



# **Probation in Europe**

## **Catalonia**

**Jaume Martin Barberan  
and Elena Larrauri Pijoan**



The European Organisation  
for Probation

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## Note on the contributors

The current edition published in December 2022 is the result of introducing updates and few changes to the edition of 2012 authored by Jaume Martín and Elena Larrauri, who produced a highly accurate chapter. At the time the current revision process started, the authors of the 2012 edition were no longer working at their previous positions and therefore, were not available to update their chapter. It was then decided to form a team composed by different members of the staff of the Secretariat of Criminal Sanctions, Rehabilitation and Victim Support (*Secretaria de Mesures Penals, Reinserció i Atenció a la Víctima*) and the Centre for Legal Studies and Specialised Training of the Ministry of Justice of the Government of Catalonia, that could review the different sections of the chapter related to their specific field of work and introduce the new developments concerning policy, legislation and practice that had taken place over the past 10 years. The members of this newly created team have been working co-ordinately in order to maintain the coherence of the whole chapter. All of them counted on the crucial support lent by the staff of the CEP, in particular by Anna Esquerrà, Martine Herschel and Mirjam van der Kooij, who have been very supportive over the whole process of updating and editing this chapter. We also want to express our sincere gratitude to the reviewers for their careful reading and their comments that have been a highly valuable contribution to this chapter.

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# 1. Introduction

## 1.1. Probation organization

Probation activities implemented in both, the adult jurisdiction and in juvenile justice, are the responsibility of the Secretariat of Criminal Sanctions, Rehabilitation and Victim Support (from now on the Secretariat) which falls under the responsibility of the Ministry of Justice of the Autonomous Government of Catalonia.

The Secretariat comprises the Directorate General of Prison Affairs (*Direcció General d'Afers Penitenciaris*) and the Directorate General of Community Sanctions and Juvenile Justice (*Direcció General d'Execució Penal a la Comunitat i de Justícia Juvenil*). The latter one is in charge of community sanctions for adults and the implementation of juvenile justice measures. It also runs Victim Support and the Restorative Justice Programmes. In particular, with regard to juvenile justice, it has the goal of managing and supervising the service provision and the resources required for the implementation of community sanctions and probation activities in juvenile justice and also for adults. In the adult jurisdiction, probation activities such as open regime and conditional release are responsibility of the prison system and are run by in-house services. Conversely, probation activities for adults such as community sanctions and alternative measures, adults are outsourced and therefore carried out through cooperation with external agencies under the supervision of the Directorate General of Community Sanctions and Juvenile Justice.

Probation is not a specific punishment in Spain in the adult jurisdiction, but this term encompasses a range of probation activities that are implemented in the framework of suspended prison sentences, security measures and community service (*treballs en benefici de la comunitat*).

It is also worth noting that the term of 'probation officer' as such is not used in Spanish. However, for the purpose of this publication when the term of 'probation officer' is used it is meant to refer to those practitioners working in the adult justice system who are responsible for supervising the implementation of all types of community sanctions and measures. Such supervision entails guidance and assistance to offenders having to serve a community sanction or measure or those who are serving a prison sentence on open regime or conditional release. Along the course of the implementation of the measure and as part of their tasks, probation officers have to report regularly to the court about the specific situation of the offender, how they are complying with the sanction or measure as well as about the identified needs and possible risks.

Moreover, there is the Criminal Justice Specialised Assessment Team for adults (*Equip d'Assessorament Tècnic Penal*) who issue pre-trial reports about the offender or the victim at the request of the judge. However, their mission does not include carrying out any supervision of the sentence that could eventually be imposed on the offender.

In juvenile justice, the term used to refer to the practitioners supporting minors in the completion of any of the non-custodial educative measures imposed by the judge, is that of 'juvenile adviser' as it conveys a more nuanced meaning that reflects better the purpose of their task.

## 1.2. Probation activities in a nutshell

The term of probation is used in this chapter in its broad sense in line with the definition included in Recommendation CM/Rec(2010)1 on the Council of Europe European Probation Rules (hereinafter EPR) and that contained in the Council of Europe Framework Decision 2008/909/JHA on the application of the principle of mutual recognition of judgments in criminal matters imposing custodial sentences or measures involving deprivation of freedom for the purpose of their enforcement in the European Union, as referred in the glossary in Annex II.

