

Presence in Albania
Rule of Law and Human Rights Department
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ALTERNATIVES TO CUSTODY IN ALBANIA
AND
THE ESTABLISHMENT OF A NATIONAL PROBATION SERVICE

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Alternatives to Custody in Albania

Criminal Code in 1995	Issues of concern
<p>Imprisonment in segments</p> <p>Suspension of execution of imprisonment</p> <p>Suspension of imprisonment and the obligation to perform work in public interest</p> <p>Early conditional release</p>	<p>The Albanian criminal justice system was mainly prison based</p> <p>Judges lacked confidence in the execution of community sentences and measures</p> <p>The alternatives to custody were rarely used by the courts</p> <p>No specialized institution in charge of the supervision of the offenders</p>
	Overcrowding of prisons

Alternatives to Custody in Albania

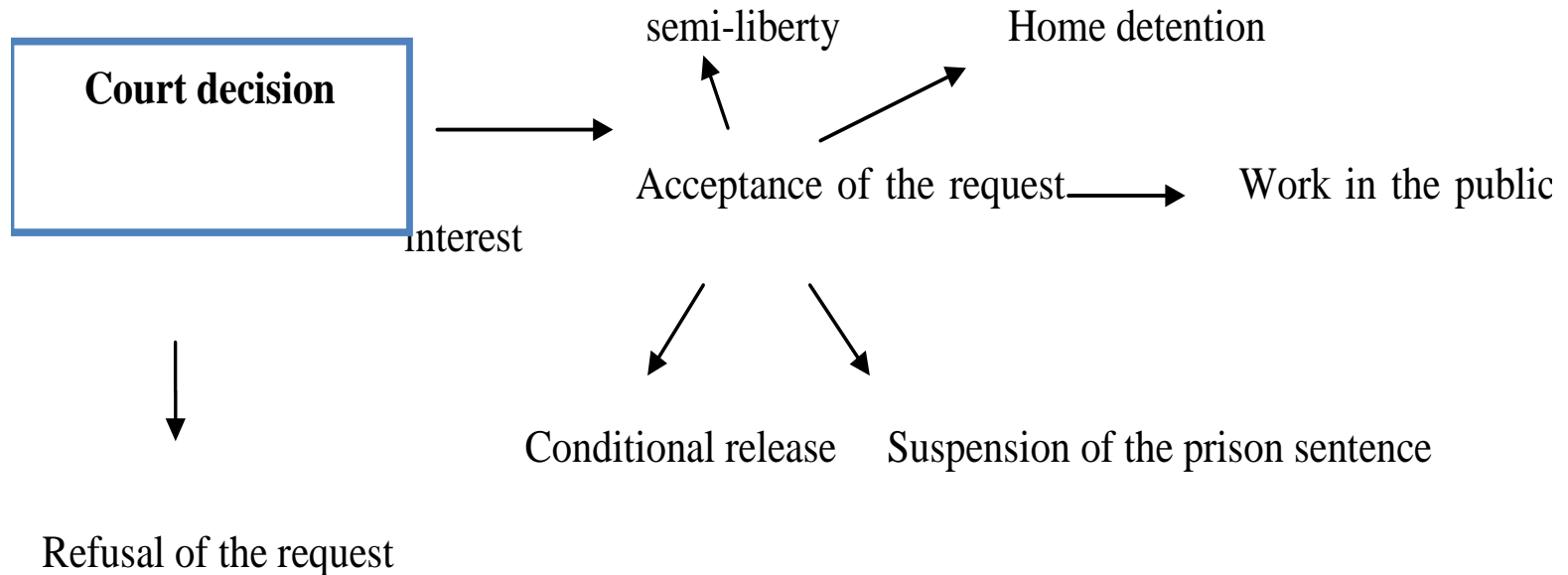
- The solution: to change the sentencing practice, to ensure an increased use of individualized sentences
- 2006 - Establishment of a working group by the Ministry of Justice
- 2008 - Drafting of a legislative package on alternatives to custody and Juvenile Justice
- 2008 – Drafting of the law “On Probation Service”
- 2009 – Establishment of the Probation Service

