



Probation in Europe

Malta

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1. Introduction

1.1. Probation organization (s)

In January 2012, a new Directorate was set up within the Ministry for Home Affairs and National Security i.e. the Department of Probation and Parole (DPP). This was yet another step towards the development of the probation service, which since inception in 1994 has undergone a series of important changes. The Director of Probation and Parole, assisted by the Assistant Director (Support Services), heads the service. There is only one service that caters for the needs of the Maltese Archipelago. The office from which the DPP operates is situated in Marsa.

1.3. Probation activities in a nutshell

According to the Department's database, the majority of offenders who are under the supervision of the DPP have been granted a Probation Order (*ordni ta' probation*). Since 1991 other alternative based sanctions were introduced such as the suspended sentence with a supervision order (*sentenza sospiza b'ordni ta' supervizzjoni*) and the Provisional Order of Supervision (*ordni provizzorja ta' supervizzjoni*). .

In 2002, the Probation Act envisaged some amendments which brought about the introduction of the Community Service Order (*ordni ta' sevizz fil-komunita`*) and the Combination Order (*ordni ta' probation u sevizz*). Adding to these services, the DPP also carries out Report Writing, which includes Pre Sentence Reports, Social Inquiry Reports, Progress Reports and Verbal Reports (*rapporti ta' qabel is-sentenza*).

With regards to the element of supervision in relation to a Probation Order or a Suspended Sentence, the process of supervision is practically the same. The Probation Officer is to advise and assist the offender in living a law-abiding life. The supervision period of a Probation Order is between one year to three years whilst a Suspended Sentence supervision period is between six months and four years. Community Service Orders require an offender to carry out a number of hours of unpaid work in the community. The hours stipulated in the Law are between 40 and 480 hours, whilst in the case of a Combination Order, the hours required to be performed by the offender are between 40 and 100 hours, and the probation supervision is for a period between one and three years.

With regards to Report Writing, the aim behind these reports is to assist the Courts in delivering a judgment which is the most fit for the offender. During the compilation of these reports, the Probation Officer takes into consideration various factors related to the offender such as family, criminal history, medical/addiction history and information pertaining to the offence committed and the victim. At the pre-sentencing stage the DPP compiles the following reports: Pre-Sentencing Reports, Social Inquiry Reports and Verbal Reports. In the Pre-Sentencing Reports, the offender has admitted guilt or guilt has been established, thus the Probation Officer recommends to the court the most suitable judgment to be considered. On the other-hand, in the case of a Social Inquiry Report, the offender has either not admitted guilt or has still not been found guilty, thus no recommendation of judgment is included in the report. As for Verbal Reports, these are compiled when the Court asks if an offender is suitable to carry out community work. Through this Report, the Probation Officer can give a detailed account on whether an offender is eligible to do community work.

In 2012, the Restorative Justice Act was enacted however not implemented. This Act provides for the release of prisoners on Parole License and Victim Offender Mediation. With the introduction of Parole, the DPP set up two new Units within the department: the Parole Unit and the Victim Support Unit. Adding to this a Victim Offender Mediation Committee was set up chaired by the Director of Probation and Parole. In 2013, the Parole Unit and the Victim Support Unit started compiling reports, as was required for the implementation of the Restorative Justice Act. By the end of 2015, 25 inmates had been granted a Parole License and were being followed in the community by Parole Officers.

1.3 General remarks about the implementation of Probation Rules

The DPP in principle adheres to the implementation of the probation rules as specified by the council of Europe. However there are certain aspects that need to be addressed such as aftercare. Basic principle number 14 – ‘an accessible, impartial, and effective complaint procedures need to be enhanced further as currently it is not being used. All probation work is carried out by the governmental department of probation and parole, therefore no private agencies provide services to offenders although the probation services utilizes the services of some non-governmental organizations. While electronic monitoring is not a legislative possibility in Malta, the DPP takes care of the resettlement of inmates who have been granted a parole license. All other resettlement issues are taken care off by the prison authorities.

2. Historical Development of the Probation System

2.1 History from the origins to 2008

The Maltese Criminal Justice System was considered to be ruthless until the introduction of the first Criminal Code in 1854. Prior to this date, punishment was arbitrary and not proportionate to the crime committed. It was Professor Nicola Zammit¹ who first wrote that punishment should be tailored for the offender and not the crime. The 1854 Criminal Code established a system of punishment consisting of the death sentence, life imprisonment, solitary confinement, interdiction (specific and general), fine, and reprimand and admonition. From this promising beginning the system continued to evolve. In 1900, the ‘*Articolo Venti Tre*’ (Article Twenty Three) was introduced. This article gave the court the power to sentence first-time offenders to imprisonment, with the provision of releasing them on personal guarantee not to re-offend within a specific time period. This article can be considered as the precursor of today’s conditional discharge.

In 1944, HM Commissioner of Prisons for England and Malta Sir Alexander Paterson², submitted a report to the Governor of Malta proposing the introduction of the release of offenders on license (parole) and the introduction of the probation services. Paterson, maintained that the Magistrate’s courts were treating juvenile offenders unjustly.

¹ Zammit, N. (1888), *Pensieri di un Retrograde*, Malta.

² Paterson, A. (1944), *Report by Alexander Paterson on the Treatment of the Offender in the Maltese Islands*, Government Printing Press, Malta.

The judiciary was judging the educational level and social background of offenders rather than the crimes committed. This resulted in gross discrepancies in sentences. Sir Paterson recommended the creation of the probation systems, where young offenders could be transferred to the care of a probation officer, who, with the help of the Parish Priest, the parents and the village school head teacher, would be responsible for the supervision of offenders. Probation, the use of orphanages and the Industrial School were recommended for those youths who were in “moral danger”. Finally, the training of wayward youths between the ages of 14 and 18 was emphasized. His proposals were not immediately taken into consideration. It was only in 1955 that Mr Justice Guze Flores, tried to establish his own probation system. Judge Flores decided to implement his own probation services by utilizing the social systems already in existence. Being a judge of the criminal court meant that he was called to judge people accused of all types of crimes carrying a term of imprisonment from six months to life. When hearing a case, he wanted to understand the social background of the offender. With the help of the local police, he would contact the parish priest of the locality to learn all the information that could shed light on the possibility of reform for the offender. In the 1950s, Malta was still a very close-knit society, with the parish as the centre of village life. Therefore by asking the parish priest and the police for information about the offender, Judge Flores would have been in a good position to procure most of the necessary information for sentencing purpose. When he was convinced that, if given a second chance, the offender would reform, Judge Flores entrusted the offender in the care of the parish priest. Therefore, the village parish priests were the first voluntary Maltese probation officers.