Therefore, it is worth noting that according to the definitions of probation, community sanctions and measures as well as aftercare by the EPR, probation activities in the criminal justice system in Catalonia are being undertaken by different services within the Ministry of Justice. The

organisation charts and the details of the distribution of these probation tasks can be found in section 4 and it is also being reflected along the chapter. For the sake of clarity, a general overview of how it is organised is provided:

- Directorate General of Prison Affairs is responsible for prison open regime, conditional release and after care.
- Director General of Community Sanctions and Juvenile Justice, is responsible for:
  - community sanctions and measures for adults.
  - community sanctions, measures and restorative justice for minors from 14 to 18 years of age.
  - victim support, restorative justice for adults and specialised assessment teams.

In what follows, an outline of the main probation activities implemented in Catalonia is provided. The description of the activities and its legal base are thoroughly elaborated in sections 3, 5 and 6. In addition, the restorative justice practices implemented and victim support are also briefly described.

### **1.2.1. Adult justice system**

The probation activities currently in place in Catalonia for adults are the following:

- Pre-sentence assessment reports
- Enforcement of community sanctions
- Enforcement of security measures
- Supervision of inmates on conditional release and open regime

### **1.2.2. Juvenile justice**

The Young Offender Probation Teams (*Equips de Medi Obert*) are formed by juvenile advisors (*tècnics de medi obert*) which are responsible for the supervision of minors that have been imposed a community educative measure. The Young Offender Probation Teams are in charge of supervising all non-custodial measures mentioned in the Law 5/2000 of Criminal Responsibility of Minors and the Royal Decree 1774/2004 as well as the custodial measures. Hence probation activities in juvenile justice can also be divided into those imposed at the pre-trial or pre-sentence stage and those imposed at post-sentence stage (see section 3.1.2. for a complete description of the probation activities in juvenile justice).

- Pre-trial or pre-sentence measures:
  - Pre-sentence assessment reports.
  - Pre-trial probation.
  - Living together with a relative, educational group or a different family or person.
- Post - sentence measures:
  - Attendance at a day centre.
  - Living together with a relative, educational group or a different family or person.
  - Probation which can also include specific rules of conduct.
  - Community service: This can be of a maximum of 100 or 200 hours depending on the age of the offender and the nature of the crime. For this particular measure, the minor must give his/her consent in order for this measure to be imposed.
  - Treatment for drug abuse or mental health conditions.

- Socio-educational tasks.

Moreover, the Young Offender Probation Teams are in charge of the following custodial measures:

- Follow-up of the measure of placement in a therapeutic centre in any of the three regimes (closed, semi-closed and open regime).
- Follow-up of the of the weekend home arrest.

### **1.2.3. Restorative Justice**

Restorative justice is available at the different stages of the criminal process in both the adults' jurisdiction and in juvenile justice. Although the values and the theoretical framework informing the practice are common to both systems, the legal framework and the implementation model differs. A more in depth explanation is provided below in 3.5.

In addition, linked to the juvenile justice restorative justice scheme, the Community Prevention Programme, which is based on the restorative justice approach, was set up with the aim of providing support to municipalities and local authorities for developing crime prevention policies mainly aimed at minors and youth (see 1.3. d)

### **1.2.4. Victim support**

With the name of Victim Support Office (Oficina d'Atenció a la Victima), the Ministry of Justice runs a scheme which serves victims of any crime in the whole of the autonomous community. It is meant to be a universal access service (see 3.4). In addition, victims of offenders who are under age can also be attended by the Programme of support for victims of minor offenders. In the framework of this programme a proactive approach is taken towards the victims of minor offenders as they will be contacted and informed about their rights, the possible outcomes of the juvenile justice process and when needed, will be referred to the Victim Support Office.

## **1.3. General remarks about the implementation of probation rules**

### **1.3.1. Commitment to rehabilitation**

Regarding the implementation of the EPR, both the state and the Catalan legislation encourage regional organizations responsible for implementing sanctions in the community to direct their actions towards reducing recidivism in crime and the rehabilitation of offenders.

### **1.3.2. Organisation of community sentences**

In addition, the Decree 329/2006 on the organisation and functioning of the criminal enforcement services in Catalonia (*Decret 329/2006, de 5 de setembre, pel qual s'aprova el Reglament d'organització i funcionament dels serveis d'execució penal a Catalunya*), defines the tasks and responsibilities of the services involved in the execution of criminal sanctions in Catalonia, including the participation of volunteers.

