



Probation in Europe

Georgia



Teimuraz Magradze
Nino Gozalishvili



Probation in Europe

Georgia

Teimuraz Magradze

Ministry of Corrections of Georgia
Deputy Head of National Probation Agency
temomagradze@yahoo.com

Nino Gozalishvili

Senior specialist of International relations,
PR and IT technologies department
National Probation Agency
Assistant Professor at Iv. Javakhishvili Tbilisi
State University
gozalishvilinino@gmail.com

December 2016

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

Table of contents

1. Introduction	4
2. Historical Development of the Probation System	5
3. Legislative Basis of the Probation System	6
4. The Organization of Probation Services	8
5. Different Stages of the Criminal Justice Process	12
6. Probation Methodology	21
7. Finances, Accounting, Registration Systems and Evaluation Procedures	23
8. Societal Support and Clients' Views	24
9. Probation Clients Rights	25
10. Developments to be expected	26
11. Important Publications	27
12. Main Addresses, Phone & Fax Numbers, E-mail Addresses, Home Pages	27
Annex 1	28

1. Introduction

1.1. Probation organization

After the independence of Georgia, the probation service came under the Ministry of Internal Affairs and later, in 2001, the probation service moved under the Ministry of Justice of Georgia. As of 04 February 2009, the National Probation Service has been under the remit of the Ministry of Corrections and Legal Assistance and later became a sub-ministerial agency. Since 1st January 2010, National Probation Service changed its status to LEPL (Legal Entity of Public Law) National Agency of Non-custodial Sentences and Probation. The goals of the National Probation Agency include enforcement of legal acts determined by the law, prevention of new crimes, ensuring public safety and facilitating inmate re-socialization and rehabilitation. Currently, the Agency has 11 regional bureaus and 64 probation offices and 1 Limited Liberty Establishment (halfway house) countrywide.

1.2 Probation activities in a nutshell

Harmonization of the Georgian Criminal Code with international standards generated the necessity for reforms in the probation system of the country. Along with the changes made in legislative regulations, the bureaus and offices of the probation service have also been equipped with modern technologies. The probation service hired new employees on the basis of open competitions, prepared clear-cut job descriptions for its personnel and also arranged relevant trainings. Electronic monitoring system was improved and at the same time, probation officers started working on the assessment of risks and individual sentence planning. This method makes it possible to plan targeted measures for crime prevention. One of the key indicators of successful reforms in National Probation Agency is dynamics of reoffending. There has been an obvious decrease in the rate of reoffending in the recent years and in 2015, the rate of reoffending in Georgia was only 2.35%.¹ Specific nature of the National Probation Agency and a large number of probationers necessitate permanent improvement of professional skills of the employees; therefore, the Probation Agency provides both theoretical and practical trainings for the staff on regular basis. The trainings are held at the Penitentiary and Probation Training Centre (PPTC).

The introduction of new methods of Risk Assessment and Individual Sentence Planning has proved to be very successful, particularly in terms of estimating risks of crime recurrence and in providing efficient measures for crime prevention.

One of the most important changes in the Georgian legislation was related to the implementation of the community service sentence in 2011. According to these changes, probation bureaus are responsible for the selection of the type and duration of community service. The Agency has established a database of workplaces for community service, which enables it to offer a variety of jobs based on the skills and physical abilities of probationers.

One of the services provided by the Agency is organizing video conferences between inmates and their family members or friends. The service is run by the probation bureaus and is available in 5 penitentiary establishments and 7 probation bureaus countrywide.

Due to the joint efforts of the National Probation Agency and some non-governmental organizations, probationers are involved in various projects that offer psychosocial rehabilitation, medical assistance, and also educational and vocational trainings. The Agency assists probationers in finding jobs in private companies.

1.3 General remarks about the implementation of Probation Rules

In 2007, the Parliament passed a new Law, which defines the procedures related to the execution of Non-custodial Penalties and Probation. The probation system of Georgia has been developing in compliance with the values and principles of the European Probation Rules. Based on the changes in the national legislation made in March 2016, the National probation Agency prepares individual pre-sentence reports on alleged offenders in order to assist the judicial authorities in determining appropriate sanctions or measures. Under the Juvenile Justice Code adopted in 2015, pre-sentence reports regarding juvenile offenders are obligatory. Under the same Juvenile Justice Code, electronic monitoring system was introduced in regard to juvenile offenders. As of 2017, the National Probation Agency plans to initiate introduction of electronic monitoring system as a tool for supervision of adult offenders as well. Along with other sanctions, community service is one of the most widely practiced sanctions carried out by National Probation Agency.

2. Historical Development of the Probation System

2.1 History from the origins to 2010

Before 2001, the National Probation Agency came under the Ministry of Internal Affairs. In 2001, the Ministry of Justice assumed the responsibility for the control and supervision of probationers.

In 2007, the Parliament of Georgia passed a new Law defining the procedures of executing non-custodial penalties and probation. According to the new law, the Department of Non-custodial Sentences and Probation was integrated into the Ministry of Justice. The Department fulfilled the obligations imposed by the legislation, and controlled duties of offenders provided in the law mentioned above. On 17 July 2007, a sub-department - Non-custodial Sanctions and Probation Service was formed under the Ministry of Justice. Under the new law, probation bureaus were directly integrated into the territorial units of the National Probation Service. On 04 February 2009, the National Probation Service was integrated into the Ministry of Corrections and Legal Assistance. On 01 January 2010, National Probation Agency changed its status to L.E.P.L (Legal Entity of Public Law) National Agency of Execution of Non-custodial Sentences and Probation. Goals of the National Probation Agency include the enforcement of legal acts determined by law, prevention of re-offending, ensuring public safety, facilitating re-socialization and rehabilitation of the probationers.

In 2010, the National Probation Agency joined the European Organization for Probation (CEP). This was recognition of successful reforms implemented in the probation system of Georgia. CEP membership is also a great challenge, which obliges the Agency to carry on further reforms and ensure that the results of these reforms are irreversible.

2.2 Recent history from 2010 to 2016

Since 2010, Georgia has gradually introduced mediation and diversion program. Social worker plays an important role in the diversion process of the offender. Within 3 days from prosecutor's request for referral of the case, a social worker meets juveniles and their parents to clarify their future cooperation.