The effort to transform Flores’s experimentation into a legally implemented tool came after the Hon. Dr. Guze Cassar, the then Minister of Justice, in 1957 presented a bill in Parliament. During his impassioned speech, he emphasized the need of this act for society and the offender. He maintained that it would be in the interest of society to rehabilitate offenders so that they could be transformed into law-abiding citizens. Dr. Cassar regarded this system as having two positive points. First it enabled society to approach certain cases in a humane manner and secondly it enabled professionals in particular and society in general to ameliorate the character of certain offenders. The Maltese Parliament viewed this law positively and the Probation of Offenders Act was enacted during that year.

In the Government Gazette of October 1957, applications were invited for Family Welfare Officers whose duties included Social Work, Probation and Child Care. Five people were chosen (two men and three women). These people were sent for a six-month residential training course at the University of Birmingham (UK), after which a report by Mr. J. Ross was submitted to the government of Malta. In 1961 Mr. Cassar Naudi was the first Probation Officer to be required to “assist, advise and befriend” an offender, after the first Trainee Probation Officers returned to Malta.

From 1961 onwards Probation Officers were based in the Department of Social Welfare . In 1978 the Director of Social Welfare became the Principal Probation Officer. The introduction of probation in Malta is directly influenced by the British, however as a colony these changes would have come later and slower. Britain had introduced probation in 1908, however Malta took some time to follow this act, probably due to the fact that there was more emphasis on imprisonment (Malta was considered as a fortress island by the British), the intervention of the Second World War, and the British government not seeing the introduction of probation as a priority. The training of Probation Officers was social work based. Those with

a special interest in forensic issues were usually recommended for the post of Probation Officers, with little training for the job. In 1993, the government faced with increasing crime and an overcrowded prison, decided to train Probation Officers at University level. In 1994, the Institute of Forensic Studies within the University of Malta yielded the first fully qualified, locally trained Probation Officers. In September 1994 the four students of the probation course, together with a lecturer, formed a non-governmental organization (Probation Service Action Team – PSAT) to provide probation service for courts. It was only in 1996 that this group of qualified Probation Officers was officially employed as Social Workers within the Department of Correctional Services. However, it was only in 1998 that the first call for applications for Probation Officers was issued by the public service. For the next 13 years, Probation Officers were employed by the Department of Correctional Services.

2.2 Recent history from 2008 to 2013

As previously stated in 2012, Probation in Malta became an independent and autonomous body within the Public Service. Under the Ministry for Home Affairs and National Security, probation saw the birth of a new Directorate, the Department of Probation and Parole.

In 2012 the DPP was set up. The Task Force Report on the Consultation Process of the White Paper on Restorative Justice included in its recommendations that the Probation Service should be separated from the Corradino Correctional Facility (the only civil prison in the Maltese archipelago), making two entities, operating within two fully-fledged separate administrative and budgetary structures. The roots for such recommendation could be traced to the argument that the Probation Service was often considered to be the Cinderella of the correctional services.

In May 2015, the DPP in collaboration with the Ministry of Gozo opened a new office in Gozo with the aim of facilitating and addressing the needs of offenders residing on Malta's sister island.

Another important development was the legislative transposition of the Framework decision 2008/947/JHA on the application of the principle of mutual recognition to judgments and probation decisions with a view to the supervision of probation measures and alternative sanctions.

The implementation of the Restorative Justice Act and the possibility of supervising probation delivered by foreign courts are the new challenges to be faced by the DPP in the near future.

3. Legislative Basis of the Probation System

Legislatively speaking Malta fully complies with the European Prison Rules. Some things still need to be fine-tuned but this is a matter of practice not legislation.

3.1 Legislative basis

The legal basis of Probation in Malta emanates from the Probation Act (2002). This Act delineates the duties of the Director of Probation and Parole and of the Probation Officer. The said Act gives an overview of the alternative based sanctions, which fall under the remit of the above mentioned department.

The Probation Act was enacted by Parliament in 2002. This Act substantially revised the 1957 Act, pitching Probation in Malta to the 21st century. The 1957 Act had

been amended a number of times during the 50-odd years that it had been in place, however, there were no significant changes. For a long time major amendments were felt to be necessary in order to have an Act based and in line with the criminal justice thoughts of the mid-twentieth century. These amendments were entrusted to the Institute of Forensic Studies within the University of Malta following discussions with various entities within the criminal justice system. Upon approval by Parliament this Act legislated for the introduction of a Supervisory Board, made up of a chairperson and two members. The role of this board is to assess the work of the Probation Service and to ensure that the service is free from discrimination and malpractice. Whilst the Minister in whose remit falls the Department of Probation and Parole is responsible to appoint a sufficient number of Probation Officers, the Director of Probation and Parole is responsible for the organization, the administration and the supervision of the Probation Service.

Probation Rules: According to Rule 1 of the Probation Rules, the Probation Service has the duty to reduce reoffending through supervision, by assisting probationers and promoting social inclusion. This rule is defined in the Probation Act (2002) Section 8, which defined the role of the Probation Officer as being to “advise and assist” the offender (8a). Probation Officers have the duty to carry out sessions with offenders at the DPP, carry out home visits, carry out a care plan, monitor and assist the probationer. Other tasks include writing periodical reports to the court regarding the progress of the offender, ensuring that probationers remain law-abiding citizens. A Probation Order can be given by the Law Courts of Malta for any offence that is not punishable by a fine only, or by a term of imprisonment exceeding seven years and in exceptional circumstances not exceeding ten years. For certain crimes, such as drug or arms trafficking, probation does not apply. The operative term of a probation order must not be less than a year and not more than three years. Offenders over 14 years of age must accept the order, as it can never be imposed on them. In cases of offenders under 14 years, an order can be imposed. The Department of Probation and Parole is one service catering to the needs of the whole criminal population in Malta. The implication of a Probation Order must be clearly explained to the offender before he/she is asked to accept its conditions. Moreover, the court may add any conditions that it deems appropriate for the good conduct of the offender. In certain instances a Treatment Order may be attached to the Probation Order. A Probation Order may be amended or discharged by the sentencing court on application by the Probation Officer or the probationer. However, any change in the order has to respect the minimum and maximum operative period laid down by the law. The Probation Officer or the Executive Police can accuse a probationer of breaching the order if the offender is found guilty of committing an illegal act during the operative period of the Probation Order. Furthermore, an order can be breached if the offender fails to comply with any conditions of the order.

The court may also award a Community Service Order (CSO) which as explained earlier requires that the offender carries a number of unpaid hours stipulated by the law in the community. Verbal Reports determine whether an offender is suitable for community work or not. A Probation Officer supervises the offender who has been given a Community Service Order. It is also possible for the court to issue a Combination Order, which is partly probation and partly community work. The difference between these two orders lies between the numbers of hours to be performed as community work. At this stage one must note that offenders who are

drug abusers are not eligible to perform community work, the reason being that they may put themselves or others at risk.

In 1990, the Criminal Code was amended to include the Suspended Sentence that is considered to be harsher than a Probation Order. A sentence can be suspended if the court is of the opinion that, if not for the provision of the suspended sentence, the offender would be sent to jail for a period of two years or less. Such a prison sentence can be suspended for a minimum period of two years and a maximum of four years. If more than six months imprisonment is suspended, the court may place the offender under a supervision order. In these instances Probation Officers would supervise offenders for the operative period of the sentence. If offenders commit another offence during this period, the original sentence would come into effect. The law stipulates that Probation Officers dealing with offenders under a Suspended Sentence Supervision Order should meet with offenders periodically.