### **1.3.3. Restorative justice**

In Catalonia the practice of restorative justice has expanded considerably, particularly in the field of juvenile justice where restorative practices are implemented for a third of the crimes committed by young people. These practices may entail the participation of victim and offender, but also when the victim does not wish or cannot take part, a restorative process without the victim is also undertaken by the offender. The rights of both parties are always scrupulously observed and supervised by the professionals and the Juvenile Judge concerned. In the adults' jurisdiction, the impact of the restorative justice processes compared to the number of judicial proceedings initiated, is significantly less relevant than in juvenile justice, yet the number of cases referred to the scheme has been steadily increasing since the programme was first set up. The current legal framework, although allowing for restorative processes to be carried out in a wide range of cases in both, pre-sentence and post-sentence cases, is formulated in a way that does not favour restorative justice processes to become mainstream. Restorative justice in juvenile justice is implemented by in-house services of the Directorate General of Community Sanctions and

Juvenile Justice. The adults' scheme, it is funded and overseen by this authority, is an outsourced service that is being run by a partner agency.

#### **1.3.4. Partnership to prevent crime**

In accordance with the EPR (Rec(2010)1), knowledge and experience of the probation services are taken into account in developing strategies to reduce crime through participation in various settings involving coordination between public organizations and associations of the voluntary sector (see 3.6 and 8).

#### **1.3.5. Victim Support**

The Victim Support Service was set up in late nineties to provide victims of crime with comprehensive support and guidance throughout the judicial process, regardless of the age of the offender. The coming into force of specific legislation addressed to victims of gender and domestic violence in 2004 and 2008, gave grounds to expand the scope of the service to victims of all types of crimes. In 2015 the transposition of the Directive 2012/29/EU on the Rights of Victims into the Spanish legal framework consolidated this approach.

In addition to the fundamental task carried out by the Victim Support Service and following Rule 96 of the EPR, the Deputy Directorate General of Reparation and Community Sanctions and Measures is developing a new set of actions under the heading "Inclusion of the victim's perspective in the work with the offender", in order to introduce a more defined focus on victim awareness on the work conducted with offenders in probation. The goal is to increase their awareness about the harm caused to the victim and place a greater emphasis on their accountability for it.

#### **1.3.6. Open regime and Prison Social Services**

The open regime<sup>1</sup> in the prison system is applied to convicted inmates who are classified in third grade of the prison treatment and are therefore eligible to serve their sentence on open regime (or semi-freedom regime). Working with offenders at this stage is aimed at the following objectives:

- Foster the improvement of personal skills favouring the integration process of inmates into the society
- Enhance the level of autonomy and the capacity of self-management
- Facilitate access to the community social resources network
- Consolidate and increase, in its natural environment, the positive personal evolution and the learning acquired in the institutional environment

Prison Social Services combine the legislation related to the enforcement of criminal sentences with the resocialization and reintegration action. Their aim is to promote the relation between inmates and their community by liaising with the network of agencies and social resources that will be relevant for the reintegration of that inmate and available in the community for the general population. Some of the main responsibilities of the Prison Social Services units<sup>2</sup> are the

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<sup>1</sup> Once an offender has been sentenced to prison, s/he shall be classified into one of three grades which mark the progress along the Individualized Treatment Program (*Programa Individualitzat de Tractament*) also called ITP. The ITP is designed by the prison treatment professionals together with the inmate at the start of the serving of the sentence. The classification into one of the three grades entails a "gradation" of the programmes and activities in which the inmate participates, the extent of supervision s/he receives, the time spent inside the cell as well as the possibility of being granted leaves among other aspects. The first grade being the most restrictive and the third grade on open regime being usually spent in an open prison or in a half-way house to full freedom. In most cases, inmates are initially classified in 2n grade or also called regular regime. Only exceptionally, he or she can be classified in first grade or closed regime. Inmates that are granted the third grade are on open regime. Furthermore, provided that certain requirements are met, the last stage of a prison sentence could be served on conditional release. In this situation the inmate does not have to go to any prison but s/he will still be supervised by the prison professionals.

