – Project Report".

5 Chapter on diversion measures within the code of criminal proceedings.

Next step is to advise and support him in fulfilling the community services order. To do community services means working for a public non profit organisation or a local community without payment. These unpaid community services can be in combination with the payment of damages or with alternative compensations for the damage caused.

A training or educative course attended by the offender shall be taken into consideration when fixing the amount of community services. (*Rules 12, 47, 48, 51, 52 are met*).

The social workers will also guide and support the offender in his efforts to compensate for the damage caused by him. They will support in complying with the community services order if the offender is willing to reflect the offence, its causes and consequences. **NEU**START**** must report to the public prosecutor or judge in charge of the case about the compliance with the community service orders and the compensation of the damage caused.

In 77% of the cases community service is successful and the offender does not reoffend. (Study “Legalbiografien von **NEU**START**** Klienten”, Hofinger/Neumann, 2008).

#### Probation work

The objectives and tasks of probation work are described in section 5.2.

Diversion of the case on the part of the prosecutor or the judge for a probation period if the suspect consents to supervision by a probation worker and/or to fulfilling specific orders.

This provision, which entered into force as of the year 2000, enables the public prosecutor to order probation and at the same time divert criminal proceedings for a probation period. In addition to it or as a separate measure, suspects can be ordered to fulfil certain obligations, such as, for instance, taking driving lessons.

#### Temporary suspension of proceedings in drug-related offences

This measure requires that the suspect consents to supervision by a probation worker and to a treatment programme.

#### Provisional probation

Particularly in cases of persons in custody awaiting trial, a probation order and thus their release, can be effected as a more lenient measure than custody. In cases of provisional probation a probation worker supervises the client until the end of the trial. Probation can continue thereafter if the sentence provides for it. Provisional Probation offers also support, advice and information to offenders’ families and is combined with relevant other interventions like employment opportunities, treatment and risk intervention training (*Rules 55, 56*).

#### Electronic curfew (electronic monitoring)

Instead of remand detention the judge can order electronic monitoring with supervision by probation. Although there is a legal base, in fact judges order this measure very rare. Electronic monitoring is predominantly used in the post trial stage as a front door or back door measure. See also 5.2.

### 5.1.1 Pre-trial/pre sentence report

For offenders under probation who re-offended, the probation officer has to write a pre-sentence report. For these reports minimum and maximum standards were established and written down in the internal handbook of NEU**START**. The report and its content have to be discussed with the offender (*Rule 44*). In some cases the offender will be involved in the preparation of the report and will be given a copy (*Rule 46*).

In some juvenile cases the judge can order a pre sentence report from the probation service carried out by NEU**START**. But in fact the pre trial/pre sentence reports in the Austrian system are not so widely spread as in other countries (*Rule 42*).

## 5.2 Enforcement stage

### 5.2.1 Probation

Probation has the legislative mandate to actively “strive to help the offender towards a way of life and attitude which will prevent him/her in the future from committing criminal acts which are subject to sanctions” (Section 52 Par. 1 CC, (*Rule 1*)). For this purpose a court may order probation if it deems it necessary in order to suspend an imposed sanction either completely or in part for the duration of a supervised period. Section 50 of the Criminal Code provides for probation orders in the following cases (*Rule 53*):

- If a sentence is suspended conditionally in full , which is possible in case of fines or custodial sentences not exceeding two years (Section 43 CC);
- if part of a sentence is suspended conditionally; which is possible in case of fines or custodial sentences not exceeding three years (Section 43a CC);
- If a convicted person is conditionally released (*bedingt entlassen*) from a custodial sentence; which under various conditions is possible after serving half or two thirds of the sentence (Section 46 CC);
- If a detainee is conditionally released from a preventive measure accompanied by detention that is possible in cases of cessation of the assumed danger that was the basis for the detention (Section 47 CC).

The basis for a probation order is usually the fact that the court does not deem the implementation of a sentence (or at least not of the whole sentence) necessary, but deems supervision by a probation officer necessary, in order to prevent the convicted offender from committing further crimes.. A precondition for each type of conditional suspension or release from a custodial sentence is furthermore that the (continued) execution of the sentence is not required in order to prevent others from committing crimes. In cases of juvenile offences (offences committed by persons between 14 and 18 years of age), Section 22 of the Juvenile Court Act also provides for the possibility of probation orders for the following cases:

- temporary suspension of proceedings (*vorläufige Einstellung eines Strafverfahrens auf Probe*);
- provisional suspension of penalty (*Vorbehalt des Ausspruches der Strafe*), and
- deferral of the execution of a custodial sentence (*Aufschub des Vollzugs einer Freiheitsstrafe*).

In accordance with section 35 of the Act on Addictive Substances, the public prosecutor can temporarily suspend criminal proceedings related to an offence involving addictive substances or accessory crimes, if the suspect (among other

measures) agrees to supervision by a probation officer. The same conditions apply to the temporary suspension of criminal proceedings by a court. With the consent of the suspect, provisional probation (*vorläufige Bewährungshilfe*) can be ordered before sentencing according to section 179 of the Code of Criminal Procedure. This order may serve as a more lenient measure for avoiding pre-trial detention (*Untersuchungshaft*). Voluntary probation (*freiwillige Bewährungshilfe*) in accordance with section 27a of the Probation Service Act is possible after an unconditional release (*unbedingte Entlassung*) from custody or a preventive measure involving detention (*Freiheitsentziehung*).

It is the task of a probation officer to support persons who are accused of or sentenced for committing an offence, with the objective of enabling these persons to lead a life free of offending and sanctions. This involves building a relationship with the purpose of guiding and supporting the probation clients with respect of their manifold everyday life problems. One probation officer is in charge of one client (*Rule 80*). Probation officers are to help their clients solve their psychosocial and economic problems in a self-responsible manner and support them in securing accommodation and income. A very important part of the supervision is to deal with the criminal behaviours of the clients, to work out possible alternatives for action and to train these alternative behaviours in everyday life. In order to provide for efficient ways of reaching this goal, the probation workers try to co-operate closely with other local social services and social welfare institutions but also with the police and other authorities (*Rules 37 – 38, 79*). In each case a social assessment must be done with a problem and resources analysis in respect of delinquency, the economic situation, housing, health, and the psychosocial situation.. Depending on the problems the contact frequency and the objectives for the supervision period will be defined in close co-operation with the client. A work concept is developed which states the short-term objectives, the envisaged method and the frequency of contacts. These social assessment and working concepts are reviewed every six months and, if necessary, have to be modified or redrafted (*Rules 66 – 71*). Specific supervision guidelines are in place for certain groups of clients, such as sexual offenders, defrauders, violent offenders, stalkers etc. Depending on the risks and expectations of the courts the guidelines also include compulsory supervisory actions.