In 2014, Limited Liberty Establishment (Halfway House) for adult offenders was opened. This Establishment is for the inmates whose sentence of imprisonment is changed with liberty restriction, based upon the decision of the local board. Also for the offenders who are sentenced to liberty restriction by the court (will be enacted from January 2017). The main goal of the institution is rehabilitation of inmates and their preparation for release.

On the territory of liberty deprivation establishment, inmates are given the opportunity to work and receive salary. There is a pasta factory, bread bakery and a wood carving enterprise on the premises of the Limited Liberty Establishment (Halfway House), where inmates can work and get paid for their work. The multi-profile educational centre offers inmates an opportunity to acquire new trades such as an electrician, computer engineer, stylist and etc.

In September 2015, a new non-custodial form of penalty - house arrest was introduced on the basis of the Juvenile Justice Code. This sentence is executed by the National Probation Agency with the help of the electronic monitoring system. This alternative sanction serves for liberalization of the criminal justice system and its main goal is to avoid incarceration of juveniles.

Juvenile Justice Code was adopted on 01 January 2015, based on conventional principles of law, Convention on the Rights of the Child, and the Constitution of Georgia.

Based on the juvenile justice code, the National Probation Agency is responsible for preparing individual assessment reports of juvenile offenders at pre-sentence stage of the criminal trial. Reports are prepared by social workers of the National Probation Agency.

National probation agency actively continues to work with the court, prosecution and representatives of self- government institutions in order to increase the use of non-custodial sentences.

3. Legislative Basis of the Probation System

Goals of the National Probation Agency include prevention of new crimes, ensuring public safety and facilitating inmate re-socialization and rehabilitation. The goals of the National Probation Agency are fulfilled through offenders' risks and needs assessment, individual sentence planning, electronic monitoring and control over offenders, support to his/her re-socialization and rehabilitation and provision of assistance.² The National Probation Agency aims to reduce reoffending by establishing positive relationships with offenders. The Agency contributes to the public safety and fair administration of justice. The National Probation Agency, its

duties and responsibilities, as well as its relations with the public authorities and other bodies, are defined by the national law.³

3.1 Legislative basis

The legal basis of the probation system are: the Georgian constitution; the Law on Procedure of Execution of Non- custodial Sanctions and Probation; the Juvenile Justice Code; the Criminal Code; The Prison Code; Regulations of the National Agency of Execution of Non-Custodial sentences and probation; Typical Regulation of Probation Bureaus; Regulations on the Standing Commission of the National Probation Agency on Annulment of Non- custodial Penalties; Law on the Approval of Principles, Rules and Forms of Compiling Individual Sentence Plan, its implementation and assessment of risks of the offender; Orders of the Minister of Corrections as well as other legal acts .

There are no records about Probation in the Georgian Constitution, but probation agency is a legal entity of public law and it extends all obligations as other public institutions. Constitution protects probationers by granting rights stated in Chapter 2, on fundamental rights and freedoms.

In the Georgian legislation there are no rules to define the type of offences and/or offenders that come under the attention of the probation service. The court decides what sentence is appropriate for every individual crime.

The “Law on Procedure of Execution of Non-custodial Penalties and Probation” consists of 47 articles and is regulates important issues related to Georgian non-custodial sentences and probation.

International acts, together with national laws, also represent legal basis for the probation system in Georgia. Among them are following legal documents: United Nations Standard Minimum Rules for Non-custodial Measures (The Tokyo Rules) Adopted by the General Assembly resolution 45/110 of 14 December 1990; Recommendation CM/Rec (2010)1 of the Committee of Ministers to member states on the Council of Europe Probation Rules (Adopted by the Committee of Ministers on 20 January 2010 at the 1075th meeting of the Deputy Ministers).

3.2 Mission and mission statement

The goals of the National Probation Agency are:

- Enforcement of legal acts determined by the law on Procedure of Execution of Non-custodial Sanctions and Probation,
- Prevention of re-offending,
- Ensuring public safety,
- Re-socialization of offenders (his/her integration into society) and their rehabilitation (correction of a convict and his/her return to society).

The National Probation Agency achieves its goals through offenders’ risks and needs assessment, individual sentence planning, obligatory surveillance and control over offenders, support their re-socialization and rehabilitation and provision of assistance. National Probation Agency, with the agreement of the Minister of Corrections and Probation of Georgia, is authorized to finance cultural, social, health care and other activities, aimed at helping probationers in re-socialization and rehabilitation, from its own incomes.

3.3 Crime prevention

The mission of the probation supervision system includes prevention of repeated offences. In addition to direct work with offenders the probation supervision system carries out various crime prevention projects for different risk groups of crime. Probation officers are active in arranging local level cooperation including organizing and attending seminars, organizing information meetings with probationers and involving them in social activities as well as in special training programs (such as” planning the future”, overcoming prison stress etc.).

3.4 Victim assistance

Under Georgian law there is no obligation for probation officers to see victims and offer them help. Institutions for victim protection in Georgia are not run by probation services, but by other institutional or private organizations created within the framework of the Law on Assistance to Victims of Violence

3.5 Volunteers involvement

Public Sector in Georgia does not admit volunteers. Since probation in Georgia is a government entity there are no volunteers working within the service.