<sup>2</sup> It is worth to clarify that the Prison Social Services are considered a specialised social service differentiated from the basic social services which are the gateway to the public social services system and serve the general population. In the basic social services, professionals inform, guide, diagnose and evaluate, grant benefits, identify situations of risk in order to act preventively and carry out community projects for the social integration of individuals, families and groups at risk.

following:

- Carry out care and social services policies in coordination with the strategic planning of the other public social services of Catalonia
- Direct, coordinate and supervise the actions and work protocols within their territorial scope.
- Ensure the attention to the individuals who are subject to criminal enforcement measures and their families along all the stages of the prison sentence including ordinary regime, open regime, conditional release and after care.
- Carry out social and community support actions in the relational environment of the inmates
- Monitoring individuals that have been granted the third degree or conditional release

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

### **2.1. From its origins to 2008**

In Spain<sup>3</sup> the first laws dealing with the supervision of offenders in the community date from 1908 (suspended sentence) and 1917 (conditional release). For many years, however, the resources available to implement these laws were minimal, and most part the implementation was left in the hands of non-profit organisations. Furthermore, the long period of military dictatorship witnessed a lack of public policies and material support from the authorities, which did nothing to conceal their orientation towards a criminal response based on the principles of retribution and correction.

*First period (1981-1985).* The Spanish Democratic Constitution (1978) establishes a common justice system for the whole of the country and legislating on the core criminal matters and criminal procedure as an exclusive power of the Spanish central estate. Namely, the Criminal Code, the Criminal Procedural Law, Organic Law on the Prison System, the Prison Regulations as well as the Organic Law 5/2000 regulating the Criminal Responsibility of Minors, emanate from the Spanish Parliament and apply to the whole of the country. Nevertheless, the Constitution allows room for the autonomous communities to exercise some responsibilities in this respect. Such arrangements entail that the autonomous communities when having explicitly requested to hold such powers, are enabled to develop legal instruments on the aspects concerning the implementation and enforcement of criminal sanctions and juvenile justice as far as their legislation does not collide with that of the Spanish Parliament.

When democratic freedoms were restored, Catalonia was the first autonomous community in Spain to take up powers for the protection of minors back in 1981. In addition, in 1984 powers regarding penitentiary institutions were also transferred from the State to the Government of Catalonia (*Generalitat de Catalunya*)<sup>4</sup>, thus it became solely responsible for the organization of prisons and community sentences. Both, prison and probation services, were assigned to the Ministry of Justice.

The transfer of these powers made it possible to define a framework for political and administrative action. The years between 1981 and 1985 witnessed the creation of specialised

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By contrast, the specialized social services respond to situations or needs that require professional specialization or the provision of specific resources such as the Prison Social Services. They provide technical support and collaborate with basic social services in matters within their responsibility. Law 12/2007, of October 11, of Social Services of Catalonia establishes that specialized social services will act in the face of situations of risk and social need in the case of individuals who have been in contact with the criminal justice system.

<sup>3</sup> See chapter on Spain.

<sup>4</sup> Catalonia has been the only Autonomous Community that has assumed competences over prisons and probation until 10<sup>th</sup> May 2021, when the of the Basque Country has become the second Autonomous Community in Spain to take up competences over these matters.

professional public services, the negotiation of agreements for promoting the interdepartmental coordination, and the collaboration with local organisations and citizens' groups. One of the key values underlying Catalonia's policies in this field has always been to prioritise activities in the community setting and therefore, to set up services for the enforcement of sentences in the community.

*Second period (1985-1995).* Juvenile justice in Catalonia underwent a transition from a protection model to a model based on education and responsibility. The two determining factors were the Organic Law of the Judiciary of 1985, under the provisions of which the former Tutelary Juvenile Courts (*Tribunals Tutelars de Menors*) once again became part of the structure of the judiciary, and two years later in 1987, the modification of the Civil Code under which the protection of minors became the responsibility of the Administration and the juvenile courts became competent only for the trial of minors for the commission of crimes or offences defined in the Criminal Code.

The juvenile probation system was established and it was composed of Specialised Assessment Teams (*Equips d'Assessorament Tècnic*) who write the pre-sentence report and juvenile advisors who supervise young offenders (*Delegat d'Assistència al Menor*). Additionally, in 1990 a mediation programme was set up in juvenile justice in Catalonia, which was one of the first victim-offender mediation programmes in Spain.

The same year, in the field of the adults' justice system, the Ministry of Justice established, the Assistance and Social Orientation Services (*Serveis d'Assistència i Orientació Social*). It was set up to guide judges in the implementation of non-custodial sentences and was later transformed into the Criminal Justice Specialised Assessment Team for adults (*Equip d'Assessorament Tècnic Penal*), in charge of writing pre-sentence reports.