In addition to the probation order the court has a wide discretion to issue other orders (dictates and prohibitions) that have to be complied with. A person may, e.g., be ordered to take up residence in a given place, to contact the court at certain intervals, or to avoid certain places. An order to undergo withdrawal treatment or psychotherapeutic treatment can only be issued with the consent of the offender. The probation worker must submit a written report to the court no later than six months after the issuance of the probation order as well as at its termination. Additional reports are only required upon request of the court or if the probation worker deems it necessary to disengage from a specific probation case. Regular contents of the reports contain information if the client stays in contact with the probation worker, if he fulfils certain court orders (for example if he meets his psychotherapist) and in general if there is a progress to build up a life free of offending. As a result the judge might to impose an unconditional sentence, if the client refuses to comply with his obligations.

In case of conditional release from custody probation can be ordered by the judge for juveniles and adults after at least one half or two thirds of the sentence has been served. At the same time a probationary period of 1 to 3 years will be specified. Deviant offenders (*geistig abnorme Rechtsbrecher*) who have been sentenced

to custody in a special penitentiary institution are as a rule only released with a probation order and a 10-year probation period. It is the general practice in Austria that a conditional release after serving half of the sentence hardly ever occurs. Conditional release after serving two thirds of the sentence only occurs in 30 % of the cases. For juveniles such a release is nearly always accompanied by a probation order, whereas probation orders for adults are usually only issued for first offenders, or particularly “dangerous” offenders. It is the objective of probation work with conditionally released persons to provide psychosocial support for a life free of offending and punishment.

### 5.2.2 Electronic monitoring (EM)

In 2010 electronic monitoring with social support and supervision was implemented by law in Austria. EM is one type of serving a prison sentence. The decision whether a person receives EM has to be made by the director of the prison. The applying convict has to meet the requirements and the prison sentence is up to 12 months (front door) or the unserved sentence not more than 12 months before release (back door). The offender has to fulfil certain conditions (work, accommodation, consent of other persons with whom he lives in the same apartment, income, social insurance, therapy etc.).

It is the task of social workers to make weekly timetables with the offender, which contains time when he has to be at home, at work, with the social worker, or for buying goods he needs in daily life. Further tasks are support of the offender (problems with the financial situation, social situation,...), motivation to fulfil the requirements, supervision, investigations why he didn't obey the timetable, etc. Persons living in the same household have also to be contacted in certain prisons of time fro example to prevent domestic violence.

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

Sanctions/ Measures/Penalties/ Conditions	Provision in legislation	Probation service involvement	Main characteristics of the probation activity
Imprisonment	X	-	
Suspended sentence	-	-	
Conditional sentence	X	X	With or without probation order. With probation: supervision, reporting and help & support
Affidimento in prova	-	-	
House arrest			
Electronic monitoring	X	X	supervision, reporting and help & support
Community service as sanction	-	-	

Sanctions/ Measures/Penalties/ Conditions	Provision in legislation	Probation service involvement	Main characteristics of the probation activity
Semi-liberty	-	-	
Semi-detention	-	-	
Treatment order	X	X	With or without probation order. With probation: supervision, reporting and help & support
Training/learning order	X	X	With or without probation order. With probation: supervision, reporting and help & support
Drug/alcohol treatment program	X	X	With or without probation order. With probation: supervision, reporting and help & support
Educational measures	-	-	
Compensation to the victim	X	X	As an order: With or without probation order. With probation: supervision, reporting and help & support
Mediation	-	-	
Attending a day centre	-	-	
Interdiction to leave the country	-	-	
Interdiction to enter different cities/ places	X	X	As an order: With or without probation order. With probation: supervision, reporting and help & support
Interdiction to carry out different activities	X	X	As an order: With or without probation order. With probation: supervision, reporting and help & support
Interdiction to contact certain persons	X	X	As an order: With or without probation order. With probation: supervision, reporting and help & support
Fine	X	-	
Day fine	-	-	
Other financial penalties	-	-	

Sanctions/ Measures/Penalties/ Conditions	Provision in legislation	Probation service involvement	Main characteristics of the probation activity
In/out patient order (psychiatric treatment)	X	X	With or without probation order. With probation: supervision, reporting and help & support
Security measures	-	-	
Combined order	X	X	With or without probation order. With probation: supervision, reporting and help & support
Community punishment	-	-	
Conditional release / Parole	X	X	With or without probation order. With probation: supervision, reporting and help & support
Automatic release	-	-	
Open prison	-	-	
Penitentiary program outside the prison	-	-	

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

Providing support to the families of the offenders/detainees	Sometimes when it helps to reach the goals
Coordinating volunteer prison visitors	-
Preparing offenders for (conditional) release	Two month before release we contact the prisoner to support him by seeking housing, employment and financial support.
Preparing prisoners for home leave and/or providing support during home leave	See chapter 5.2.1.
Providing support to persons that have been pardoned or amnestied	Only with probation order
Providing advisory report with respect to amnesty or pardon	-

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

### **5.3.1 Post-release aftercare**

For all persons who, after serving a custodial sentence, do not have a probation worker assigned to them NEUSTART has developed counselling and support services functioning on a voluntary basis, according to Rule 62. Aftercare service can be used by persons who have served their complete sentence but also after conditional release. It is available in seven of the nine provincial capitals. On the basis of the General Contract between NEUSTART and the Ministry of Justice they aftercare is defined as an independent branch of assistance to offenders in Austria.

Tasks of post-release aftercare are counselling and support, pre-release counselling, employment counselling and work training:

- **Counselling and support:** counselling after release from custody starts with the assessment of the psychosocial situation of the person seeking help, determining the need for help. It includes legal counselling, developing models for problem solving, information and counselling on available resources as well as gaining access to these resources. The objectives of the counselling process are securing the basic material needs (including providing for documents and initiating debt control measures), obtaining and maintaining accommodation, as well as referral to therapy. Counselling develops into support in cases where clients experience continually recurring problem situations and permanent crises, and where the working agreements between social worker and client prove to be viable. Support is characterised by its binding character, a support plan and agreed goals. It lasts for a maximum period of one year from the date of release;
- **Pre-release counselling:** aftercare workers offer counselling to persons who are still in custody. These counselling sessions help to assess the resources, available or to be made available to the prisoner after release, in order to avoid distress and calamity. It is particularly important to initiate measures prior to release for finding accommodation, securing income and providing for the reintegration into the employment process;
- **Employment counselling:** aftercare workers provide assistance to search for a job and to get in contact with the Public Employment Service (AMS). The service also includes information on course programmes;
- **Work training:** in addition to employment counselling, two agencies in Austria also run workshops where clients can participate in vocational training programmes over a period of up to six months. This type of programme aims at gradually introducing the clients to fundamental requirements of the working life such as punctuality, reliability, regularity and flexibility.

### **5.3.2 Accommodation and housing**

In two big cities in Austria (Vienna and Linz) assisted housing is offered for clients of the probation and post-release aftercare services. The social workers are being in charge of groups living in assisted housing are in structured contact with the probation officers and the social workers of the aftercare services to co-ordinate and share support tasks. Assisted housing groups primarily focus on developing the ability of the clients to live independently. Due to the co-operation with the municipal administrations clients, who are already prepared to stay and keep an apartment, can be proposed for communal housing.