4. The Organization of Probation Services

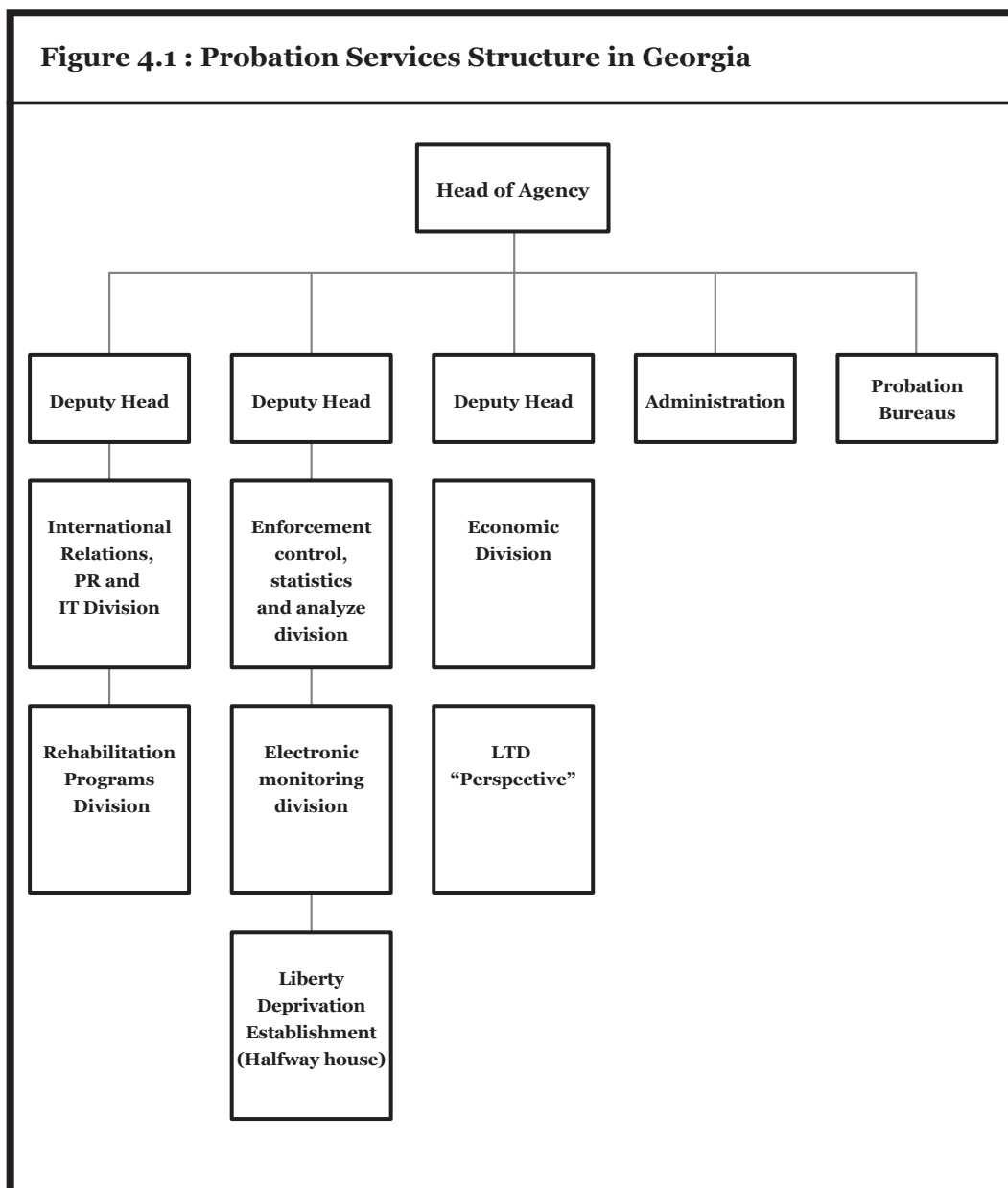
All probation staff is selected via an open government call for application. Once selected, they undergo special programs for the employees of National Probation Agency at the Penitentiary and Probation Training Center, which is a legal entity of public law under the governance of the Ministry of Corrections. After a 14 day training program, selected candidates are examined and assessed according to the procedures of the Penitentiary and Probation Training Center. Only after passing exams the candidates are appointed by the Order of the head of National Probation Agency. In some cases there is 3 months probation period. The staff list and the budget of the National Probation Agency are approved by the Head of the National Probation Agency in agreement with the Minister of Corrections of Georgia. There is sufficient staff for probation cases; however management is continually trying to increase the number of staff to enable the delivery of more services. Probation officers prepare pre-sentencing reports and other reports for the court according to national legislation.

4.1 Main Characteristics

The National Probation Agency is a legal entity of public law under the jurisdiction of the Ministry of Corrections of Georgia. The authority of the National Probation Agency is defined by the statute that is approved by the Minister of Corrections of Georgia. Before 2001 probation agency fell under the remit of the Ministry of Internal Affairs of Georgia, in 2009 probation became part of the Ministry of Justice and in the same year it became a legal entity of public law under the remit of the Ministry of Corrections of Georgia. The head of the agency has three deputies that manage different divisions of the probation agency. The Deputy Head of the National Probation Agency is appointed by the Head of the National Probation Agency by agreement with the Minister of Corrections. The head of

the agency reports to the Minister of Corrections, but all internal regulations are approved by the head of the agency independently.

The staff of the National Probation Agency is employed in accordance with government regulations on the employment of public servants. Promotions are based on years of experience, performance and qualifications. The scheme below gives an overview of the Probation structure.



4.2 Internal Organization

Current staff at the National Probation Agency includes: Head of the agency, three deputy heads, and heads of 6 divisions of the agency. 11 regional bureaus and offices of probation come under the remit of the National Probation Agency; they are managed by the heads of the bureaus. Except for the management staff, there are 3 different positions with different duties: probation officers, social workers and psychologists. There are 168 probation officers, 32 social workers and 10 psychologists involved in the working process as full time employees of the Agency. Liberty deprivation establishment is headed by director, followed by 2 deputy directors, who manage different divisions of the liberty deprivation establishment. 29 liberty deprivation officers are employed at the establishment alongside with administration, executive and security service staff. There are overall 398 employees in probation system.

4.2.1 Probation workers

The probation officers, social workers and psychologists all perform the various duties enlisted in the law – from report writing to supervising offenders. After the probation agency receives the case for execution, probation officer begins to work on the case. The first step is to identify the primary risk of the offender by risks and needs assessment. If as a result of assessment, the offender falls in a scope of law risk, only probation officer continues to work with him/her; if the risk level is medium the social worker is added to the case; and if the risk is high the probation officer, social worker and psychologist begin to work as a team. The multidisciplinary group delivers and prepares risk and assessment tools to offenders and offers a number of therapy programs to them, under the supervision of the department, such as integration in society, aggression and anger management programs. National Probation Agency has already developed 20 rehabilitation programs for offenders, some of them are mandatory (for offenders who showed in need of special rehabilitation) and some of them are voluntary. An average caseload for each probation officer is about 125 cases. (December 2016)

Table 1: The staff structure

Number of Probation staff	386
Management staff	23
Executive staff	7

4.2.2. Education, training requirements and opportunities

Professional development of probation officers, social workers and psychologists remains one of the biggest challenges faced by the National Probation Agency. The main priority of the Probation Bureaus is re- socialization of inmates and social work with them. Therefore, all probation officers, social workers and psychologists undergo special programs designed to help them develop various skills. National Probation Agency recruited qualified staff, developed job descriptions for all positions and implemented staff training programs, such as:

1. Working with vulnerable groups
2. Basic program for probation officers
3. Protection of personal data in public establishments
4. Planning of training, evaluation and methodology forms
5. Regulations of international standards for vulnerable groups of offenders and working specifics
6. Case management
7. Preparing pre sentence reports

There are also special training programs depending on the specifics of work, like electronic monitoring skills, juvenile justice implementation or trainings for the employees of the limited liberty establishment.