*A new Criminal Code (1995-2000)* A significant reform of the Criminal Code was introduced in 1995 which amongst other aspects, raised the age of criminal responsibility of minors from 16 to 18<sup>5</sup> and introduced a wider range of alternative measures to prison sentences, namely unpaid community work and suspended sentences that could entail specific obligations<sup>6</sup>. As a consequence, in 1996 the Catalan government created the Directorate General of Community Sanctions and Juvenile Justice with the aim of bringing under the same authority the responsibility for the enforcement of community sentences and measures together with juvenile justice. At that time the above mentioned Criminal Justice Specialised Assessment Teams for adults were set up. With the coming into force of the new Criminal Code in 1996, probation officers who until then had been responsible only for the juvenile's cases, were also assigned the follow-up of the compliance of community sentences in the adult jurisdiction.

The only programme related to the enforcement of sentences in the community which persisted outside this unified probation services structure, was the supervision of those offenders who were on conditional release, open regime, open centres and aftercare, which continued to be the responsibility of the Territorial Commissions for Prison Social Care (*Comissions Territorials d'Assistència Social Penitenciària*). At present, these are called Prison Social Services (ASSEP, SSAP) which fall under the Directorate General of Prison Affairs.

In 1998 a Framework Agreement<sup>7</sup> was signed between the Ministry of Justice and the organisations representing the local and municipal authorities in Catalonia, which laid out the provision of places for serving community sentences (both, for juveniles and adults).

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<sup>5</sup> According to art. 19 CP, juveniles under the age of 18 are not criminally responsible in the terms foreseen by the Criminal Code, however they are held accountable in the terms foreseen by Organic Law 5/2000 on the Criminal Responsibility of Minors.

<sup>6</sup> Since this publication focuses on probation systems, other types of criminal sanctions foreseen in the Spanish Criminal Code which do not require supervision, such as fines or job disqualifications, are not addressed in this chapter.

<sup>7</sup> The signatories to the Framework Agreement were the Department of Justice, the Federation of Catalan Municipalities and the Catalan Association of Municipalities and Districts, which together represent the local administrations.

In order to ensure the proper enforcement of alternatives to prison for adults, in 2000 the Ministry of Justice signed another agreement with IRES Foundation (*Institut de Reinserció Social*) which would be in charge of the enforcement of community sentences and measures in the province of Barcelona under the supervision of the Ministry of Justice. In the other three provinces forming Catalonia (Lleida, Girona and Lleida) the in-house probation services of the Ministry of Justice remained in charge of the enforcement of community sentences and measures.

*The expansion (2000-2008).* In this period, different aspects of the Criminal Code were modified through the enactment of specific legal reforms. As a consequence, since 2000 there had been a major increase in the prison population, and in the number of people sentenced to alternatives to prison and to community sanctions and measures. Other relevant reforms introduced had affected gender violence (2003) and driving offences (2007). In both cases specific behaviours had been included in the criminal code for the first time and community sentences are the mostly used type of punishment for these types of crimes.

At the same time, between 2003 and 2006, the Ministry of Justice's budget had increased substantially, essentially in order to cover the Prison Facilities Plan 2004- 2010, but also to increase the number of staff working in assessment programmes, probation, mediation and victim support.

In the field of juvenile justice another key development took place in this period, a fully-fledged reform was introduced with the passing of the Organic Law 5/2000 on the Criminal Responsibility of Minors, which is applicable nation-wide. It is actually the first law since the reestablishment of democracy in Spain in the field of juvenile justice that is in line with international standards and endorses democratic values. In this respect, it introduces the principle of "responsibility of the minor person" as the key value that should underpin all decisions affecting minors under this Law. Moreover, it establishes 14 as the minimum age for criminal responsibility up until 18 years old. This law also secures the legal safeguards for the rights of young offenders and at the same time it demands them responsibilities for their behaviour and the harm they might have caused. It also foresees a wide range of educative measures to be imposed on the juvenile offender as well as educational actions aimed at their socialization. It also introduces the possibility of extrajudicial "reparation" to the victim in both pre-sentence and post-sentence stages. It is a very flexible law that foresees a wide range of schemes so that the measure imposed can be tailored to the needs of the young person as these evolve at a fast pace and therefore the assessment may vary depending on the moment or different stages of the judicial process.

## **2.2. From 2008 until 2020**

The Law 5/2010 passed on 22<sup>nd</sup> of June entailed relevant reform of the Criminal Code of 1995. In particular, it introduced two key modifications that were relevant for the probation services.