## 6. Probation Methodology

The offers of NEU**START** (probation service, electronically-monitored house arrest, victim-offender-mediation, community service, aftercare [living, work training], prevention and victim support) can be ascribed to the action field of social work. The model of methodical action for all service offers is orientated to the principles, criteria and standards of social work.

### **This action model encompasses:**

- The external framework – mandate, context, institutional framework conditions;
- Concepts derived from the relational sciences and social work;
- Work principles – self-understanding, basic attitudes and values,
- Assessment and diagnostics;
- Methods and techniques,
- Interventions and action plans;
- Standards and rules of action;

### **Legislative Basis, mandate and Context of Probation Services**

The task of probation services is to support persons who have come into conflict with the law so that they do not become delinquent again.

According to the Austrian Criminal Code (CC 1975, section 52 (1)), the “probation worker strives to help the offender towards a way of life and attitude which will prevent him or her in the future from committing deeds which are subject to sanctions. As far as it is necessary, he or she has to support him or her in an appropriate way in his or her efforts to meet the basic necessities of life, especially to find accommodation and work”.

Thus, probation service is a comprehensive social work support. It does not have any “policing” function, but it exerts social control.

The goal is the integration into society of people who committed a crime. Additionally they are often standing at the edge of society. By empowering the clients (strengthening their social and problem solving competence) this social inclusion should take place in the life of the clients.

### **Professional Self-Understanding of Probation Service**

Probation service is a public task carried out on the basis of the Probation Services Act and the legal provisions of the Criminal Code.

According to the experiences of NEU**START**, which correspond to scientific findings, the causes for the delinquency of our clients are most commonly social deprivation and discrimination combined with adverse socialisation conditions. Conflicts with the environment, frequent social failure, dissocial attitudes, but also major personality disorders increase the risk of committing offences.

The task of the probation worker is to provide for the psychosocial supervision of the clients with the goal of supporting them and bringing about changes to promote an offence-free and unpunished life, and to prevent further offences.

The methodical accomplishment lies in recognising problems (assessment and diagnosis) of the persons being assisted, the ensuing action (intervention) and the examination of the resultant reaction of the clients, as well as of one’s individual behaviour in regard to these (reflexion and evaluation).

In the sense of **task clarification**, it is to be considered that the clients, as a rule, do not come for support on their own accord, but rather by order of judicial bodies (court and public prosecutor).

Unlike the classical counselling setting where the clients assess their own need for help and turn to the respective helper with a concern, the court or the public prosecutor determines that the clients of the Probation Service need help and, therefore, support through the Probation Service.

Often, the clients themselves do not share this opinion. In such cases, the task of the probation worker is to help the clients recognise their need for help and to motivate them to make use of the support offers.

Insofar as it is possible, the clients have to be involved in the determination of support goals. Task clarification and involvement of the clients when determining the support goals correspond to Rule 6 of the European Probation Rules.

Besides the immediate practical benefit for the clients, the **support services** of the Probation Service provide for the establishment and promotion of a sustainable working relationship in order to initialise a psychosocial change (development of responsibility and problem awareness, unfolding of personal resources and potentials, learning appropriate coping strategies, etc.). In addition to securing the cooperation with the clients, the activation of relevant environments (helper systems) is often purposeful.

## **Working Principles and Philosophy of the Probation Service**

### **Relationship Building and Working Bond**

The quality of interpersonal relationships and the entering into social ties are of vital importance for successful social work with offenders. A relationship can also be formed in an enforcement context. Social ties should be strengthened, built up and expanded. In this way, the formulation of a relationship becomes the methodical starting point of the change and learning process.

The probation worker maintains the greatest possible discretion concerning what he/she knows about the personal sphere of the clients.

Moreover, the probation worker takes sides with the client if his or her rights and chances are jeopardised. At the same time, he or she also ensures that the rights and chances of other persons involved in the problem are also taken into consideration. As long as possible and necessary, the same reference person should be responsible for the client. This stipulation corresponds to Rule 80 of the European Probation Rules.

Relationship building in an enforcement context calls for:

- Comprehensive transparency / verifiability
- Explicit acceptance of resistance
- Friendly tenacity
- Structural interventions
- On-going assignment of responsibility
- Directed discovery (discussion strategy)
- Complementarities of relationship building

A resilient and stable working relationship is then developed if the tasks and roles are properly explained, the rules are clarified, the boundaries and control functions

are also defined, the expectations are addressed, the support goals are mutually developed and leeway is negotiated and orientated to the variables of congruence and authenticity, appreciation and empathy.

Furthermore, a resilient working relationship is always the consequence of resource activation by the client himself or herself and also constitutes a resource and (new) social capital for him or her. The personality of the probation worker will become a tool and a resource itself, but only if this relationship is characterised by consistency, reliability, commitment and respect, and is also clearly goal-orientated and time-limited.

### **Aftercare and Life-World Orientation**

The probation worker seeks the contact and communication with the client. He or she gets involved in the life-world of the clients and endeavours to establish and remain in contact with the client.

He or she is thus aware of the social control aspect that is given through the legal mandate. "Aftercare" not only means visiting the clients in the locations of their life-worlds, but also means, in a colloquial sense, to get down to the bottom of things. On the other hand, aftercare should not become "running-after care" and be experienced by the client as a chase. The right to clients' privacy is to be acknowledged and therefore requires sensitivity in the establishment and forming of the contacts.

### **Victim Orientation and Restorative Justice**

The victim's perspective is to be taken into account in the offence processing. Not only the offence itself, but also the impacts of the offence on the victim, meaning the injury or damages, are to be treated and handled in the scope of offence processing in any case in longer-term working relationships. In doing so, the perspective of the victims will be brought into view.

The assumption of responsibility will be promoted and demanded. First of all, the primary goal of offence processing is that the offender takes on responsibility for his or her actions. To gain insight into one's own responsibility is one of the main and continuous work tasks during the period under supervision.

Compensation will be supported and strived for. The willingness to render emotional and/or material compensation for the resulting damage represents one criterion for assuming responsibility. (*Rule 3*)

Framework conditions for victim-orientated work:

- All parties affected by the offence and involved in the conflict should be involved in its solution. It is a matter of active participation.
- All injuries, damages and impacts will be named.
- Honesty and assumption of responsibility shown by the offender.
- Personal rights of offenders and victims will be protected and confidentiality will be maintained.
- In this process, social work also represents the societal perspective, so that standards will be complied with and the law will be respected. The offence will be ostracised, but not the offender.

Restorative justice in individual-case support means: The offender confesses to his or her deed and assumes responsibility.

### **Assessment and Resource Diagnostics**

Knowledge-based social work is not possible without a differentiated diagnostic assessment. It's a crucial quality feature to be able to define goals during supervision. In terms of a holistic perception in case work the client has to be assessed as an individual with his or her social relations. Pre-condition for the assessment is a face-to-face anamnesis interview with the client at the beginning of the supervision. In the context of offender services the criminological risk factors are to be considered, too. In order to assess the living environment, the problems, the skills and the personality of the clients, the **NEUSTART situation analysis** documentation in the areas of offence, employment, finances, health, living conditions and psychosocial environment is a suitable instrument, developed from practical experience. The situation analysis is part of the electronic documentation system of **NEUSTART** (the so called client-documentation). Due to this mandatory documentation Rule 88 is also applied.