The Probation Act and the Criminal Code together with government regulation standardizes the working of the Probation Officers (Probation Rule 8) and the agencies it works with. There are a number of semi-formal agreements, which further regulate the workings of the probation services with other agencies.

3.2 Mission and mission statement

The mission statement of the Department of Probation and Parole are:

- To help ensure social stability by contributing to minimize the frequency of crime for more public protection and by ensuring the re-integration of offenders; and
- To ensure that the services offered address the needs of the criminal justice system in line with the principles of restorative justice.

This new mission statement was presented in 2012 following the set-up of the Department of Probation and Parole. The aims of this mission statement are to safeguard and protect society whilst gearing offenders towards rehabilitation and re-integration in the community. On the other-hand through restorative justice, crime victims are given a voice towards their recovery. Through this mission statement the department continuously works to strengthen its network with local and foreign stakeholders, adopt new work best practices whilst exploring new strategies to continue helping the offender, the victim and society in general.

3.3 Crime prevention

The Department of Probation and Parole does not feature programmes of crime prevention amongst its duties mainly because the organisation is quite small. However, one must add that the DPP is often invited to participate in conferences, seminars, school activities and television/radio programmes which events are aimed at reducing crime. The department's main commitment is focused on crime reduction.

3.4 Victim assistance

Under the Probation Act and the Suspended Sentence, the court may issue compensation orders for the victims. In such instances, although the code does not specify that the probation officer must be sure that the compensation takes place, this is usually necessary. If this is not done, offenders will be accused of a breach. Rules 95 of the EPR speak about victims. In certain circumstances the Probation Service will

have the opportunity to work with crime victims. This occurs in two instances: during the pre-sentencing report writing and in specific cases where the victim is directly mentioned in the sentence issued by the court. During report writing the opinion of the victim vis a vis the offence, the offender and the criminal justice system is sought. A victim impact statement is taken by the probation officer to be later presented in court. Victims are made aware that their wishes will be taken into consideration when drafting the sentencing recommendations to be given to the courts, however it is also made clear that it is not always possible that the sentence will reflect their wishes. Furthermore, the court may decide to order compensation to the victim through a probation order, a CSO, a combination order or a suspended sentence supervision order. In these instances the court may deem it fit to ask the probation services to act as an intermediary between the offender and the victim to ascertain that compensation has taken place. Restorative justice, addressed in Rule 97 in the EPRs is still in its initial state in Malta and being slowly implemented.

3.5 Volunteers involvement

Rule 34 of the EPR addresses the issue of volunteers. As yet the Public Sector does not admit volunteers. Since Probation in Malta is a government entity there are no volunteers working within the service. However, in the last years volunteering has been introduced in the health sector and proves to be giving great results.

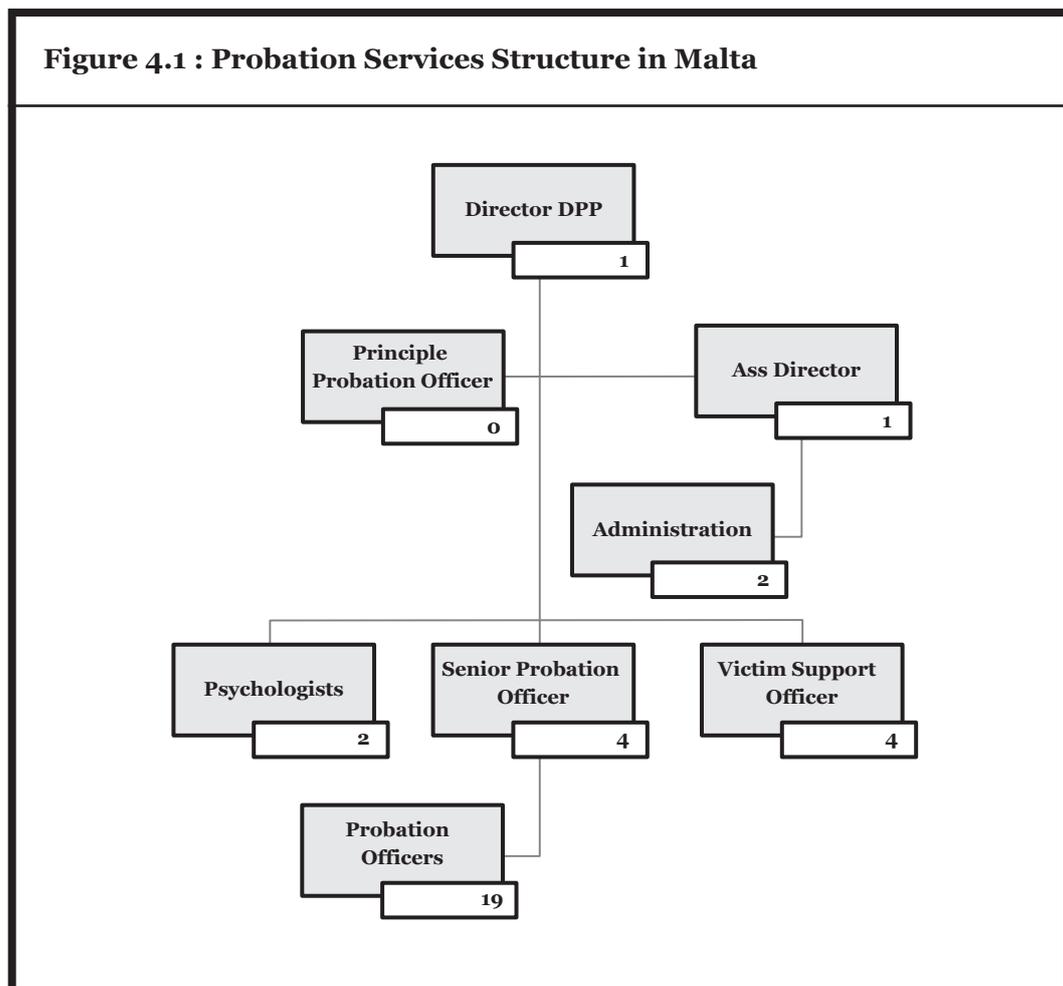
4. The Organization of Probation Services

All probation staff is educated at the University of Malta, where they receive practical and theoretical training on probation (EPR - Rule 23). They are examined and assessed according to the procedures of the University, the same procedures followed for all the professionals trained at university, such as medical doctors, social workers and lawyers (Rule 24). They are selected via an open government call for application. Once selected, they are employed for a probationary period of one year, as are all other professional government employees. This respects Rule 22 of the probation rules. The DPP periodically organizes in-service training. These take the form of generic training for all staff or specific training for staff that works with particular populations such as victim-offender mediation (Rule 25 and 27). As per Rule 29 of the EPR, there is sufficient staff for probation cases, however management is continually trying to increase staff to enable the delivery of more services. The probation services works with other agencies, such as drug service agencies, mental health agencies and employment agencies to help in the re-integration of offenders (Rule 37). Probation officers prepare pre-sentencing reports and other reports for the court (Rule 42), according to national legislation.