Firstly, a new form of post sentence supervision that applies to terrorists and sex offenders. Thus, a person convicted of paedophilia, rape or terrorism after having served their prison sentence can be subject to various community measures, including electronic monitoring, for up to five years (which can be extended to 10 years) (see section 3.1). These offenders will also need to follow medical treatment or participate in training, or sex education programs, and may be subject to other restrictions on movement, residence or work. In Catalonia this supervision might be enforced by probation services, only when an intervention addressed to sexual offenders is included as an obligation as part of the sentence.

Secondly, it has amended the regulation of unpaid work for driving offences which will result in a significant decrease of these sentences since 2011.

All these legal changes took place in a very complex social context because Catalonia, as the rest of the western jurisdictions, suffered budget cuts deriving from the economic crisis that started in 2008. In the case of Catalonia and in the rest of Spain, the financial crisis impacted on other pillars of the local economy and it resulted in a sharp increase of unemployment and welfare state

provisions were curtailed.

As explained earlier, the steep increase of referrals of probation experienced until 2011 caused tension in the system: on the one hand there was the need for expanding the material and human resources for dealing appropriately with the programme, and on the other hand, budget cuts not only made it impossible to provide the increase of resources needed to meet the demand, but particularly from 2013 to 2015 led to the reduction of the staff and the number of probation officers was decreased by 7%.

This critical situation however opened the floor for introducing relevant policy changes related to the organisation of the service. Namely the model based on outsourcing the programme with a non-profit organisation described in the case of the area of Barcelona, was expanded to the whole territory of Catalonia. Accordingly, the Ministry of Justice launched a tender dividing the programme in three parts: two of them in the area of Barcelona –one for dealing with the unpaid work sentences and the other for taking care of the rest of community sanctions and measures – and the third one, for dealing with all kind of measures in the rest of areas of Catalonia.

As a result, three different non-profit organisations won one of the parts of the tender, and this situation remains the same to date. In particular, the IRES Foundation deals with community sanctions and measures in Barcelona except for unpaid community work sentences which are taken care of by APIP (*Associació per la Promoció i la Inserció Professional*). INTRESS manages the programme in the rest of Catalonia except for Barcelona.

As mentioned above, in 2015, the numbers of staff recovered to the original ratio reversing the cuts of 2013. From then on, year by year the system hires new staff in order to ensure a more consistent and robust answer to the needs of the programme.

Of course, this evolution runs in parallel with the economical recovering experienced nation-wide. In spite of the fact that it has not yet fully achieved the figures of 2008, it does not put in a huge danger the sustainability of the system.

It is not the case to go into detail as we did of the enforcement of sentences in the community, but at the same time, and suffering the same problems derived from the economic crisis, three programmes were clearly included under the umbrella of the Probation approach: the attention to victims of crime, the preparation of pre-sentence reports, and the implementation of Restorative Justice schemes.

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

#### **3.1. Legislative Basis**

The legal requirements for the imposition of community sanctions are laid down in the Criminal Code of 1995 with the reforms introduced by the Royal Decree 840/2011 concerning the circumstances for the applicability of the suspension of prison sentences, unpaid community work, and security measures and the Organic Law 1/2015 which modifies the Criminal Code.

The legislative basis for the Catalan Government's powers with regard to community sentences and the organisation of probation services consists of legal instruments emanating from the Spanish and from the Catalan Parliaments.<sup>11</sup> The Law 27/2001 on juvenile justice, passed by the Catalan Parliament established the framework in which the Catalan administration should enforce the measures imposed by Juvenile Judges and Courts in accordance of the Organic Law 5/2000 regulating the Criminal Responsibility of Minors. The law regulates the implementation of programmes to support the minors' rehabilitation processes and lays down the model for the participation of public and private bodies in the provision of the services. The Regulations on the organisation and operation of criminal enforcement services in Catalonia were introduced by the Decree 329/2006. Chapter III of such Regulations deals with the Prison Social Services, which are distributed across the four provinces of Catalonia considering the different areas' workload

and the characteristics of the population, to ensure an even coverage. In particular, most of them are located in units adjacent to prison establishments (see 4.2). They act in close coordination with the public social services.<sup>12</sup>

The Ministry of Justice also issues internal circulars, instructions and basic rules. Those worth noting here are Circular 1/2017 of the General Directorate of Prison Affairs on the management, execution and monitoring of probation (*Circular 1/2017 de la Direcció General de Serveis Penitenciaris, sobre la gestió, execució i seguiment de la llibertat condicional*).