The **working concept** derived from the assessment prescribes the framework and goals of the interventions and is the actual, individually-developed action and help plan. The creation of the situation analysis, the assessment and the working concept is to be understood as a dynamic process which is regularly re-applied during the change of life circumstances, important occurrences and progress in aftercare. The diagnostic procedure in the social work at **NEUSTART** includes:

- **the individual risk factors**, the offence history, as well as criminogenic structures and possible risk situations
- **the individual protection factors** and resources in regard to social capital, as well as emotional and cognitive strengths and abilities of the client
- an **assessment of personality** (stability, self-control, bonding ability, emotional as well as cognitive processing strategies)
- the conflictive, often unresolved **developmental advances and breaks (the turning points)** in the personal history
- the **processing strategies** in symptomatic and tortuous events and
- the **social situation**.

The assessment procedure applied in Austrian probation services broadly complies with the European Rules 66, 67, 68, 69, 71, 73 and 81.

### **Support Stages**

The result of the assessment is a classification and evaluation according to the "**support stages model**".

The classification of the support stages follows the complexity of the characteristics of the problems as well as certain groups of offence. Moreover the problem situation of

the client has to be of long duration and already manifested in his or her life. The support stages determine the frequency of the contact with the client. The frequency is depending on the clients situation, the necessity of monitoring and the risk of recidivism.

### **Intensity of support according to risk characteristics**

One of the goals of the “support stages model” is to provide the adequate working hours of the probation officer in relation to the necessary support intensity. This differentiation should enable the probation officers to work more effective working with the clients and illustrate the realistic capacity situation.

#### **Support Stages:**

1. Intensive support
2. Support
3. Counselling
4. Reduced contact

#### **Ad 1.: Intensive Support**

Prerequisite: Multiple problem situations and high risk factors. Clients with a sexual offence will be principally classified as intensive supports. During the first six months of support, each client will be supervised with the frequency of intensive support or support (stage 1 or 2).

Juvenile clients (age < 21) will be supervised in the first year of support with the frequency of intensive support or support (stage 1 or 2).

Contact frequency in the intensive support stage: 2 to 3 monthly personal contacts on average

#### **Ad 2.: Support**

Prerequisite: The result of the problem assessment shows at least two serious social problem situations and hazards.

Juvenile clients (age < 21) will be supervised in the first year of support with the frequency of intensive support or support (stage 1 or 2).

Contact frequencies in the support stage: 1.5 to 2 monthly personal contacts on average.

#### **Ad 3.: Counselling**

Prerequisite: The problem assessment implies a low value, protection factors are well marked.

Contact frequencies in the support stage: 1 monthly personal contact on average.

#### **Ad 4.: Reduced Contact**

Prerequisite: The problem assessment implies a low risk of recidivism. Clients supervised in this stage are in custody, the suspension of probation service was recommended by the court or clients are supervised by an external institution over a longer period of time and the overall need of support will be met by this institution (e.g., psychiatric clinic, stationary therapy...). There is a clear agreement with this external supervising institution on the allocation of tasks.

Contact frequencies: In this form a personal contact takes place every two months on average.

All of the standards are specified in a binding and verifiable comprehensive quality handbook.

### **6.1. Methods and Techniques**

Three overriding methods are applied at NEU**START**: Individual-case help, group work and mediation.

A method is thereby understood as a goal-orientated, well-planned, systematic, comprehensible and evaluable action concept, while techniques represent partial aspects or individual elements of methods, such as, e.g., role clarification, relationship building, counselling techniques, etc.

Concretely, the methods of resource-based case management, motivating social work, solution-orientated working and risk-orientated interventions (offence work) are applied in the probation service. For violent offences, work is done with groups following a structured procedure and having a cognitive, behaviour-orientated programme as a basis.

In cases of victim-offender mediation, methods of mediation are applied. The methodical approach and the interdisciplinary derivation in the probation service thereby correspond to Rules 76 and 77 of the European Probation Rules.

### **6.2. Interventions and Action Plans**

The interventions and action plans with goal formulations will be specified in an individual working concept for each client, which has to be regularly (every 6 month) examined and adapted if required. . Moreover, the goals for the respective social problem areas and psychosocial impairments will be formulated.

In the course of the support, each client shall also work on his or her offence and criminal behaviour. This **offence processing** is to be understood as a structured process (the risk-orientated intervention programme of the Probation Service in Zurich) whose individual phases can be of differing lengths and intensity. In addition, the individual intervention steps can be variably designed and are orientated to the interview dynamics, motivation and openness of the clients. Offence processing will be announced and prepared; it includes interventions that are well-matched and near-term, using methodical resources gained from motivational interviewing and socially cognitive behavioural psychology.

#### **Work Steps**

- Reconstructing the offence, discussing the sequence and events of the offence;
- Clarifying the consequences, creating a balance for the offender, as well as the victim;
- Addressing the causes;
- Working out the risk situations and action alternatives;
- Strengthening the assumption of responsibility and addressing the compensation.

All of these elements of an action model, such as work principles, assessment and diagnostics, methods, standards, rules of action, working concepts, support stages and documentation, are described and clearly specified in a comprehensive quality handbook. The compliance with these standards will be permanently reviewed by the professional supervisory body and by the internal revision.

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

### 7.1 Finances

The government generally finances support for offenders like probation service in Austria. The greatest part of the work is done by NEU**START** as private provider. The Federal Ministry of Justice is the main purchaser of NEU**START** services, accounting for about 90% of its financing. Other purchasers of services are the Provinces (3.91%) and the local authorities (0.64%). Donations and membership fees also contribute to the budget, but they only account for an insignificant portion of the financing of NEU**START**.

**Table 4: The detailed financing structure in euro's in 2010**

Federal Ministry of Justice	32.799.641,19	90,20%
Federal government (excl. justice)	118.217,50	0,33%
Provinces (Länder)	1.421.846,86	3,91%
Communes (local authorities)	231.819,65	0,64%
Other public-sector purchasers	452.545,25	1,24%
Subtotal	35.024.070,45	96,32%
Income from clients (e.g. rental contributions housing projects)	285.827,87	0,79%
Subtotal	35.309.898,32	97,11%
Other income	812.539,85	2,23%
Subtotal	36.122.438,17	99,34%
Income from retransferring reserves (e.g. liquidated provisions equalling the amount of not consumed vacation)	163.122,81	0,45%
Subtotal	36.285.560,98	99,79%
Interest and similar income	75.802,87	0,21%
Total income	36.361.363,85	100,00%

Significant financing elements are subsidies and compensation for services rendered. The different fields of activities of NEU**START** have different financing structures that depend largely on the service purchasers. Public sector financing is defined in contracts with the individual service purchasers. The contracts concluded after negotiations are usually one-year subsidy contracts or longer-term service contracts. Within the framework of these contracts, and of any earmarking specified therein, NEU**START** can freely decide on the use of the funds. The budget of NEU**START** consists basically of approximately 83% personnel costs and 15% cost of materials as well as 2% of depreciation. Although each budget has to be negotiated separately, in general the duties written down in the general contract are adequately resourced. (Rule 10)

**Table 5: A comparison of expenses for staff and clients between probation services and prison systems**

2010	Probation Service	Prison System
Total current yearly expenditure (Euro)	23,168.000	347,713.000
Average number of employed staff	238 *	3,892
Daily average number of offenders/clients dealt with	10,142	8,658
* Includes part time staff		

The data in the column marked “Probation Service” refers to the probation service only and does not include the entire range of support services to delinquents. Figures reflect the actual spending of 2010. The column “Prison System” covers the figures for spending, for the staffing levels of the prisons and the daily average number of offenders. These figures are also the actual figures for 2010.