Staff is permanently trained in different fields, as it has a crucial role in ensuring the effective functioning of the probation system. National Probation Agency plans to continue increasing the qualification of its employees in the future.

4.2.3. Other organizations involved in probation work

The National probation Agency also relies on the services offered by voluntary, state and non-governmental organizations. There are numerous rehabilitation programs in different regions of Georgia which are provided to probationers with the help of international or non-government organizations. In some cases probationers are addressed to different organizations to get involved in programs or activities they need. Such programs and activities include psycho-medical rehabilitation, education programs; overcoming addiction; free medical screening for hepatitis, finding shelters for women. National Probation Agency also cooperates with state agencies to help probationers in re socialization and rehabilitation. National Probation Agency together with the Ministry of Environmental Protection started a program where clients can do community service work at national parks, natural landscapes and other locations in the governance of the Ministry of Environmental Protection. National probation Agency has signed memorandums with different state organizations such as Public Service Development Agency; Social service Agency; Agency of Public Registry.

4.3 Probation and offenders abroad

The probation services have no involvement regarding nationals detained abroad or in the process of transfer of EU citizens detained abroad to their country of residence. This is a task of the prison authorities. There is no distinction on the basis of nationality. Probation standards are applied to all categories of probationers in the same manner. Main prerequisite for probation is a living place in the territory of Georgia. Permissions to leave the country for probationers are given only after careful considerations. Currently a probationer may leave his/her place of residence only with the permission of the National Probation Agency. There have currently been no cases where national offenders sentenced to probation or alternative sanctions have been transferred to the country of residence.

5. Different Stages of the Criminal Justice Process

Under the Georgian law, participation of the National Probation Agency in criminal justice process is defined in the following stages:

- Determination of diversion measures;
- Pre-sentencing report;
- Execution of non-custodial sentences and probation;

National Probation Agency is working in partnership with other public or private organisations and local communities to promote the social inclusion of offenders. As it is stated in the Rule 12 *“Co-ordinated and complementary inter-agency and inter-disciplinary work is necessary to meet the often complex needs of offenders and to enhance community safety.”* National Probation Agency is working with different organizations and only in 2016 in cooperation with non-government and international organizations offenders were involved in 8 different programs throughout the country.

In Article 29 of Law on Procedure of Execution of Non-custodial Penalties and Probation the procedure of execution of community service is defined. Taking into consideration offender’s social status and working conditions, he/she will be provided with food, or the National Probation Agency will cover his/her food expenses.

Probation bureau defines the type of community service and its daily duration to convicts. Probation offices and the employer are negotiating a treaty. In this agreement the type of a community service, whole period, daily duration, workplace, employers name and address, other important circumstances for solution is stated. Copy of the contract will be passed to convicts. *(In accordance with Probation Rules 47; 51; 52)*

As it is stated in the probation *Rule 55* Supervision is not seen as a purely controlling task, but also it is seen as a means of advising, assisting and motivating offenders. It is combined with other interventions which may be delivered by probation or other agencies, such as training, skills development, employment opportunities and treatment. Only in 2016, 855 probationers completed different psycho- rehabilitation programs and 240 probationers participated in educational and professional training programs.

5.1 Diversion

Diversion is a form of releasing responsibilities from criminal justice, alternative mechanism of penal prosecution; its main goal is the development and integration of minors into society and prevention of crime. Diversion can be used towards 14-21 years old offenders, which are in conflict with the law and were not convicted before, who have committed a grave or less grave crime. Decision about diversion can be made by a prosecutor during a pre-trial stage and also can be used after the trial process. If diversion is used after the trial process, the court returns the case to the prosecutor on its own initiative or on the bases of substantiation of solicitor. Prosecutor proposes diversion to juvenile and in case of consent of the offender, court makes decision about diversion. Maximum period of diversion is 1 year.

In the process of determination of diversion measures, an individual evaluation report is made. The aim of the report is to study social environment of the juvenile, his/her skills, individual needs and other circumstances, which will enable determine

diversion measures based on the best interest of a juvenile. The report of individual assessment is prepared by social worker of the probation agency on the basis of prosecutor request. Preparing of report is based on the principles of legitimacy, protection of individual honor and dignity, equality before the law, and on the principles of independency and objectivity of the social worker.

The report includes the following information:

- General information about the minor
- Illegal action
- Physical development and health status
- Emotional, peculiarity of cognitive and behavioral peculiarity
- Experience of work, sport activities, vocational trainings and education
- Family and living environment
- Social networks and relationships

After the assessment of the individual estimation, social worker determines the conclusion of the minors' needs, skills and risks of committing a crime, and then sets the recommended list of measures. Prosecutor sets the terms of the contract and the terms of the diversion after the recommendations of the social worker.

5.2 Pre-trial/pre-sentencing report

Table 2: Sanctioning System and probation involvement in the pre-trial stage

Sanctions/ Measures/ Penalties/ conditions attached to a conditional decision of sentence	Provided in legislation	Probation service involved	Main characteristics
Unconditional waiver by public prosecutor			
Conditional waiver by the public prosecutor	✓		
Conditional suspension of the pre-trial/remand detention	✓		
Pre-trial/remand detention	✓		
Police custody	✓		
Bail	✓		

Sanctions/ Measures/ Penalties/ conditions attached to a conditional decision of sentence	Provided in legislation	Probation service involved	Main characteristics
Caution	✓		
Surety	✓		
Electronic Monitoring	✓		
Community Service	✓		
Treatment order			
Training/learning order			
Compensation to the victim	✓		
Mediation	✓		
Semi-detention			
Attending a day centre			
Liberty under Judicial control	✓		
Interdiction to leave the country	✓		
Interdiction to enter different cities/ places	✓		
Interdiction to carry out different activities	✓		
Interdiction to contact different persons	✓		
Psychiatric treatment	✓		
Deferment of sentence	✓		
Fine	✓		
Other financial sanctions	✓		

According to the Georgian legislation, individual assessment report about the juvenile is mandatory, because of the best interest of minor on the objective of promoting the sentencing. Individual assessment report on the juvenile is prepared by the social worker of the Probation Agency, who has been specialized in the juvenile justice system. Report is prepared before the court hearing, upon request of the judge and within a defined period, based on the principles of legitimacy, protection of individual honor and dignity, equality before the law, and on the principles of independency and objectivity of the social worker.