The law does not distinguish between Maltese nationals and foreign nationals so theoretically, all sanctions available to Maltese nationals are available to foreign nationals (Rule 63). When one looks at practice, one becomes aware that more work needs to be done in this area. The Framework Decision on the transfer of offenders on community sanctions has been transcribed into law, however to date there has been no case that has benefited from it. Substantial work needs to be done on the protocols of exchange and on the relevant procedures to be followed in these cases. Therefore Rules 64 and 65 need to be better addressed.

4.1 Main Characteristics

The current structure of Probation in Malta has been in place since June 1998. Previous to this, Probation Officers were not listed and recognized by the public service, even though Probation Officers had been engaged within the public service since 1961. One must note that Probation was more linked to social work in its structure. In fact, Probation fell under the remit of the Ministry for Social Policy. Following several debates between Ministries, it was concluded that it is more appropriate that Probation should fall within the remit of the Ministry for Home Affairs. Probation formed part of the Department of Corrections, which also included the Corradino Correctional Facility. The organigram below gives an overview of the Probation structure. The director, assisted by an assistant director, heads the service, followed by the principle probation officer, senior probation officers and probation officers. The director answers to the Minister for Home Affairs and National Security. People with a Post-Graduate Diploma in Probation Services are employed as Probation officers. They are employed in accordance to the government regulations on the employment of civil servants. The one-year course offered by the University of Malta gives the necessary qualifications and skills for workers to be able to perform the work. Promotions are based on years of experience, performance and qualifications.



4.2 Internal Organisation

Current staff compliment at the DPP includes: Director (Probation and Parole); Assistant Director (Support Services); Principal Probation Officer (vacant); 2 Psychologists, 4 Senior Probation Officers, 1 Victim Liaison Officer and 19 Probation/ Parole Officers, assisted by 2 administrative staff. In the absence of a Principal Probation Officer, overall supervision is carried out by the Director (who has been working in probation since 1996). On the other-hand supervision of Probation Officers is carried out by Senior Probation Officers.

Following 2012, the DPP embarked on organising the department's structure, focusing on the wellbeing of the staff and introducing new work best practices. Adding to this, since 2014 the DPP embarked on giving top priority to continuous development of employees. By introducing transparency and communication at all staff levels, the DPP has strengthened teamwork and team building. The DPP, sets up a calendar which identifies the training needs of the probation officers. The Director sends a yearly e-mail asking staff to identify their training needs. Such training needs are followed as much as possible.

4.2.1 Probation workers

The probation officers and senior probation officers all perform the various duties enlisted in the Probation Act – from report writing to supervising offenders. Due to the fact that the department is a small one, Probation Officers are expected to know and carry out all work related to probation and parole. However, recently the Department set up three new units following the introduction of the Restorative Justice Act: the Parole Unit, the Victim Support Unit and the Psychology Unit. The parole unit is in-charge of drawing up parole reports and for the supervision of offenders who have been granted a parole license. The victim support unit takes care of contacting victims of crime in relation to parole and, where necessary, guides victims for further support and assistance. The psychology unit delivers in-service training to probation officers in relation to offending behaviour, delivers and prepares risk and assessment tools to clients and offers a number of therapy programs to offenders, under the supervision of the department, such as anger management programs. The average caseload for each probation officer is about 65 cases. Today the Department can also boast of having its own Administration, Human Resources and Finance Unit.

Table 1: The staff structure

Number of Probation staff	19
Management staff	6
Executive staff	1
Supporting staff (e.g. secretary, bookkeeping staff, ICT staff etc.)	2

4.2.2. Education, training requirements and opportunities

To enable the officers to perform their work in a positive way, Probation Officers are given a one-year post-qualification training in probation studies either prior to their employment or during their traineeship. This course is offered by the Department of Criminology, Faculty for Social Wellbeing under the auspices of the University of Malta. Eligibility to join the course requires students to be in possession of a

humanistic or legal degree from the university or from a recognized equivalent entity. The board for admission in the course looks upon degrees from the humanities field such as social work and psychology favourably. Students are taught various subjects including criminological theories, the role of the probation officer, report writing, research strategies as well as other subjects that would enable prospective Probation Officers to perform their job diligently. In collaboration with the DPP, the Department of Criminology offers periodic in-service training for Probation Officers. This training is based on the requirement of the department.

4.2.3. Other organizations involved in probation work

As a government department, the Maltese Probation Service relies heavily on the services offered by voluntary, state and non-governmental organizations. The DPP liaises and networks with entities that cater for the needs of probationers. With regards to prison and the law courts protocols of procedure exist, however with other agencies the need has not as yet been felt to create protocols of procedures. Reference can be made to entities that provide treatment for drug addiction, alcohol and gambling. At this stage one must note that the majority of the offenders have drug related problems. The most common crimes are drug possession and theft. In the latter these cases are usually drug related theft.

Another entity that the DPP works with is the Employment Training Corporation (ETC). A high number of offenders who are currently under the supervision of the Department are referred to this organization. ETC organizes course during the year to train and assist individuals in securing jobs. ETC has an office which tries to place people with a criminal history in jobs. This is an invaluable service as offenders find it very difficult to secure and maintain a job.

Probationers are sometimes held in institutions such as the prison or in the mental health hospital. Although such probationers consist of only about five per cent (5%) of the probation caseload, they nonetheless are a demanding group. Working with these clients usually involves aftercare. While still housed in the institution the Probation Officer is faced with the task of preparing a person for freedom. Although, there were never any problems with the institutions as such, it is the clash of ideology that might result in some problems with the institutions' staff. However, any problems are usually solved, as goodwill from all is usually paramount, with all the professionals involved wanting to help offenders.

In other situations, the DPP helps offenders who are homeless. Some offenders, either because they have been in prison or because their family members do not want them at home end-up homeless. In these cases the Probation Service has to rely on church organizations that house the homeless for their help, however in recent years a number of shelters for homeless people have opened.

In those instances where family members are at risk the Probation Service also works with those non-governmental, state and church agencies that work with women who have experienced domestic violence and children who have been abused and/or neglected. In these situations, the DPP liaises with other agencies that offer help and support to these individuals.

4.3 Probation and offenders abroad

Framework decision 2008/947 has been adopted in the Maltese law as part of the Probation Act in 2012. As yet there has not been a case where the probation service has been asked to supervise an offender sentenced by a foreign court. However, there have been few cases when a foreigner has been sentenced by the Maltese courts to Probation. In these cases informal contacts were established with the foreign Probation Services when the probationer wanted to return home, so that there would be some form of supervision. However, in these cases supervision was voluntary and there was no legal framework to back it up. The Probation Services are not involved in the transfer of prisoners but will be involved in the transfer of offenders sentenced to community sanctions.