## 7.2 Accounting

The accounting of NEU**START** is based on Section 21 and 22 of the Act on Associations 2002 (*Vereinsgesetz, VerG2002*), which refers to the accounting principles of the Corporate Code of Law (*Unternehmensgesetzbuch, UGB*). Moreover, NEU**START** adheres to the fiscal requirements for non-profit organisations. Annual accounts including balance sheet, profit/loss accounts and notes are drawn up and audited every year. NEU**START** uses an integrated planning process (budgeted balance sheet, performance budget and financial plan) over a period of 3 years. For ongoing monitoring of budget implementation, monthly target-performance comparisons and budgetary forecasts are in place in cost accounting, which is structured according to cost types, cost centres and cost units.

Accounts and cost accounting are used for the annual settlement grants and fees for services rendered with the main purchaser of NEU**START** services, the Federal Ministry of Justice. Provinces, communes (local authorities) and the AMS have regionally differing accounting systems ranging from a voucher-based system to lump sum payments for services rendered (e.g. working hours). In parallel to income and expenditure, the performance of NEU**START** is also subjected to continuous monitoring. In a data warehouse performance data are stored in multidimensional cubes and updated monthly or daily. On this basis, standard reports are drawn up and ad hoc queries are made. Before the performance data are finally imported into the data warehouse, they are checked for plausibility against the data from previous systems and results are reported back to the agencies in a feedback stage.

Strategic controlling in NEU**START** is based on a Balanced Scorecard. It is the link between strategy and operational implementation. Parameters subsumed in five perspectives serve to determine the degree to which strategic goals have been reached. Measures that contribute to (better) goal attainment are described in detail and there are regular reviews as to whether these measures have in fact been taken. The follow-up audit of financial management is a fixture for NEU**START**. This includes an audit of the annual accounts by an independent certified public accountant whose report is also part of the evidence proving that subsidies have been

used in accordance with the earmarking. The internal audit unit of NEU**START** does system and organisational reviews. Public sector purchasers have the contractual right to inspect the books of NEU**START**. Activities at the federal level are also subject to audits performed by the Austrian Court of Audit (*Rechnungshof*).

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

Since 2003 a standardised computer-based documentation system has been in place for all service areas. There is a computerised file for each client, containing personal data, data on his/her situation (delinquency, housing, finances, education and training, employment, health, psychosocial situation) and data concerning the order. The file also includes a working concept (planned goals and stages to attain them), timeline records and reasons for termination of the supervision. Each service area has binding documentation rules covering different minimum and maximum standards for each area. As the documentation about the work of the social worker with the client is part of the computerised client documentation, the following goals are achieved in one go:

- systematic monitoring and evaluating of their own work by the social workers;
- ongoing information on the support status and the goals of the work;
- performance assessment and transparency through written record of the service done.

Under the Data Protection Act (*Datenschutzgesetz*) 2000 data must not normally be disclosed and/or processed without the consent of the person concerned.

Since the services provided by NEU**START** are based on a legal mandate, data may be processed without the explicit consent of clients. All clients are entitled to information about their data being stored. All data are stored via a central server that enables central evaluations and analyses to be made. Decentralised evaluation options for the 9 NEU**START** agencies are included in the programme. (*Rule 41*) Besides the standardised computer-based client documentation the same software offers the data base for the following performance figures:

- performance statistics (recruitment and staffing levels) to monitor the work load (comparison of actual and planned figures) in all service areas;
- case statistics with reasons for referral and duration of service (probation, mediation in penal matters, community services);
- occupancy figures to monitor the utilisation of the assisted housing;
- client statistics including numbers of attempted referrals and successful referrals, for example to a job, within aftercare service.

These figures are used for reports to purchasers (e.g. quarterly and annual reports to the Federal Ministry of Justice) as well as for internal standard reports to the Management (some of them monthly) and to the Agency Heads.

Currently NEU**START** is developing a system of key figures for a regular reporting system on the effectiveness of our social work. There are numerous figures existing in various reports and studies but there is a lack of a homogeneous tool.

NEU**START** is very interested in an evidence-based practice (*Rules 104,105*), and seeks cooperation with scientific institutes as well as has studies conducted on social work and outcome. Relevant studies are (results in short see chapter publications):

- on recidivism rates: Hofinger V., Neumann A., „*Forschungsbericht Legalbiografien*

von **NEU**START** Klienten**“, Institut für Rechts- u. Kriminalsoziologie, Dezember 2008;

- on victim-offender mediation in cases of domestic violence (female victims perspective on satisfaction and recidivism rates): Christa Pelikan, „*Die Möglichkeiten und die Bedingungen einer wirksamen Stärkung (Mächtigung) der Opfer von Gewalt in Paarbeziehungen durch den Außergerichtlichen Tatausgleich*“, Institut für Rechts- u. Kriminalsoziologie, Juni 2009;
- on electronic monitoring: Hammerschick W. Neumann A., *Bericht der Begleitforschung zum Modellversuch „Elektronische Aufsicht/Überwacher Hausarrest im Rahmen des § 126 StVG“*, Institut für Rechts- u. Kriminalsoziologie, Dezember 2008.

## 8. Societal Support and Clients' Views

The goal of the association is to win society, political decision-makers and governmental administration over to measures to avoid delinquency, to alternatives to punishments, and to offender support. **NEU**START**** sees its mission in influencing the public in this sense. Active media and public relations work, which addresses societal prejudices against fringe groups and contributes to breaking down fears, also serves this goal. Stakeholders are persons who cooperate in the realisation of organisational goals, create preconditions and bring in resources for this purpose. They have legitimate demands on the organisation that have to be taken into account. For longer-term and sustainable solutions, a balance between the different and, to some extent, contradictory interests of clients, contractors, referring agencies, employees and society must be found. Increasing the satisfaction of all these relevant stakeholders is a vital component of the organisational culture. Therefore, satisfaction surveys are an important management tool. The current results are as follows:

- Client surveys with cross-service and service-specific questions are distributed to all clients at the end of the support period.
- 97% of the polled clients were satisfied with the support of the social workers. More than 86% concluded at the end of the support period that “life has changed positively”.