Individual assessment report of a juvenile contains following information:

- Juvenile’s level of development;
- Conditions of life, growing and development;
- Education;
- Health status;
- Family situation;
- Other circumstances, which determine the possibility to assess the nature and behavior and needs of a juvenile;
- Special needs of a juvenile;
- Risk of committing a criminal/ administrative offence;
- Recommended measures for proper development and integration into the society;

Recommended measures for contribution

Individual evaluation report is part of a criminal case, but is not included in the list of evidence and cannot be appealed. The judge can summon social worker for construction in order to clarify the information in the report. In preparing the report, social worker uses absolute independence. He/she has the right to freely meet the juvenile defendant and receive information from state or non-state institutions or a person.

Table3. Sanctioning system and probation involvement in the enforcement stage

Sanctions/ Measures/ Penalties/ conditions attached to a conditional decision of sentence	Provided in legislation	Probation Service Involved	Main characteristics
Imprisonment	✓		
Suspended sentence	✓	✓	
Conditional Sentence	✓		
House Arrest	✓	✓	
Electronic monitoring	✓	✓	

Sanctions/ Measures/ Penalties/ conditions attached to a conditional decision of sentence	Provided in legislation	Probation Service Involved	Main characteristics
Community Service as sanction	✓	✓	
semi-liberty	✓	✓	
Semi-detention	✓		
Treatment order	✓	✓	
Training/learning order	✓	✓	
Drug/alcohol treatment programs	✓	✓	
Educational measures	✓	✓	
Compensation to victim	✓		
Mediation	✓	✓	
Attending a day centre	✓	✓	
Interdiction to leave the country	✓	✓	
Interdiction to entre different cities/ places	✓	✓	
Interdiction to carry out different activities	✓	✓	
Interdiction to contact certain persons	✓	✓	
Fine	✓		
Day fine	✓		
Other financial penalties	✓		
In/out patient order (psychiatric treatment)	✓		

Sanctions/ Measures/ Penalties/ conditions attached to a conditional decision of sentence	Provided in legislation	Probation Service Involved	Main characteristics
Security measures			
Combined orders	✓	✓	
Community punishment	✓	✓	
Conditional release/ parole	✓	✓	
Automatic release			
Open prison	✓	✓	
Penitentiary program outside the prison	✓	✓	
Other sanctions/ measures	✓	✓	

5.2.1 Non-custodial punishments and probation measures

Execution of non-custodial sentences and probation measures is National Probation Agency's competence, which is ensured by probation bureaus and the limited liberty establishment (Halfway House).

Non-custodial sentences executed by the National Probation agency:

- Banning with the purpose of punishment from holding a certain position or pursuing a particular occupation;
- Banning with the purpose of punishment a legal entity from practicing a particular occupation;
- Imposition of community services with the purpose of punishment;
- Imposition of correctional work with the purpose of punishment;
- Restriction of Liberty as a sanction
- House arrest and electronic monitoring

Probation measures, which is executed by National Probation Agency:

- Imposition of a conditional sentence
- Early release from the sentence
- Suspension of enforcement of sentence (for pregnant women – up to 1 year after child's birth).

Banning to hold a certain position or pursuing a particular occupation

Ban of holding position or right to work means that the offender is prohibited to hold position at the state or local authorities or any professional or other activities. Main punishment for the deprivation of taking position or rights prescribed for one

to five years, and the additional punishment- six months to three years. A copy of judgment for execution is transferred to probation bureau according to the work or residence place of the offender. Probation officer registers the offender and explains to him/her conditions of serving the sentence. Officer periodically controls the execution of obligations by the offender. If the probation officer determines that the convicted person is occupying a position or is doing any activity which is prohibited, the officer sends an official request to the employer to release the offender from his/her position or forbids activity which is prohibited for him/her.

The request that is send to the employer of the offender must contain information about future criminal responsibility in case of obstruction to execute a court decision.

If the offender is not released from a banned position or the employer doesn't change a working field within 5 days after the request, probation officer sends corresponding materials to prosecutor's office.

Banning a legal entity from practicing a particular occupation

Banning a legal entity from practicing a particular occupation means to forbid one or several types of activity indefinitely or from 1 to 10 years period. Deprivation of work right can be extended on a working activity or on the activity related to work during which the crime was committed.

To secure the execution of this sanction the Probation officer takes measures in legal entity's registration data about prohibited types of activity and period of ban, while executing a legal act about depriving work right to legal entity.

If deprivation of work right is related to the banning of legal entity's license/permission, probation officer notifies the institution who gave license/permission within 3 days from the enforcement of the legal act. Probation officer periodically controls effectiveness of execution of legal act by the legal entity.

Head of the Probation bureau applies to court in regards to changing banning of work rights to another form of punishment if legal entity evades executing legal act and continues forbidden activities.

Community service

Community service means that a convicted person works free of charge, the type of work is determined by the probation office.

Community service is appointed for a term of 40 to 800 hours. It can be more of the term if sentence of fine is changed by community work or if the unserved part of the imprisonment was changed to community service, or if a plea agreement has been concluded between the parties. Daily duration of the working time must not be more than 8 hours.

Community service for juveniles is appointed for a term of 40 to 300 hours. Daily duration of work time should not exceed 4 hours. Appointment of the community service for juvenile must not prevent the process of learning or of a paid job.

Probation bureau defines the type of community service and its daily duration to convicts. Probation offices and the employer are negotiating a treaty. In this agreement the type of a community service, whole period, daily duration, workplace, employers name and address, other important circumstances for solution is stated. Copy of the contract will be passed to convicts.