5. Different Stages of the Criminal Justice Process

In accordance to the EPR (Rule 7) when probation officers interview the accused during a social inquiry reports (guilt has not yet been established) they refrain from discussing the case. The officers will only discuss the social situation of the accused and bail. During the stage of report writing (both social inquiry reports and pre-sentencing reports), in accordance to Rules 44 and 46 of the EPR, offenders are asked for their opinion and are sometime verbatim quoted in the reports. The offender is also given the opportunity to answer any accusations or slight of characters that others may have reported. The reports have a section for recommendation of action required. This may include a sentence in case of the pre-sentence report.

Offenders placed on any form of community sanctions are encouraged to meliorate their skills and to mend their ways. This is done both through individual sessions or through work with other agencies as the case requires (Rules 12 and 55). With regards to community services, where possible the offender is matched with the job offers (Rules 51 and 52). Community service is not performed for the public service, it is work that is carried out to benefit agencies in the community (Rule 48).

In probation supervision the main role of the probation officer is defined as ‘to advise and assist’ probationers in acquiring skills and help them re-integrate back into society. When need be, the assistance of a psychologist or other professionals are sought. In other cases the offender could be sent to other agencies, such as drug rehabilitation agencies, for help (Rule 56).

In the case of parole, the department must necessarily work with the prison authorities (Rule 59) after all, the offender is still undergoing a prison sentence. Unfortunately Rule 61 of the EPR still needs to be fully addressed. The DPP does its utmost to meet the resettlement needs of offenders, but there are problems in finding housing and employment that hinders resettlement.

The approach in probation supervision is one of care and control. Offenders are shown that someone cares for them and that the officer is there to help them. Offenders are given a chance to conform however control comes into play when the offender refuses to cooperate. When the risk to society become apparent, the probation officer has no choice but to call into play the sanctions for non-compliance.

Offenders are made aware of this and they are warned multiple times of what will happen if they continue to infringe the rules or the laws (Rules 85 and 86).

5.1 Pre-trial/remand/trial stage

5.1.1 Pre-trial/pre-sentencing report

Table 2: Sanctioning System and probation involvement in the pre-trial-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	✓	✓	If a provisional order of supervision is issued and when the service has to write a social inquiry report
Caution	✓		
Surety	✓		
Electronic Monitoring			
Community Service	✓	✓	Offenders spend from 40 to 480 hours working. Supervision is done by the probation services
Treatment order	✓	Sometimes	When there is a condition in the probation order
Training/learning order			
Compensation to the victim	✓	✓	When you have a probation order or a suspended sentence supervision order
Mediation	✓	✓	
Semi-detention			

Sanctions/Measures/Penalties/conditions attached to a conditional decision of sentence	Provided in legislation?	Probation service involved?	Main characteristics
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	✓		

In Malta, intervention in the pre-trial phase started to be experimented upon during the mid-1980s in what were called the 'Police Cases'. An agreement was reached between the Police Commissioner, the Attorney General and the Principal Welfare Office (who was also the Principal Probation Officer at the time), on how to deal with petty criminal cases, especially those that were committed by first time offenders. This agreement was envisaged to avoid the stigma and negative experience that a court case might have on juvenile first time offenders. Once the police arrested a suspect whom they were considering prosecuting, they had the option to refer the case to probation officers. The probation officers would work with the offender and where necessary with the offender's family. The police would be given a report once every three months on the general progress of the client. Unfortunately, due to a change in the social welfare policy, this procedure came to an end. At present juvenile court cases are heard by the Juvenile Court adopting similar procedures followed by the Court of Justice, however the set-up is less formal.

In Malta the police cannot keep a suspect arrested for more than forty-eight hours, without arraigning him/her in court. Therefore, this phase is short, with very little time for intervention. Often suspects would seek help of their own accord, hoping that if they are arraigned in court the sentencing judge or magistrate, would look favourably on their case, grant them bail and in the long-term avoid a prison sentence. Furthermore the police might use the period of police custody to shock naïve first time offenders into reforming their behaviour.

The Probation Service comes into the picture at both pre –stage and post-sentencing stage.

During the pre-sentencing phase, the Probation Service is usually called upon to prepare reports such as social inquiry reports and pre-sentence reports. However, the services of the Probation Service might also be requested, by the court at any point between arraignment and sentencing by issuing a Provisional Order of Supervision

[*Ordni Provizorja b'Supervizjoni*]. This order will cease to exist when the trial is over or if the court decides to terminate it.

5.1.1 Pre-trial/pre-sentencing report

A pre-sentencing report can be requested by the court when an offender has admitted guilty in a court of law, but the court still requires social or familial information about the accused before issuing a prison sentence or a community based sanction. With regards to Community Service Orders and Combination Orders, by Law the Court requires a pre-sentencing report. According to the law, only the court can ask for a pre-sentencing report, therefore should the prosecution or the defense lawyer wish to have a pre-sentencing report on the concerned offender, they have to ask the court. In practice this is usually granted. The Probation Service will only prepare a report on the offender (with the exception when a pre-sentencing or a social inquiry report is ordered) if a provisional order of supervision order is issued. Social inquiry reports are reports requested by the court before the deliberation of guilt. These are social reports on the psychosocial life of the accused. This report is similar to the pre-sentencing report, with the exception that the part which deals with the crime and recommendations are not included.

The Probation Service created an outline of the content and writing of the social inquiry and the pre-sentencing report for the courts. This was necessary so that the report writer, the sentencing court and the offender or his/her lawyer, will know what to expect once these reports are requested. The role of the pre-sentencing report is to summarize an offender's criminal and non-criminal history, in order to assist the judiciary in dealing with the most appropriate manner with the accused, keeping in mind the welfare of the victim and society.

A pre-sentencing report should include an exposition of the current offence from the official point of view, as well as from the offender's and victims point. All relevant information on the offender's background should be verified and included in the report. The pre-sentence report would include sections containing the criminal history, the family background, educational and vocational history, employment history, psychosocial history, the economic situation, health issues and religious/spiritual affiliations. Furthermore any professional report prepared on the offender should also be annexed to the main report. An important part of the report is the summary and recommendations of the Probation Officer to the court. While the absolute majority of the report is made up of factual information, verified whenever possible, the summary is the place where the Probation Officer can give his/her opinion on the offender and justify the proposed recommendation.