The surveying of the qualified public (contractors, referring agencies, politics, media, professional public, and cooperation partners) resulted in a satisfaction score of 96%. **NEU**START**** employees are perceived as very engaged (66%); as experienced (33%). The orientation of **NEU**START**** to stakeholders' needs is mentioned by 82%. However, only 18% of those polled are very satisfied with **NEU**START****'s participation in public discourse. The most important criteria for evaluating the work of **NEU**START**** are “the effectiveness of the support work (success rate)” and the “engagement of the social workers” (19% respectively). “Meeting the need” is the third important criterion. Especially the contractors (22%) and referring agencies (19%) name this as a criterion.

In a poll of five hundred Austrians, 22% of the respondents have an aided awareness of **NEU**START****. Significantly higher is the awareness of the Probation Service (63%). The higher the education level of the respondent, the higher the awareness rises. The vast majority of those surveyed deem the work of **NEU**START**** as very important or important (85%). 53% of the respondents believe that the work of **NEU**START**** helps

prevent criminality. 66% are of the opinion that the work of **NEUSTART** benefits society; 26% also see a personal benefit.

**NEUSTART** has a particular interest in informing the contractors and the public about the value of its social services. The association only achieves this with active reporting, not only in the form of a quantitative accounting, but also in a qualitative accountability.

Thus, the effort extended by **NEUSTART** shall be reasoned and justified with an account of what has been achieved. This form of reporting is seen as a counterpart to the internal reporting system, but obtains its data from the field of controlling. At the political (macro) level, accountability lies in the fact that what **NEUSTART** accomplishes, and for which reason and for what benefit the provided means were, resp., will be spent for the purposes of **NEUSTART** is presented to the citizens and the general public. Accountability is, thereby, a combination of credibly researched and reported stories from everyday support and association life and a balancing account which interprets these stories. PR at **NEUSTART** is the planned, continuous, coordinated communication between **NEUSTART** and the stakeholders that is committed to the mission statement. The public relationships of **NEUSTART** will be shaped by means of professional communications work corresponding to the organisational goals and with due regard to the interests of stakeholders

Moreover, the goal of internal public relations is to provide continuous information to the employees and to develop the **NEUSTART** corporate identity. The creation of a high identification and information level of the employees is the basis for their functions as multipliers.

External PR includes campaigns, information work with the stakeholders, events, support of fundraising activities (direct mail, etc.), and media work with print and electronic media. In total, 370 media reports, 51 of them on TV or radio, 282 in print media and 37 in online media, were launched in 2010.

## **9. Probation Clients' Rights**

As already described in chapter 5 Austria does not meet the requirements of rules 14, 99, 100 and 101. An internal procedure exists very well, where a probation client can address the department manager if there are any complaints or doubts out the way probation service is conducted by the officer.

Rules 41, 89 , 92: Confidentiality is clearly written down in § 20 Sec. 5 of the Probation Act . In all affairs of documentation and record keeping the head of central department of infrastructure has to examine the accordance with the Data Protection Law.

With the exception of voluntary probation (Section 27a PSA), probation is ordered by the courts of public prosecutors. Clients may appeal against court orders. Public prosecutors can only issue an order for probation on condition that the client consents. In any event, the probation officer is appointed by **NEUSTART**. The client is not entitled to any legal remedy against the appointment.

**NEUSTART** has implemented organisational rules on how to handle client complains against social workers. As part of the complaint management system, all complaints must be dealt with by the head of unit of **NEUSTART**.

All diversion measures (payments, community service, probationary periods and mediation in penal matters) require the client's consent. Until charges are finally dropped, the client has the right to ask for criminal proceedings to be instituted or resumed. In this case, diversion measures cannot be applied or continued. The public prosecutors or courts may only revoke the offer of diversion for specific reasons set forth by law. The client has to be informed about his/her rights when offered diversion. He/she has a right to appeal against all court orders issued in the framework of diversion proceedings.

If an offender consents to perform community service within one month after being summoned to begin a custodial sanction, and agrees with an appropriate institution to render the service within a further month, the implementation of the custodial sanction is deferred until the offender shows evidence of the service provision or until the court revokes the deferral of the sentence with a decision. The offender can appeal against a revocation decision.

Every offender can file a request with the director of the responsible prison to have a sentence executed by means of an electronically-monitored house arrest before the sentence is carried out (front door) or while the sentence is being implemented (back door). The offender is also entitled to file an appeal against the revocation of a sentence by means of an electronically-monitored house arrest, as well as any ordinance during the sentence.

## 10. Important Publications

Birklbauer, Alois; Hirtenlehner, Helmut; Ott, Angelika; Eher, Reinhard: „*Daten und Fakten zum österreichischen Maßnahmenvollzug bei zurechnungsunfähigen geistig abnormen Rechtsbrechern (§ 21 Abs 1 ÖStGB), Insassenstruktur-Unterbringungsdauer- Legalbewährung*“ ,in: *Neue Kriminalpolitik* 1/2009, 21- 29.

Title in English:

Birklbauer, Alois; Hirtenlehner, Helmut; Ott, Angelika; Eher, Reinhard. “*Data and Facts on Austrian Sanction Enforcement for Criminally Insane Offenders (§ 21, Sec. 1 Austrian Penal Code): Inmate Structure – Length of Involuntary Commitment – Legal Probation*”. *Neue Kriminalpolitik* 1/2009, pp. 21- 29.

In this article, the first extensive survey of the implementation of preventive measures according to § 21 Sec. 1 of the Austria Penal Code is introduced. It thereby deals with the common form of involuntary commitment of criminally insane offenders in Austria for treatment and neutralisation of the danger.

Eder-Rieder, Maria: *Opferrecht*. 2005, Wien: Neuer Wissenschaftlicher Verlag.

Title in English:

Eder-Rieder, Eva. *Victims' Rights*. Vienna: Neuer Wissenschaftlicher Verlag (2005). 125 pages.

This handbook focuses on the valid regulations for the protection of crime victims in Austria. In addition to preventive measures of the police in cases of domestic violence, the disposition of the victim in the scope of the diversion and her/his careful handling as a witness in a penal procedure are also addressed. An in-depth investigation of the obtainment of compensation – especially injury awards – already during the criminal proceedings by joining them as a private party is documented with corresponding examples from case law. Finally, further state, resp., private support possibilities and the expanded victims' right according to the future Code of Criminal Procedure are discussed.

Grafl, Christian; Stummer-Kolonovits, Judith: *Reichweitenstudie - Gemeinnützige Leistungen*. 2006, Wien: Neuer Wissenschaftlicher Verlag.

Title in English:

Grafl, Christian; Stummer-Kolonovits, Judith: *Distribution Study – Community Services*. Vienna: Neuer Wissenschaftlicher Verlag (2006). 119 pages.

The following balance is drawn and formulated as criminal policy food for thought:

The latitude of community service as a diversion measure has, by far, not been exhausted yet. In the intermediate crime field (for instance, in cases of theft or criminal property damage with high damages) and for persons with previous criminal charges, the possibilities of these socio-constructive measures should be used considerably more intensively – and when they are, then possibly also with a higher time investment.

The possibility of voluntarily performing a community service instead of serving a custodial sanction should be laid down by law. Foreign examples show that a politically generally-accepted alternative also exists here.

Voluntarily performed community service, which, as a type of “sanction”, could lead to an earlier conditional release, would likewise be viable in the short-term.