If convict refuses to work on the community service or avoids it, the sentence will be replaced by a fine, restriction of freedom or imprisonment.

Correctional work

When appointing correctional work to convicts, their salary is taxed by not less than 5 and not more than 20 percent. Correctional work is appointed for a period ranging from a month to two years and must be served at convict's workplace.

While serving correctional work convicts are prohibited to quit job without permission of the probation bureau. Approval can be issued only after giving reasons for the dismissal. Decision about refusal must be motivated. Decision about refusal can be appealed.

Restriction of freedom

Restriction of freedom implies placing a convict who reached the age of 18 in socially isolated place under supervision. Restriction of freedom can be given to non-criminal convicts for the duration from one to five years.

The following convicts are placed in the institution of restriction of freedom:

- Offenders who were sentenced to restriction of freedom by court
- Incarcerated convicts who had their sentences changed to the restriction of freedom by the decision of the Local Council of the Ministry of Corrections.

Serving the restriction of freedom means, serving a sentence in institution for the whole time, except for non- working days and holidays. While serving convict cannot leave the territory without a permission letter from the head of the institution.

Permission can be given after giving reasons for leaving. Convicts have access to internet, telephone and other types of communication as well as short term visits.

If it is required, in the process of executing restriction of freedom, convicts must be included in the existing rehabilitation programs and also with their approval , provided with the foresee of physical and mental capabilities. After appropriate training the convict should receive a job in the territory of the establishment.

House arrest

House arrest means that a juvenile must be in his place of residence during day and night. House arrest can be appointed to juveniles from 6 months to 1 year.

Juveniles are not allowed to leave their living place in hours which are determined by the court. Execution of punishment is implemented by the supervision of a probation bureau with electronic devices.

Electronic surveillance devices consist of two parts: a receiver and a transmitter (bracelet). A receiver is installed in juvenile's living house, while bracelet is attached to convict's lower limb. If juvenile will leave house in prohibited hours it will be registered in the centre of electronic surveillance management, which is located in the central office of the national probation agency. If house arrest control with electronic devices is not technically possible, the probation officer visits convict's house without warning at least 6 times a month. While executing house arrest, juvenile freely participates in learning and sport activities.

Release from the suspended sentence

Under the Georgian law a convict who is undertaking a community service, correctional work, restriction of work or restriction of liberty can be suspended from

serving the sentence if a local Council of the Ministry of Corrections believes that serving of a whole sentence is no longer necessary.

Convict can be released if he/she has served:

- Less than half of the term for a less serious crime
- Two-thirds of a serious crime
- Three-quarters of a particularly serious crime

At the same time a total length of the sentence served should not be less than 6 months.

Convict's behavior that has been released from the suspended sentence is controlled by the probation bureau. If convict in this period:

- Avoids his duties which were imposed to him, the court can cancel release with producing by probation bureau from suspended sentence and execute remaining sentence.
- Convicted committed careless crime, cancellation or keeping release from suspended sentence will be decided by the court.

Convicted who has permanent imprisonment can be released if he has served twenty years of imprisonment and if council of Ministry of Probation decides that it is no longer necessary to continue serving the sentence.

Postponing the sentence (for pregnant women or after giving birth to 1 year)

The court can postpone the sentence to pregnant woman, after the birth to 1 year. If convicted who has postponed sentence, refuses or evades upbringing child, probation officer will warn her with letter that this kind of action can be addressed to court, which can be reported. If this condition is not corrected within a week, head of probation bureau applies to court with cancellation of postponing the sentence and sending convict to serve the sentence.

During the postponing the sentence, when the child reaches the age of 1, court will dismiss the offender from serving the unnerved part of sentence or court will change sentence with light penalty or court can decide to return convict to the establishment for unnerved part of her sentence.

Cancellation of conditional sentence and removal of conviction

Criminal code of Georgia allows the possibility to conditional sentence and conviction following to convicts behavior, on which it establishes the following mandatory requirements:

- Expiration less than half of probationary period
- Behavior, which claims correction of convict.

For this reason there were made changes in Georgian law about penal law and "non-custodial punishment and probation" in 2011, and according to this to discuss removal of conviction and make conformable decisions was created standing committee who will discuss cancellation of conditional sentence. Standing committee includes executive, judiciary and civil society representatives in order to ensure public confidence. Staff of committee is defined by Georgian law about "execution of non-custodial rule and probation" according to role matter of cancellation of conditional sentence permanent committee consists of 5 members, whose membership is defined by members:

- From central office of the Ministry of Corrections-1 member
- From probation agency - 2 members
- From High council of justice -1 member
- From non-governmental organizations-1 member

Permanent commission is allowed to consider cancelation of conditional sentence and removal of conviction only on bases of probation petition. For convicts who convicted drug crimes, especially who convicted 273 and 260 code crimes, is required an additional demands by Georgian law, concretely to submit drug test on the report. Committee discusses applications from probation bureau which can be held by hearing, or without hearing. After hearing applications committee makes decision about Cancellation of conditional sentence and removal of conviction or declaiming it. Decision is sent to commit within 14 working days, which can be appealed after making decision within 1 month. If commission rejected application of probation bureau about Cancellation of conditional sentence and removal of conviction, application can be reconsidered after 6 months from making decision.

5.3 Care and after-care outside the criminal justice system

National Probation Agency does not offer after-care services, once the operational period of execution of the sanction comes to an end, individuals who are still in need of support and guidance, out of their own free, will continue their contact with agencies who offer support. Alongside with other non –governmental organizations LEPL Center for Crime Prevention under the Ministry of Justice of Georgia provides programs for former prisoners and probationers to support them in re-socialization and rehabilitation after their term of the sentence ends.

6. Probation Methodology

In all bureaus of national probation agency, working with probationers is carried out with the methodology of individual planning of risks, needs and serving sentence common also in the western countries.