### **3.1.1. Adults' justice system**

#### **A) Suspended sentence**

The Criminal Code foresees four different kinds of suspended sentence that can be imposed and are described as follows:

##### **A1) Ordinary suspended sentence**

As established by art 80.2 which is applicable to first time offenders in cases of prison sentences up to two years, the suspension period is from two to five years, or from three to twelve months for minor offences. During the specified suspension time, the following obligations may be imposed on the offender: a prohibition of going to certain places; a prohibition of approaching the victim; a prohibition of leaving home; an obligation to formally show up before the public administration; the obligation to attend training programmes in the fields of employment, culture, road safety, or sex education. In these cases, the judge can impose additional obligations that are deemed necessary for the rehabilitation of the accused person, such as the participation in drug treatment programmes or other obligations that are considered necessary for his/her reintegration.

##### **A2) Extraordinary suspended sentence**

Art. 80.3 of the Criminal Code provides that in certain extraordinary cases, despite not being a first time offender and the conviction longer than two years, as far as it is not a repeat offender, the judge has the possibility of suspending the sentence when the personal circumstances of the accused person, the type of crime, the offending behaviour and in particular the effort made to repair the harm done set the grounds to grant the suspension of the sentence.

##### **A3) Suspended sentence for drug dependent offenders**

This option is introduced by art 80.5 which may be applied for prison convictions of up to five years and are intended for cases in which the crime was committed as a consequence of drug dependence. For the suspension to be applied, a certificate must be produced attesting either that the person is no longer addicted or is undergoing treatment for addiction. A forensic report about the treatment is also required before any suspension is applied. The period of suspension can last from three to five years. During this period treatment for addiction must be started or continued.

##### **A4) Suspended sentence**

In the sense of a conditional sentence for offenders with a health condition, in accordance with art. 80.4 of the Criminal Code the judge or court may suspend any sentence without any condition if the sentenced person is affected by a disease with very serious incurable suffering.

## **B) Community Service**

As established by art 49 CP it has to always be applied with the consent of the sentenced person. It can be used in three different ways as described as follows:

### **B1) As a suspension of the prison sentence of up to one year and exceptionally two years**

It is intended for people who have a previous conviction; hence the sentence cannot be suspended, but are not repeated offenders<sup>8</sup>. One day of community service is considered to be the equivalent to one day in prison.

Furthermore, the obligations that can be imposed along with the suspended sentence may also be imposed additionally to community service.

### **B2) As a direct sentence ordered by the judge.**

Community service may be applied as the main punishment for the following offences:

- Abuse or domestic violence,
- Misuse of vehicles or motor cycles and driving under the influence of alcohol without driving licence or exceeding the speed limits
- Illegal distribution of drugs, drugs trade or occasional street trade.

### **B3) Community service as an alternative for unpaid fines**

The Criminal Code foresees a fine as one of the possible criminal sanctions a judge can impose for certain offences. If the offender fails to pay the fine according to the Criminal Code, the subsidiary personal liability emerges. In such case, in order to avoid short imprisonment sentences, the Criminal Code foresees that the offender should fulfil community service as a replacement of the unpaid fine. Only in the event that the offender also fails to comply with the fine and the community service imposed as its replacement, then s/he will have to serve a short prison sentence.

## **C) Security measures**

Art. 96 CP and the following, established that security measures may entail deprivation of freedom (placement in a psychiatric hospital, in a drug addiction rehabilitation centre or in a special educational centre) or may be non-custodial security measures which might consist of the deprivation of certain rights (such as permission to carry arms or a ban on driving), obligations and/or prohibitions (concerning the place of residence or communicating with other people) and family custody, submission to outpatient treatment or training programmes in the field of culture, education, employment and sexual education, amongst others.

### **C1) Exemption or diminished criminal responsibility**

A security measure may be imposed by the judge if there is likelihood that more offences will be committed.

### **C2) Unexpected serious long term mental illness**

Security measures can also be applied in cases in which a serious and long term mental illness is unexpectedly detected, and the person sentenced to prison is incapable of understanding the meaning of the sentence. In such cases medical assistance must be provided and security measures may be custodial or non- custodial measures.

### **C3) Supervised freedom**

As a result of a previous legislative reform introduced in 2010 (*Llei orgànica 5/2010*,

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<sup>8</sup> According to art. 94 of the Spanish Criminal Code, repeat offenders (*reos habituales*) are those who have been convicted 3 or more times for crimes included in the same chapter of the CP within a time span of 5 years.