Taking into account European and non-European examples, the middle-term introduction of community service as an independent sanction should also be considered in Austria. In view of good experiences with scientifically-guided model projects, a “community service model project” in juvenile criminal law – possibly involving young adults – is deemed as sensible.

After a positive evaluation of the model project, introducing community service, also for adults, as a third primary penalty alongside a fine or custodial sentence, should be considered.

Grafl, Christian; Gratz, Wolfgang; Höpfel, Frank; Hovorka, Christine; Schroll, Hans Valentin; Soyer, Richard: „*Kriminalpolitische Initiative : Mehr Sicherheit durch weniger Haft ! - Vorschläge Nr.5 - Juni 2010, Sozialarbeit als Voraussetzung für mehr Sicherheit durch weniger Haft. Vorschlag eines Bundesgesetzes über Sozialarbeit in der Straffjustiz und Bewährungshilfe (SozAB-G)*“ in: *JSt - Journal für Strafrecht* 4/2010, 127-130.

Title in English:

Grafl, Christian; Gratz, Wolfgang; Höpfel, Frank; Hovorka, Christine; Schroll, Hans Valentin; Soyer, Richard. “*Criminal Policy Initiative: More Safety through Less Custody! - Proposals No. 5, June 2010 - Social Work as the Precondition for More Safety through Less Custody. Proposal for a Federal Law on Social Work in Criminal Justice and Probation Service (SozAB-G)*”. *JSt - Journal für Strafrecht*, 4/2010, pp. 127-130.

The main contents of the proposed federal law on social work in criminal justice and in probation service (SozAB-G) are:

Social work in criminal justice should particularly:

- process the consequences of punishable offences and resolve them as far as possible guarantee appropriate assistance as well, especially to the victims of an offence support persons accused of an offence or already convicted of one not to commit any (further) punishable acts
- to enable, resp., carry out measures that could replace other, more intensive or more costly means of criminal prosecution or reactions to delinquency.

All socially constructive measures serve to avoid recidivism and are oriented to restorative justice. This will be achieved by clarifying standards; processing the offence;

supporting and promoting compensation; including the interests of the victims; supporting processes of social learning; supporting the securing of livelihood (especially lodging and employment) and, in (re-) integration, the social environment; supporting the fulfilment of court orders and sanctions.

Text in German > [http://www.irks.at/downloads/KI\\_Vorschlaege\\_5.pdf](http://www.irks.at/downloads/KI_Vorschlaege_5.pdf)

Gratz, Wolfgang: *Im Bauch des Gefängnisses. Beiträge zur Theorie und Praxis des Strafvollzuges*. 2007, Wien; Graz: Neuer Wissenschaftlicher Verlag.

Title in English:

Gratz, Wolfgang: *In the Belly of the Prison. Articles on the Theory and Practice of Penal Enforcement*. Vienna/Graz: Neuer Wissenschaftlicher Verlag (2007). 205 pages

The individual articles combine the following line of argumentation:

The penal system, as a place of social rehabilitation, can only function if it is humane. A system is only humane if it provides for acceptance – acceptance for those concerned and by those concerned.

An accepting penal system, however, reaches its social and political acceptance limits

too quickly.

This dilemma suggests understanding custodial sentencing as the very last and shortest possible form of penal sanction.

Table of contents in German >

[http://www.nwv.at/doc/img/pdf/9783708304618\\_iv.pdf](http://www.nwv.at/doc/img/pdf/9783708304618_iv.pdf)

Hofinger, Veronika; Neumann, Alexander: „*Legalbiografien von NEU**START** Klienten. Legalbewährung nach Außergerichtlichem Tatausgleich, Gemeinnütziger Leistung und Bewährungshilfe – Forschungsbericht*“.

Title in English:

Hofinger, Veronika; Neumann, Alexander. “*Legal Biographies of NEU**START** Clients. Legal Probation according to Out-of-Court Offence Resolution, Community Service and Probation Service – Project Report*”.

“Standing at the centre of the study are the questions whether the clients will commit new offences or be legally convicted within 2 1/2 /to 3 1/2 years following diversion measures, resp., probation service, and which groups of clients according to which sanctions, resp., measures succeed in leading a offence- and conviction-free life. How the work of NEU**START** is to be evaluated in comparison to results from comparable studies and statistics in a special-preventative regard (...)”

Text in German > <http://www.irks.at/downloads/Endbericht%20Legalbiografien.pdf>

Hofinger, Veronika; Neumann, Alexander; Pilgram, Arno; Stangl, Wolfgang: „*Pilotbericht über den Strafvollzug 2008*“

Title in English:

Hofinger, Veronika; Neumann, Alexander; Pilgram, Arno; Stangl, Wolfgang: “*Pilot Report on the Penal System 2008*”.

The available report is a comprehensive account of the relations, developments and implementation practice in the Austrian penal system for the 2008 reporting year, which provides the reader with a detailed insight into this system. However, the structure of the report also shows it to be a reference work that enables the desired information to be specifically searched out in the table of contents or table appendix of the report. For whichever purpose the reader decides upon, the report gives the interested public the possibility to investigate essential facts about the Austrian penal system.

Text in German > <http://strafvollzug.justiz.gv.at/downloads/Pilotbericht2008.pdf>

Mayer, Klaus; Schildknecht, Huldreich (Hrsg.): *Dissozialität, Delinquenz, Kriminalität. Ein Handbuch für die interdisziplinäre Arbeit*. 2009, Zürich: Schulthess.

Title in English:

Mayer, Klaus; Schildknecht, Huldreich (Eds.): *Dissociality, Delinquency, Criminality. A Handbook for Interdisciplinary Work*. Zurich: Schulthess (2009). 265 pages

Content: In the new handbook *Dissozialität, Delinquenz, Kriminalität*, experts from various topic fields provide insight into the professional work with delinquent people for the first time. In addition, the editor has established a network and a blog in order to intensify the professional exchange of views and experience.

The work with people with delinquent behaviour has changed dramatically in the last two decades. Previous approaches to professional work with delinquent people have been questioned and reassessed in many points. New forms of interventions and offers have been developed especially in the fields of social work, therapy and prognostics.

In *Dissozialität, Delinquenz, Kriminalität*, around 30 experts from various fields of activity report about the current state of practice and research. These authors come from the professional fields of social work, psychology, psychiatry, law, criminology, education, ethnology and social science. In three sections they provide an overview of the professional tools used in working with delinquent people. The handbook is the first German-language publication that summarises current knowledge in this professional field for students, specialists and other interested people.

A main concern of the editor is the combination of theory and practice. Therefore, the publication also contains the well-founded knowledge of practitioners, in addition to the latest research findings. As an example, they report about the concrete work with specific offender groups (such as juveniles and violent and sexual offenders) and describe the work with the Children and Youth Advocacy organisation and the various enforcement measures, including probation services.