In active area of national probation bureau, where services are not provided for social worker and psychologist, individual planning of risks, needs and execution of sentence is provided by probation officer. On the first stage of case proceeding process are provided: registration of suspended convict, familiarizing with rights and responsibilities, estimating of risks and needs, and then determining risk of damage, as follows:

- Low risk of damage: Beneficiary don't involve in mandatory programs;
- Average risk of damage: transmits case to social worker, which allows psychologist if it's necessary;
- High risk of damage: Transmits case to psychologist, which allows social worker if it's necessary;

After determining risk of damage, estimation of adult convicts risks and individual plan of executing sentence, is carried out by multidisciplinary team, which as a rule includes, probation officer, social worker and psychologist. Multidisciplinary team

is formed by probation bureau on active territory, where social worker and psychologist services are available. In active area of national probation bureau, , where services aren't provided for social worker and psychologist, individual planning of risks, needs and execution of sentence is provided by probation officer.

Suspended convicts risk estimation common term, is defined by 32 working days, which runs after introducing report about rights and obligations.

According to this order, in the process of evaluation is carried out a procedure of establishment of damage risk and allowing appropriate specialist according to damage risk, psychologist (in case of high risk) or social worker (in case of average risk). If it is necessary, social worker in process of estimation visits beneficiary's family in order to plan existent risks in social environment, estimate necessity and adequate intervention. Periodically there are arranged parent support groups for juvenile parents after completion of estimation multidisciplinary team determines convicts probability of re-offending crime on bases of convicts form of risk estimation on bases of information analysis, in conjunction with indicator of damage risk. According to level of risk of damage and probability of re-offending crime degree, convict participates in adequate mandatory and/or voluntary rehabilitation programs. In individual sentence plan reflects rehabilitation program, on each point of plan there is determined responsible person. Appropriate specialist delivers rehabilitation services to beneficiaries, carries out monitoring, support, in case of additional (side) needs addresses to various external services. Practical work of specialist is supervised by a professional supervisor with both individual and group forms.

Juvenile suspended convicts' estimation procedure is different from the procedure that is used for adults, with that juvenile risk estimation process is started by social worker, he/she determines establishment of damage risk as well as estimates risks and needs of juvenile. Social worker is a member of a multidisciplinary team along with juvenile officer and psychologist. He/she involves psychologist in estimation process in case of proper damage risk, after estimation there take place multidisciplinary meeting and juvenile gets involved in proper rehabilitation service. While working with beneficiaries a specialist manages case, which is uploaded in electronic database. All probation agencies keep formal, accurate and up-to-date records of their work. These records typically include personal details of the individuals concerned relevant to the implementation of the sanction or measure, a record of their contact with the agency and work undertaken in relation to them. They also record assessment, planning, intervention and evaluation. All stages of the mentioned process of working with the offender are based on the national law of Georgia and in general comply with the European Probation Rules adopted by the Council of Europe.

7. Finances

National Probation Agency has funding from the following sources: Georgian state budget, other incomes and financing from donors approved by Georgian legislation. National probation agency's staff shift and estimation are proved by Head of National Probation Agency with agreement of minister of corrections and probation. With the aim of re-socialization and rehabilitation of convicts National Probation Agency with agreement of minister is authorized to finance cultural, social, health care and other activities.

Table 5 : Data for 2015

	Probation Services
Total current yearly expenditure	10,130,918
Average number of employed staff	386
Daily average number of offenders/ clients dealt with	5,000

7.1 Accounting

According to the legislation, national probation agency's financial statements are audited annually, winner is an external auditing company, the budget plan and its execution, risk assessments and management, resource effectively and economical use is controlled by inside audit department of Ministry of Corrections and Probation of Georgia. Budget of National Probation Agency is changing annually by its needs; estimate includes central office, for working of institution of restriction of freedom and regional bureaus need financing costs and material-technical equipment.

7.2 Registration Systems and Evaluation Procedures

National probation Agency has a united database of probationers. The legal act shall be submitted to the probation bureau for execution and within three working days a duly authorized person shall register it in a special electronic database of offenders. The special electronic database of offenders shall contain: a. registration number of the statutory act;

- b. date of entry of the legal act into the probation bureau (date of its admission into execution proceedings);
- c. type of the legal act, name of its issuing agency, date of its entry into force;
- d. short summary of the operative part of the act;
- e. information about the offender (first name, last name, date and place of birth, registered place of residence as well as factual place of residence, marital status, place of employment or study, in case of a legal entity – name and legal address of the legal entity);
- f. Relevant article of the Criminal Code of Georgia, under which the legal act in question has been issued;
- g. The name of probation officer who has been assigned the legal act for execution.

- h. information regarding recommendations;
- i. date of termination of execution proceedings.

The head of probation bureau shall assign the executable statutory act to the probation officer according to the place of residence (legal address) of the offender and jurisdiction of probation bureau, also the head of probation bureau shall monitor execution of the statutory acts and discharge of professional duties by the staff of the probation bureau.

No later than within 15 days from the entry into force of the executable statutory act, the offender is obliged to appear to the probation bureau according to his/her place of residence, in order to be informed about the commencement of execution of the statutory act, his/her rights and obligations with respect to the executable statutory act and for the adequate supervision over the offender to be exercised by the probation bureau. A probation officer shall advise the offender who appeared to the probation bureau on his/her rights and obligations as well as possible consequences of failure to comply. A record shall be made thereof.

Commonly, the offender is obliged to appear at the probation bureau once in a week (if other schedule is not prescribed according to the law) and confirm his/her appearance by registering fingerprints on the fingerprint device.

8. Societal Support and Clients' Views

National Probation Agency permanently informs the media and the general public about the work of probation agency in order to encourage a better understanding of their role and value in society. The media and the public are regularly provided with factual information about the work carried out by probation agency and probation bureaus. They are informed about the purposes and results of the work in order to encourage a better understanding of their role and value in society. Statements of policy and practice of probation agencies is available to other agencies, to service users and to the general public, both nationally and internationally, in order to promote confidence and improve probation standards and practices.

8.1. Societal Support and Public Opinion

National probation agency is trying to be transparent towards changes, which take place in agency. Rehabilitation services are also conducting estimation on feedback analysis received by beneficiaries. They perceive specialists of rehabilitation administration as supporting persons. National probation Agency has tight communications with media. Every important event that is happening in the National Probation Agency or in its regional bureaus and offices, or by their support is published on the official page of the Agency. Every year National Probation Agency prints informational brochures and booklets, which are also available in courts to increase awareness about benefits of non-custodial sentences and procedures regarding them.