The information required from the pre-sentencing writer may vary from case to case, depending on the seriousness of the offence and the sentence being proposed. However, the ultimate purpose of the report is always to provide information for the sentencing judge/magistrate. Although the final judgement remains the role and duty of the judiciary, the Probation Officer writing the report, has to make some decisions with regards to risk assessment. In certain instances the report writer might realize that a combination of sentences or a variety of sentencing dispositions might be available. In such cases the information on all the options must be clearly listed. When requesting the pre-sentencing report the judge/magistrate might give a preliminary indication of his/her view regarding the seriousness of the offence and the sentence imposed. However the report writer still has the duty to completely investigate the case, taking into account the judge's wishes however he/she should

not feel bound by them. An important consideration is whether the offender should be given a custodial or a non-custodial sentence. If a custodial sentence is being considered, one has to think if the offender and/or society would actually benefit from it. In the case of a non-custodial sentence: treatment orders, community service, straight probation or intensive supervision has to be seriously evaluated. One again has to balance between the risk posed to society and the needs of the offender. Considering the scarce resources much thought has to be given before such a recommendation is drafted.

The offender has a right to read the pre-sentencing report. Although the report is confidential in nature, both the prosecution and the defense lawyer will be given a copy of the report. Prosecution and defense lawyer (if the offender has any questions on the report he/she has to ask questions through their lawyer) have the right to challenge any information contained in the report. This is part of the due process of any criminal trial. For all other parties the report is confidential. In no instance, can the Probation Service give a copy of the report to third parties. All reports are given to the court. It is then the court that distributes copies to the prosecution and to the defense. Should a professional or a social agency, which is working with the offender request a copy from the Probation Service, the department would seek the offender's consent.

When preparing a pre-sentencing report the writer is bound to prepare the report as expeditiously as possible in order to avoid any unnecessary delays. On average a Probation Officer usually needs about four weeks to finish the report. The Probation Officer has to be more efficient if the offender is remanded in custody, as there is always the possibility that a non-custodial sentence will be issued. Furthermore, if the recommendations are going to include the intervention of other agencies, their commitment prior to the submitting of the report has to be sought.

A probation order, a CSO, a combination order, a suspended supervision order, or a pre-sentencing report can only be issued once guilt has been established in a criminal court by due process. The work done by the Probation Service is regulated by the 'Probation Act 2002' and the 'Criminal Code, section 28 A to I. These legislations regulate each sanction; however the Probation Service has developed Standard Operational Procedures and guidelines to be used by Probation Officers according to the task at hand.

Section 6 of the Probation Act 2002 gives the power to the court to ask for a pre-sentencing report before sentencing the offender or a social inquiry report before guilt is established. Section 7 of the same act lays down the probation order, provisional order of supervision, and the various conditions that a person under probation supervision can be ordered to follow, such as mental or drug addiction treatment. CSOs are regulated by Section 11, of the Probation Act, while section 18 regulates combination orders. Victim compensation is possible under section 24 of the said act. The suspended sentence is found in the criminal code in section 28. Section 28 (G) makes it possible for the courts to issues a suspended sentence with supervision order. In this legal provision it is also possible for the court to issue a compensation order. Victim Offender Mediation is possible under the Restorative Justice Act, however this has as yet not been used.

5.2 Enforcement stage

Table 3. 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	✓	No	
Suspended sentence	✓	✓	If there is a supervision order
Conditional Sentence	✓	No	
Affidamento in prova			
House Arrest	✓	No	
Electronic monitoring			
Community Service as sanction	✓	✓	Supervision of community service
Semi-liberty			
Semi-detention			
Treatment order	✓	✓	If part of a conditional sanction
Training/learning order			
Drug/alcohol treatment programme	✓	✓	If part of probation order
Educational measures			
Compensation to victim	✓	✓	If part of probation order or suspended sentence supervision order
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			

Sanctions/Measures/ Penalties/conditions attached to a conditional decision of sentence	Provided in legislation?	Probation Service involved?	Main characteristics
Other financial penalties	✓		
In/out patient order (psychiatric treatment)	✓	Sometimes	Only if in conjunction with a probation order or a suspended sentence supervision order
Security measures			
Combined orders	✓	✓	Probation supervision and community service supervision
Community punishment			
Conditional release/ parole	✓	✓	Parole supervision
Automatic release	✓		
Open prison	✓		
Penitentiary program outside the prison			
Other sanctions/ measures			

During the enforcement phase, the Probation Service can supervise offenders who have been awarded a probation order, a suspended sentence with supervision order, a CSO or a combination order. In all these cases a probation officer has the dual role of care and control. It is up to the officer in charge of the case to see that the offender remains crime free. During the supervision period, the Probation Officer can act as a resource manager when the intervention of other entities is required. However, it is the Probation Officer who has the final responsibility of the probationer in front of the court.

Consent is required in case of offenders who are over the age of 14 years before being put under probation, the same applies in case of a CSO or a combination order can only be issued for offenders over 16 years of age. However, suspended sentence supervision orders and provisional orders of supervision can be imposed by the court without seeking the offender's consent. The Probation Service works in collaboration with the courts, the police, and the public prosecutor, lawyers and other professionals and social service organizations. Victims and victim support services are also taken into consideration when preparing the pre-sentencing report.

The Probation Service receives all its clients from the law courts. When an offender is found guilty and is issued a probation order, a suspended sentence supervision order, a CSO or a combination order, a copy of the judgement is sent to the Probation Service. Once the order reaches the department, a Senior Probation Officer assigns the case to a Probation Officer. The Senior Probation Officer takes into consideration such things as the Probation Officers' aptitudes and their caseload before assigning the case. It is the responsibility of the Senior Probation Officer to

monitor the Probation Officers. Periodic meetings as well as case conferences are held on the various cases. This assures that the work being done is of an adequate level. Furthermore the Director of Probation and Parole monitors and supervises the work of the department to make sure that the service being offered has the necessary quality.

The Probation Officer who receives the case will send for the probationer. During the first interview an intake form will be filled up. The aim of this form is to collect information about the individual, his/her family and support system, his/her drug and alcohol use (if applicable) and his/her problems. During the first interview a strategy plan for the individual is formed. Each offender is assessed according to needs and orders from the court. There are no assessment forms or other standard tools for this end. Probation officers in Malta perform varied general tasks. Due to the small number of staff, it would be highly problematic to have people working in their specialized area alone. However, some officers have acquired a certain level of specialization, as in the case of juvenile offenders. Probation Officers use a mixture of 'Motivational Interviewing' and 'Strength Based Therapy'. Motivational interviewing is a person-centred therapy that encourages people to change while strength based therapy takes the clients' strengths and works on them. By uniting these two therapeutic models, offenders are encouraged to change by starting from their positive points and moving towards working on their weaknesses. Officers meet with their clients at least once a week during the first three to six months of the supervision. This would be later cut down to once every two weeks, until the offender is subject to meetings on a monthly basis. The aim of these meetings is to assess the progress of offenders and to see to it that they are doing their utmost to remain crime free. The ultimate aim of any supervision is to render the offender capable of living a crime free and independent life. Home visits and case conferences with other professionals are part of any supervision. Usually the second or third meeting takes place in the offender's home. This enables the probation officer to assess the family life and surroundings. Home visits continue to be conducted periodically. Sometimes it is also necessary to conduct surprise home visits. In these cases, very often a colleague will accompany the Probation Officers.