Alternatives to Custody in Albania

Criminal Code in 2008

- Semi-liberty
- Suspension of imprisonment and placing on probation
- House arrest
- Suspension of imprisonment and the obligation to perform work in public interest
- Release on parole

Alternatives to Custody in Albania



Semi-liberty

- Sentences up to one year
- Pursue certain obligations outside the prison, such as work, education, qualification or professional training, essential family responsibilities or need for training or medical rehabilitation
- Obligation to return to prison
- The Probation Service drafts a daily programme to be respected by the convicted person during the period he/she is outside the penitentiary institution

Suspension of imprisonment and placing on probation

- In cases of the prison sentence – less than five years, not a serious danger
- due to his/her age, medical or mental condition, or
- due to the particular family situation
- due to particular education or work circumstances, or
- circumstances of the commission of the crime and his/her behaviour after the crime
- The court orders the convicted person on probation to meet one or more obligations

House arrest

- In cases of imprisonment of up to two years, or
- when the remaining period of sentence to be served is less than two years
- For pregnant women or mothers of children under 10
- For fathers who have parental responsibilities over the child under 10
- For persons with serious health conditions
- For persons over 60 who are disabled
- For young persons under 21 who have needs, such as health, education, employment or family-related responsibilities

Suspension of imprisonment and the obligation to perform work in public interest

- Warrant up to one year of custody
- The person or the circumstances do not pose a serious danger
- Unremunerated work, with the convicted person's consent
- Period of 40-240 hours, within 6 months
- Clean criminal record

Release on parole

- For special reasons
- In case the sentence has served its purpose for his/her reformation, and he/she has served:
 - not less than half of the sentence in cases of misdemeanours;
 - not less than two thirds of the sentence for crimes punished with up to five years of imprisonment;
 - not less than three fourths of the punishment for crimes punished with five to 25 years of imprisonment.
- May 2009 – Dec 2012 = 677 convicts released on parole

Role of the Probation Service

- Creation of the Probation Service in May 2009
- A central public organ, under the Minister of Justice.
- General Directorate of Probation Service located in Tirana and 12 local offices throughout the country

- 2009 - 21 staff
- 2013 – 104 staff
- Caseload in 2012 = 220 cases/probation officer
- Caseload in 2013 = 67 cases/probation officer

The Role of the Probation Service during the phases of criminal proceedings

- Drafting evaluation reports for the prosecutor's office during the investigative phase and final charge in court
- Drafting evaluation reports for the court
- Supervising/ providing assistance for a convicted person whose imprisonment is suspended and is placed on probation
- Supervising/organizing the Community Service
- Mediating to resolve conflicts between the defendant/convicted person and the victim
- Supervising the treatment programmes for users of drugs or alcohol
- Supervising/providing assistance for released on parole
- Supervising/providing assistance for those given home detention
- Supervises other obligations imposed by the court
- Organizing/supervising the probationers sentenced to semi-liberty
- Preparing reports for the prosecutor about the non-fulfilment of the obligations

Statistics

Years	2009	2010	2011	2012	2013 (until 30 August)
No. of probationers	705	1847	2117	2602	1403

Total number of offenders per alternative to custody

No.	Type of alternative to custody.	2009	2010	2011	2012	2013 (until Aug)	TOTAL
1	Suspension of imprisonment and placing on probation	571	1441	1616	2166	1189	7163
2	House arrest	6	37	68	34	25	170
3	Release on parole	76	207	206	188	111	788
4	Work in public interest	52	162	226	214	78	732
5	Semi-liberty	0	0	1	0	0	1
6	TOTAL	705	1847	2117	2602	1403	8674

Statistics

During 2009-2013:

- 1377 juvenile probationers
- 600 women probationers
- 103 non-Albanians probationers
- Recidivism rate 2%

The Role of the Probation Service

- Recent Law on Electronic Monitoring of Offenders, 1 April 2012.
- Since 6 March 2013, a specific unit for electronic monitoring.
- A pilot project for about 300 low-risk offenders is currently in progress.
- The law provides for several types of alternatives to imprisonment, complementary sentences, and for protection orders and immediate protection orders to be guaranteed by electronic monitoring.
- Until end of September 2013, the Probation Service has successfully supervised 8 cases of Electronic Monitoring.