8.2. Clients' Views

Due to the development of probation system Georgia, special research on client's views (suspects and offenders) have not been conducted so far. The fact that there are not many complaints from the clients about the work of probation officers can provide a positive and optimistic feedback in current organizational structure. National Probation Agency has a frequent communication with probationers also via official e- mails. With own sources probation agency is gathering frequently asked questions and by these ways is identifying needs and complaints of probationers. National Probation Agency also receives feedback by official pages and official Facebook page of the Ministry of Corrections of Georgia.

www.probation.gov.ge/

www.moc.gov.ge/

<https://www.facebook.com/moc.gov.ge>

9. Probation Clients' Rights

According to the "Law on procedure of execution of non-custodial sentences and probation" Article 18,part 6, probation officer is obliged to introduce all his/her rights and obligations to the probationer at the time of his/her first visit to the probation bureau.

Obligations and rights of probationer are defined in Chapter III of the Law on procedure of execution of non- custodial sentences and probation". The content of this chapter is based on a Constitution of Georgia. The rights of convicts are guaranteed in the chapter two of constitution fundamental human Rights and freedom". In the Article 14 it is stated that : "Everyone is born free and is equal before the law regardless of race, color of skin, language, sex, religion, political or other opinions, national, ethnic and social affiliation, origin, property or social status, place of residence. " All rights reserved in this chapter equally apply to convicts and other citizens or non-citizens of Georgia.

The Law on procedure of execution of non-custodial sentences and probation gives probationer the right to appeal the administrative rule offence protocol/warning, written by the probation officer, to the head of the probation bureau in 5 days period. There are 2 paid services in National probation Agency; In order to be awarded with a right to leave the borders of the country and/or to get a right to the preferential regime of appearing in the bureaus no more than once in a month, probationer have to pay fees for reviewing his/her request. Probationer is obliged to file the request about the leaving the country in written form; the head of the bureau according to sentence execution case files makes decision no later than in ten days. The decision can be made in accelerated process, this is a paid service and the decision is made after 2 days instead of ten. If the probationer has already received the right to leave the borders of the country, he/she can file the request for an extension of the term of being abroad.

The amounts in the case of the convicted sentenced person's traveling abroad, the payment for permission to travel abroad (*in case of positive decision of National Probation Agency*) are the following:

- a) For the period up to one month _ 600 GEL;
- b) For the period from one to three months _ 1200 GEL;
- c) For the period from three to six months _ 2000 GEL;
- d) For the period from six to nine months _ 2700 GEL;
- e) For the period from nine to twelve months _ 3 400 GEL.

Service fee for convicted person's application to be considered through urgent procedure -200 GEL.

According to the behavior of the offender he/she have a right to the preferential regime of appearing in the bureaus. To use this right a probationer must file written request to the head of the bureau. There are two types of preferential regimes (*in case of positive decision of National Probation Agency*):

Once in 2 weeks – free of charge;

Once in a month – 400 GEL.

The income from this fee system of National Probation Agency is approximately 2,000 000 GEL in a year, but it is an independent income and is not included in the State Budget from which National Probation Agency is financed.

Preferential regimes are also defined for the persons with disabilities and for the elderly people (women after 65 years, men after 70) not depending on their behavior they come to the probation bureaus once in three months. In every three months probation officer is obliged to visit a probationer with disabilities, who cannot move independently, and check him/her their houses.

10. Developments to expected

10.1 Developments in the coming years

Goals of the National Probation Agency are the following: execution of sentences, prevention of recidivism and re-socialization/reintegration of convicted inmates. The National Probation Agency's Strategy 2015 -

2020 envisages developing a short-term action plan committed to effectively implementing the Agency's duties and responsibilities. Priorities are:

- Administrative Capacity development of the National Probation Agency;
- Legislation development;
- Supervision system development;
- Rehabilitation programs and community involvement development;
- Ensuring interagency coordination and improving public awareness of the National Probation Agency;

11. Important Publications

In 2015 with the support of EU funded project “Criminal Justice Reform in Georgia’ and UK Department for International Development (DFID) Probation Law Manual was published. The manual provides easily accessible information on the place and interrelation of the probation law with other disciplines; explains the impact of criminal justice policies on criminality and the use of offenders and outcomes of imprisonment vs. alternatives, numbers of offenders in terms of re-offending and rehabilitation; overviews development of Georgian probation service, its functions, structure, staffing and many other issues regarding the probation system.

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

Central Office of National Probation Agency:

0186 Georgia, Tbilisi, 42 Al. Kazbegi Str. E-mail: info@probation.gov.ge

Tel: (00995 32) 2 303 012

Hotline: (00995 32) 2 222 800

Webpage – Ministry of Corrections: <http://www.moc.gov.ge/en>

Webpage – National Probation Agency: <http://www.probation.gov.ge/eng/>

Facebook Page of the Ministry of Corrections: <https://www.facebook.com/moc.gov.ge>

Annex 1



SUMMARY INFORMATION ON PROBATION IN GEORGIA



General Information

- Number of inhabitants (January 2015): 3.720.400 million
- Prison population rate per 100,000 inhabitants: 255:100,000 (2013)
- Link to Probation Services: www.probation.gov.ge
- Link to Ministry of Corrections of Georgia: www.moc.gov.ge

Characteristics of the Probation Service

- National Probation Agency of Georgia works with adult offenders as well as juveniles under the age 18.
- Goals of the National Probation Agency are prevention of new crimes, protection of the safety of the society, re-socialization of offender and rehabilitation.

Tasks

Its goals the National Probation Agency fulfills through:

- Offenders' risks and needs assessment,
- Individual sentence planning,
- Obligatory surveillance and control over offenders,
- Support to his/her re-socialization and rehabilitation and provision of assistance.

Number of staff: 386

- Probation Officers -168
- Probation Managers (all grades) - 30
- Administrative staff (all grades) – 47

New developments

Based on the changes in the national legislation made in March 2016, the National probation Agency prepares individual pre-sentence reports on alleged offenders in order to assist the judicial authorities in determining appropriate sanctions or measures. Under the Juvenile Justice Code adopted in 2015, pre-sentence reports regarding juvenile offenders are obligatory. Under the same Juvenile Justice Code, electronic monitoring system was introduced in regard to juvenile offenders. As of 2017, the National Probation Agency plans to initiate introduction of electronic monitoring system as a tool for supervision of adult offenders as well.

Probation during the different stages of the criminal procedure

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