In the case of a CSO or a combination order, the Probation Officer, will have to plan the community work and liaise with the work provider where the community work will be carried out. In these cases, the work placement is secured prior to the issuing of the sentence. As a procedure the Senior Probation Officer in charge of community work will have a list of providers and thus identifies the most suitable provider for the offender. Following this the Court is informed about the identity of the provider who has been selected to provide community work. The structure of this service has been planned in such a way that the placement providers provide their own monitoring, whereas the Probation Service conducts surprise field visits while the offender is performing the work, regular meetings with the placement provider and even more frequent contact follows by phone.

Currently the Probation Service does not operate within the prison set-up, however the department is working on expanding its services within the prison in the future. Right now Probation Officers visit probationers who are serving a prison sentence. This happens when a probationer, who has not breached the probation order, is sentenced to prison for a crime committed before the issuing of the probation order. This implies that the DPP is continuously liaising with the correctional facility in relation to common offenders. With the implementation of the Restorative Justice

Act, the DPP enhanced its network with the prison. Regular meetings are held between the DPP, the prison and other entities working on Parole. With regards to Mediation, the DPP is currently investing in training for mediators with the target that in the coming months, mediation will be operational.

Providing support to the families of the offenders/detainees	No
Coordination volunteer prison visitors	No
Preparing prisoners for (conditional) release	No
Preparing prisoners from home leave and/or providing support during home leave	No
Providing support to persons that have been pardoned or amnesties	No
Providing advisory reports with respect to amnesty or pardon	No
Other tasks that are not included here.	No

The prison regulations of 1995 (sec 61) allow a prisoner to be granted prison leave. Long prison leave is granted for rehabilitation and educational purposes. At present prisoners can follow drug rehabilitation programmes offered by organizations outside the prison setting and can also follow educational programmes such as attending University courses.

To be eligible for this prison leave, offenders must be in their final two years of the prison sentence. During the last three month of the sentence a prisoner can be released from prison for a total of eight hours per day for not more than 15 days per month to engage in employment. The probation service is only called upon for advice in case where the prisoner had previous contacts with the probation service. There are two types of amnesties that can be granted in Malta: The general amnesty and the individual pardon. A general amnesty is granted through the recommendation of the Prime Minister on the occasion of an important event. The last general amnesty was granted in 1996 on the election of a new government. This was not repeated in the two subsequent elections or on other special occasions. General amnesties may result the release from prison of prisoners with long sentences much earlier than was originally intended. The general public tends to frown on this especially when people who have committed notorious crimes are released after a short period. General amnesties do not necessarily apply to all prisoners as some crime categories can be excluded.

An individual pardon is viewed much more favourably. Individual pardons are granted when there is a miscarriage of justice or for humanitarian reasons. A prisoner requesting a presidential pardon has to submit a petition to the President of Malta, who in turn asks the advice of the Minister for Justice. The courts, the attorney general's office, the police and the correctional services are asked for their opinion on the granting of the amnesty. In very serious criminal cases, such as drug trafficking and multiple murders the final recommendation to the president has to be made by the Cabinet of Ministers and not by the Minister alone.

5.3 Care and after-care outside the criminal justice system

The Probation Service does not offer after-care services, once the operational period of a community based 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. However, the Probation Officer in his/her discretion can inform the court to extend the supervision period. (This applies to cases whereby the Officer deems that further supervision is essential.

6. Probation Methodology

Offender's consent is sought when the probation order is given. In fact the offender must sign a consent form and must accept the order before the court issues this order (Rule 6). On admission a general risk assessment is carried out by the department. The risk assessment tool identifies the risk and needs presented by the offender and so focuses upon identifying both the static and dynamic risk factors the offender present in order to manage risk. This is repeated periodically and as needed. The aim is to assess intervention and risk (Rule 70).

The assessment is aimed at seeing risk but also at drawing a care plan for the offender (Rules 66 and 69). The care plan is discussed with the offender and the offender is asked to actively contribute to its creation (Rules 73 and 68). Appropriate action is constructed according to the intervention plan. Obviously sometimes it is not possible to follow all the wishes of the offender. Rehabilitation and risk management are the core values in probation work (Rule 76).

During the probation period, offenders periodically meet with their probation officers. During these sessions, offenders are encouraged to play an active role in their supervision. This helps offenders be responsible for their life and hopefully avoid further offending (Rule 67). The care plan is also revised periodically according to need (Rule 81).

Periodic training is carried out with the staff of the DPP. This has resulted in training on the use of risk assessment tools, the use of professional discretion and supervision of offenders (Rule 71) amongst other. Probation officers have also been given training in desistance theory.

In cases where there is more than one person working with the offender a key worker will always be identified (Rule 80).

Rule 88 specifies that "all probation agencies shall keep formal, accurate and up-to-date records of their work". This requirement has been in place since the enactment of the Probation Act in 1957. This is useful both for supervision purposes and also when the probation officer has to report to the court (Rule 91).

Rule 103 is respected as the probation services are subject to government monitoring. There is also an independent monitoring body mentioned in the Probation Act that unfortunately is not functioning.

In conclusion the Probation Rules are well respected in Malta. Their enactment continues to stress that the DPP is on the right track in its work with offenders. Supervision includes the setting up of care-plan, regular home visits, regular contact with offender, contact with other agencies, urine testing, regular progress reports to courts, helping unemployed offender secure employment and general assistance to address problems and issues that offenders might have.

7. Finances, Accounting, Registration Systems, Evaluation Procedures

The European Probation Rules are followed with regards to finance. The probation services have their own budget, within the ministry (Rule 10). As any government department the service is continually monitored on expenditure and purchases (Rule 15). Unfortunately effectiveness is not on the agenda when we are addressing the DPP. Money is allotted to cover the running costs as well as some research (Rule 104) and travel money for training and conferences. Rule 16 is partially addressed, however one needs to say that great progress has been made in the sector of finance. Rules 21 and 33 are adhered too, with regards to probation officer respect and professional standing and conditions of employment. Remuneration remains a point of contention, as probation officers are paid on the same salary scale as teachers and social workers, but less than police officers. Probation officers should be at a higher payment grade, due to the higher level of training demanded. Laws are not always revised taking into account current research and practice. The last time the probation law was revised it was the work of the probation services together with the Attorney General's office and the Department of Criminology at the University. However when the Restorative Justice Act was drawn up, the University was not involved in its creation.

7.1 Finances

Since 2012, the DPP has its own budget. This budget that varies from year to year, is spread over a yearly period and caters for the needs of the department. By becoming a Directorate, the DPP became financially independent. As the DPP is a government department, finances are regulated by the Ministry of Finance. The Department has to follow government procedures in procurement and when issuing payment. As this department is a small department, it is usually the Cinderella of the Criminal Justice System.