Book review in German

<http://www.infostelle.ch/filedownload.html?cdid=6288&file=3>

Pelikan, Christa; Hager, Isabella; Haller, Birgitt; Kretschmann, Andrea: „*Die Möglichkeiten und die Bedingungen einer wirksamen Stärkung (Mächtigung) der Opfer von Gewalt in Paarbeziehungen durch den Außergerichtlichen Tatausgleich*“. Die Studie wurde im Auftrag von NEUSTART erstellt. 2009

Title in English:

Pelikan, Christa; Hager, Isabella; Haller, Birgitt; Kretschmann, Andrea et al. „*The Possibilities and the Conditions for an Effective Reinforcement (Empowerment)*“

*of Victims of Violence in Partner Relationships through Out-of-Court Offence Mediation”.*

The study was conducted at the request of NEU**START** in 2009.

Summarising the language of numbers, one can also state the following: Offence mediation, conceived and consistently realised as a short, perhaps only isolated intervention, can initiate processes that reinforce women. Empowerment happens! – And this procedure not only contributes to the decision to end a relationship in which there was violence, but also to the restructuring of partner relationships that then run non-violently. Offence mediation, in the form of a stimulus, can also lead to a change in the man. Text in German > [http://www.irks.at/downloads/Oper\\_ATA.pdf](http://www.irks.at/downloads/Oper_ATA.pdf)

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

NEU**START** – Bewährungshilfe,  
Konfliktregelung, soziale Arbeit  
(NEU**START** – Probation, Mediation,  
Social Work)  
Austria, Vienna:  
Central Office:  
A-1050 Vienna  
Castelligasse 17  
Tel: +43/(0)1/545 95 60  
Fax: +43/(0)1/545 95 60 – 50  
E-mail: [info@neustart.at](mailto:info@neustart.at)  
[www.neustart.at](http://www.neustart.at)

Chief Executive Officers:  
[Alfred Kohlberger MAS](mailto:alfred.kohlberger@neustart.at)  
([alfred.kohlberger@neustart.at](mailto:alfred.kohlberger@neustart.at))  
DSA Dr. Christoph Koss  
([christoph.koss@neustart.at](mailto:christoph.koss@neustart.at))

NEU**START** gGmbH  
Germany/Baden-Württemberg/Stuttgart  
Central Office:  
D-70193 Stuttgart  
Rosenbergstrasse 122  
Tel: +49/(0)711/62 769  
Fax: +49/(0)711/62 769-433  
E-mail:  
[baden-wuerttemberg@neustart.org](mailto:baden-wuerttemberg@neustart.org)  
[www.neustart.org](http://www.neustart.org)

Chief Executive Officer:  
Volkmar Körner  
([volkmar.koerner@neustart.org](mailto:volkmar.koerner@neustart.org))



### General Information

- Number of inhabitants 2010: 8.40 million.<sup>6</sup>
- Prison population rate in 2010 per 100,000 inhabitants: 103<sup>7</sup>
- Link to Probation Service: [www.neustart.at](http://www.neustart.at)
- Links to websites: [www.bmj.gv.at](http://www.bmj.gv.at) (Ministry of Justice)
- NEUSTART became CEP member in 1982.

### Characteristics of the Probation Service

- NEUSTART (before 2001 VBSA, Association for probation service and social work) is a private non profit organisation, financed mainly by the Federal Ministry.
- The General Contract of 1994 between the Federal State and NEUSTART defines responsibilities and functions of both parties. Part of the contract is i.e. a catalogue of all services for which NEUSTART is financed by the Ministry.
- According to the Constitutional Court, probation falls under the jurisdiction of the federal government. The statutory probation services are performed by a single organisation (NEUSTART).
- Supreme principle underlying the work of the Probation Service is the prevention of crime and its consequences, which is reflected in the three fields of activity:
  - victim support, to overcome victim status and regain self-determination;
  - offender support, to avoid recidivism by assisting in re-integration;
  - prevention, to avoid potential conflict and give guidance for the constructive resolution of problems.
- Probation as a matter of special prevention may be ordered for adults and juveniles (14 to 18 years of age) in a specific context, whenever punishable acts are concerned.

### Tasks

A court or a public prosecutor orders probation activities. A court orders that probation activities are provided when a delinquent is given a conditional sentence or a conditional release. Public prosecutors may order probation activities until the beginning of the trial, provided that the client consents.

6 Statistik Austria, Available online at: [http://statistik.gv.at/web\\_de/statistiken/bevoelkerung/index.html](http://statistik.gv.at/web_de/statistiken/bevoelkerung/index.html)

7 Quellen: Polizeiliche Kriminalstatistik, Gerichtliche Kriminalstatistik, Demographisches Jahrbuch, [www.statistik.at](http://www.statistik.at), Statistische Übersicht über den Strafvollzug; Sicherheitsberichte; seit 2001: IVV.

Next to probation activities NEU**START** also carries out:

- Electronic monitoring
- mediation in penal matters;
- acting as an intermediary for community service;
- aftercare offered to persons released from prison who are not on probation (post-release aftercare) on a voluntary basis;
- assisted housing for clients of probation service and the post-release aftercare service in two of the nine federal provinces;
- work training for clients of the probation service and the post-release aftercare service in two of the nine federal provinces.
- trial support for victims throughout Austria.

**Number of staff Staffing levels on 31 December 2010 (1 stands for one full-time equivalent, except for Volunteers)**

Staffing levels	Probation work total	Management	Social work	Volunteers	Supporting staff
NEU <b>START</b> – total In 9 agencies with 25 Departments	429.241	55.368	293.483	950 (persons)	80.39
Percentage of female workers	63.21%	42.47%	54.42%	59.58.00%	94.26%
Percentage of part-time workers	36.79%	53.42%	51.02%	100.00%	85.25%
Average age	44.68	46.56	43.77	44.19	48.21
Length of service	13.34	16.34	13.76	7.17	15

429 full-time jobs are staffed with 557 persons. Daily average number of offenders dealt with by professional staff: unknown, but in 2010 roughly 43,203 persons were supported by NEU**START**. The costs of services and programmes amounted 2010 to about 36.4 million euro.

## New developments

- In 2004 NEUSTART won a bid to lead the probation service and court support in certain project areas in Baden – Württemberg, Germany. Since the project was finished in 2006, NEUSTART gemeinnützige GmbH was in charge to do the work for the whole of Baden – Württemberg. The roll-out was successful and will be evaluated in 2013.
- A pilot project, which provides for an option to do community service instead of paying a fine are legal based. Now we are preparing a project with the aim to establish community service in stead of short time penal (up to 3 months).
- Establishment of the use of electronic monitoring. It started as a pilot project involving offenders conditionally released from custody (courts are able to order it for up to six months) and since 2010 electronic monitoring is on a legal base.
- We are still working to increase the number of conditional release cases. Goal is to increase the conditional release rate (only 20% of all releases) by using probation work to a greater extent. The aim is to reach a conditional release rate of 50%.
- NEUSTART contributes to more victim orientation in criminal law by offering more assistance and support to victims, so that they can cope with their situation as good as possible and develop ways to leave behind being a victim.
- NEUSTART Austria and NEUSTART gGmbH are working together to develop instruments for a better evidenced risk management in our services.

## Probation during the different stages of the criminal procedure

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