Role of the OSCE Presence in Albania in establishing a National Probation Service

- Assistance for the establishment of a Probation Service in Albania
- Assistance given to the Ministry of Justice in drafting primary and secondary legislation
- Capacity building of actors in relation to the newly established probation system
 - Capacity building for staff of the Probation Service
 - Capacity building of judges and prosecutors
 - Capacity building of local government and NGOs

Assistance for the establishment of a Probation Service in Albania

- Preparation of an Evaluation Report for the Development of a Probation Service in Albania
- Preparation of a report on Estimating the Costs of Establishing a Probation Service in Albania

Assistance given to the Ministry of Justice in drafting primary and secondary legislation

- Provided technical assistance in drafting primary legislation
 - Amendments to the Albanian Criminal Code
 - legal framework for electronic monitoring.
- Provided technical assistance in drafting secondary legislation
 - Probation Regulation
 - The standards and procedures for supervising the execution of criminal decisions
 - Act on the collaboration of the probation services with NGOs
 - Templates for the Evaluation Reports, the Individual Treatment Programme; MoUs.

Capacity building of actors in relation to the newly established probation system

- Capacity building for staff of the Probation Service:
 - Provided numerous general and specific training sessions to probation officers
 - Published several training materials for probation officers (Manual for the Probation Officer)
 - established and supported the development of an interdisciplinary master programme on the “Administration of Social Institutions in the Justice System”

Capacity building of actors in relation to the newly established probation system

- Capacity building of judges and prosecutors:
 - Organized a brainstorming session with judges and prosecutors on the probation services in the criminal justice system;
 - In co-operation with UNICEF and Magistrates' School organized four training seminars for approximately 100 judges and prosecutors on alternatives to imprisonment;
 - Prepared a Guide to the Work of the Albanian Probation Service for judges and prosecutors;

Capacity building of actors in relation to the newly established probation system

- Capacity building of local government and NGOs:
 - Facilitated the dialogue and co-operation between the Probation Service and local governments;
 - Contributed to increase the number of MoUs signed between the Probation Service and local government structures;
 - Organized several training sessions for representatives of local government structures and NGOs;
 - Provided advice, expertise and support to all international actors working in the area of probation.

Conclusions

- A fully functioning probation service is a tangible contribution to strengthening the rule of law, an essential objective for Albania's progress.
- The establishment of the Probation Service in Albania changed the sentencing practice by increasing the number of alternatives to custody and by avoiding social exclusion wherever possible.
- The establishment of the Probation Service has reduced both the cost and the negative effects of imprisonment.
- The Probation Service has contributed to public safety by guiding and supporting offenders and facilitating their effective reintegration into community.
- The Probation Service has a professional and committed staff.

Recommendations

- General recommendations on the functioning of the Probation Service;
 1. Establish local probation offices in each judicial district
 2. Increase the number of probation officers
 3. Revision of pay scale and civil servant status of the probation officer
 4. Enhance the co-operation between Probation Service, local government and NGOs
 5. Promote working opportunities for former offenders, as well as drafting some programmes on resettlement of offenders and aftercare.

Recommendations

- Recommendations referring to legal changes
 1. Amending the Law on the Execution of Criminal Decisions
 2. Including in the Criminal Procedures Code the procedural role of the Probation service
 3. Revision of the functioning of the functions of the prosecutor in the Criminal Procedures Code

Recommendations

- Recommendations referring to capacity building.
 1. Organize training seminars for Probation Office staff, and for judges, prosecutors and defence lawyers
 2. Organize roundtables with judges, prosecutors, prison staff, and police on probation service issues
 3. To include topics relating to the Probation Service in the curricula of the Faculty of Law and Faculty of Social Sciences.

**Thank you
for
your attention!**