Table 5 Data for 2013

	Probation Services	Prison System
Total current yearly expenditure	778,000 Euros	9.1M Euro
Average number of employed staff	35	180
Daily average number of offenders/clients dealt with	1,100	600

7.2 Accounting

Every government department has an accounts section that is responsible for the control of its revenue and expenditure. This sections fall under the responsibility of a director of corporate services in the ministry. Any extraordinary expenditure will have to be approved by the Permanent Secretary at the respective ministry and by the Ministry for Finance. All government revenue and expenditure is subject to the scrutiny of the Auditor General. The Director of Probation and Parole administers the budgeting account of the Department.

7.3 Registration Systems and Evaluation Procedures

The Probation Service keeps a centralized ledger book whereby personal details of each probationer are kept. The register includes the case file reference number, the surname, name, address, date of birth, address, and name of next of kin. The register will also contain information about the sentencing court, the offence, the date of the order, the date of the termination of the order, the probation officer in charge of the case and any other remarks. In the remarks column, the Probation Officer is expected to note any breaches or major problems that have occurred during the operative period of the order. Each Probation Officer, in turn, keeps a register about his/her cases. This is necessary to record all the cases the officer is responsible for. The central register is used for statistical and management purposes. The statistics are used in the annual report and to periodically advise the judiciary on the caseload being supervised by the Probation Service. These statistics are also used in the reports compiled by the Ministry for Home Affairs and National Security. These statistics are not made public but they are used for policy purposes.

The DPP has a file for every person who has been referred by court. This file is confidential and for the sole use of the department and the courts. The offender has a right to challenge the contents of the file, and such objections will have to be recorded. Although offenders are aware of this, in reality they are only minimally concerned about it. This file includes documentation related to court, care plan, personal data, dates of appointments and information gathered from other agencies. Files should be kept up to date, in the appropriate form. These are kept in filing cabinets, each officer having their own independent section. Usually files are only seen by the officers concerned, by senior probation officers and by support staff, when necessary. The purpose of the file is to keep a detailed and up-to-date record on each client. This information is used both during case conferences, in the periodic reports written for the court and when testimony on the client is asked for in court.

8. Societal support and Clients' views

Rule 17 of the European Probation Rules is about media and the general public. The DPP holds a very low profile with regards to the media. It is only when necessary that the agency will speak to the media (Rule 106). Public talks are not held often, however sometimes the DPP is asked to go on national television to discuss the topic of crime or alternatives to imprisonment. A yearly report (Rule 107) is published by the government on all services.

8.1 Societal Support and public opinion

No research has been done on this issue.

8.2 Clients' Views

A Masters dissertation has addressed the issue of client's views in probation. The research focused on clients with drug abuse problems and their desistance from drug use. In a section of the study the researcher addressed the issue of clients' views on probation officers' help or otherwise to the probationer. This was an exploratory study on a sample population of 10 probationers. The overall impression of the clients was positive and they feel that most of the time the intervention by probation officers is helpful.

9 Probation Clients' Rights

In Malta there is no specific legislation on the rights of probationers. However, the rights of a suspect or an offender are guaranteed under the Constitution of Malta of 1964. Chapter 4 of the Constitution specifies the 'Fundamental Rights and Freedoms of the Individual'. Furthermore in 1987, the European Convention on Human Rights and Fundamental Freedom became part of Maltese Legislation upon the enactment of Act XIV. The first Schedule was of paramount importance in integrating the European convention into Maltese law (Rules 14, 100, 101).

Fundamental human rights specify that no person shall be subject to torture or inhumane or degrading treatment or punishment. Moreover, no one can be subject to slavery, servitude or forced labour. With regard to CSOs, offenders have to agree to perform community work, as this solves the problem of forced labour. The constitution and the European Convention establish the rights for the accused to have a public hearing and be assisted by a lawyer. Hearing in the Maltese courts are conducted in Maltese however when an offender does not understand Maltese the hearing will be conducted in English. When the accused does not understand English the services of an interpreter is provided. Due process is a constitutional right – therefore, the probationer has a right to be accused in a court of law and assisted by a lawyer in the case of a breach of the order. When an offender is charged with a breach, they have the right to be informed in writing that the court is notified. Furthermore enough time should be given for the accused to prepare his or her defense. If an offender maintains that his or her fundamental rights have been breached, he or she can arraign the Probation Service in the Civil Court, in its capacity as a constitutional court for redress. The offender can appeal the decision of this court by applying to the Constitutional Court, where the case is tried in front of three judges. If still dissatisfied the individual could apply to the Court of Human Rights in Strasbourg. Legal aid is a right of every person and if the individual cannot afford to pay a lawyer, the court will provide free legal representation. An offender can theoretically seek assistance from the Ombudsman for any breach of human rights. However, in these cases the Ombudsman would direct the probationer to seek redress in the Civil Court. Should all legal action be exhausted the Ombudsman would hear the case, although it is unlikely that the judgment would be different. As the Maltese law is based on continental law and the common law tradition, decisions taken by the superior courts become law. As there has never been any case law on breach of human rights by the Probation Service, it is difficult to speculate on the outcome should a probationer take the service to court. The Maltese courts tend to consider decisions taken by the English courts when there is no case law in Malta. Malta has adopted the European rules on community sanctions and measures and the United Nations Standard Minimum Rules for Non-custodial Measures (The Tokyo Rules). The legal safeguards specified in these two documents are taken into consideration in probation service practice. There are no exceptions to the rules. Probationers are free to take the service to courts if they want.

Data protection and exchange of information are regulated by the Data Protection Act as well as on-going practice and legal procedures. The probation officer is bound by confidentiality (Rule 41) with certain exceptions such as someone being in danger, offenders saying they will commit a crime or offenders are going to harm themselves or others. Offenders are well aware when confidentiality is not maintained.

All records are confidential (Rule 89), with the exception of when the court wants to see the records. The offender can agree to release some information to other agencies. In these cases offenders are asked to sign a form of release from confidentiality. Offenders can demand to see the records held in the department as per national law (Rule 92).

10. Developments to be expected

10.1 Developments in the coming years

The Department of Probation and Parole's vision for the coming years is primarily to enhance community safety by reducing recidivism utilizing restorative justice measures. Adding to this the DPP will be investing more in the continuous development of staff by providing more training at all staff levels; enhance networking with local and foreign stakeholders and finally bettering existing skills and introducing new work best practices within the Department.

10.2 Implementation of EU Framework Decision 947

Notwithstanding the information provided by the EU in some documents, such as 2014, SWD(2014)34 final Annex 1 and 2015 Copen 21/Eurojust 18 /EJN 7 that state that Malta: had not implemented FD 947, the reality is that this framework decision has been transposed in Malta by virtue of Act 23 of 2012 amending the probation Act.

11. Important Publications

There are no relevant publications on the Maltese Probation Services. The Probation Act 2002 is the main source of information, together with some archival document. Some 20 students have recently finished their Masters in Probation Services. These studies are available in the University of Malta's library but they have not been published. Probation in Malta has been influenced by foreign literature – mainly UK authors such as Peter Raynor and Fergus McNeill, unfortunately we lack national studies that could be used to comment on the service.

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

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