*de 22 de juny, per la qual es modifica la Llei Orgànica 10/1995, de 23 de novembre, del Codi Penal*) art. 105 establishes that when certain criteria are met, a number of different non-custodial measures can be imposed once the custodial security measure has been fully served. As part of the organic Law 5/2010, a new non-custodial security measure was introduced named as supervised freedom (*llibertat vigilada*). Two different forms of supervised freedom are now available:

- Ordinary: the judge might decide to impose it to the individuals that due to their disabilities, have been legally declared to be immune from prosecution or not subject to criminal liability, as part of the sentence or over the enforcement stage (arts. 101 and 104 of the Criminal Code). It cannot be imposed for longer than 5 years. The monitoring and follow-up of the enforcement of this measure is responsibility of the Deputy Directorate General of Reparation and Community Sanctions and Measures.
- Post-prison: this must be imposed by the judge on the offenders who have been convicted by sexual offences, terrorist offences, a crime against life, bodily harm and ill-treatment in cases of domestic violence committed against an individual with any type of disability or under age (not subject to criminal liability). It will be imposed as part of the sentence in addition the prison sentence. It cannot be imposed for longer than 10 years. The enforcement of this particular form of supervised freedom is responsibility of the prison supervision court.

#### **D) Open regime**

The open regime is governed by articles 80 to 88, 154 and 165 of the Penitentiary Regulations (hereinafter PR), and is a form of serving the prison sentence that takes place in the Open Prison Centres, the Open Sections or the Semi Open Units. Inmates that have been progressed to this life regime, carry out activities in the community during the day but return to the centre overnight. They may be awarded a weekend licence in accordance with what the Prison Treatment Board assesses is appropriate in each case. In what follows, the different forms in which the open regime can be implemented are sketched.

##### **D1) Restricted open regime**

As foreseen by art. 82 PR, this mode of life is intended to help the inmates to initiate the search for a means of subsistence for the future or, if that is not possible, to find a public or private association or institution that supports them or receives them once they will be released. This system of life is also applied to inmates with a peculiar criminal trajectory, anomalous personality or different personal conditions (for example, the impossibility of working), or whenever their prison treatment advises. This restricted open regime is characterized by the limitation of the time that can be spent out of the open prison on working days, and by the possibility of imposing specific conditions, supervision and means of guardianship on the inmate.

##### **D2) Common open regime**

Art. 83. PR provides that this form of open regime aims to enhance the positive social skills on inmates with the support and advise of the prison rehabilitation staff in order to foster their gradual reintegration into the community. To this end, individualized treatment programs are designed for each inmate according to their characteristics, their personal evolution, the level of supervision that must be maintained during the prison leaves and the supportive measures required to meet their specific needs. Under this life regime, inmates must spend the night in the prison and remain there at least eight hours per day. Inmates classified in this regime can also be placed in private or public extra-penitentiary institutions such as therapeutic communities for drug treatment (art. 182 PR) They can also be placed in the so called dependent units (art. 165 PR) which are

establishments located in ordinary housing buildings in the community without any external sign identifying his custodial nature.

### **D3) Open regime with art. 86.4 PR**

This article foresees the possibility for inmates placed on third grade<sup>9</sup> (entails being placed in a prison open regime setting) who are spending the day out of the open prison to go to work, to also spend the night in their homes instead of going back to the open prison. This option can involve electronic monitoring (only in few cases) or other appropriate monitoring procedures.

The inmates that are eligible to art. 86.4 must be in open regime, have a favourable prognostic and meet one of the following conditions: having a paid work, women with newly born children, inmates on medical convalescence, inmates with grounded family duties, and other exceptional situations.

The professionals will assess in each case the degree of achievement and compliance and decide whether it is appropriate to implement electronic monitoring or other type of monitoring.

More generally, open regime includes the obligation to be present at the institution during the period laid down by the individualised plan, for the purposes of attending to supervision, activities and meetings with the professionals responsible for their follow-up. In all these cases, supervision is done by the multidisciplinary team of the prison services. In addition, art. 86.4 PR allows also for the possibility of placing the inmate in a half-way house, so that the s/he is provided close educational support as a preparation to his/her return into the community.

### **E) Conditional release**

The reform of the Criminal Code (hereinafter, CP), introduced by the Organic Law 1/2015, of March 30, which came into force on July 1, 2015, regulates conditional release as a form of suspension of the enforcement of the rest of the sentence. A suspension period is established, which in general terms is of two to five years long, and cannot be shorter than the remaining time of the pending sentence. In the case of revocation of the conditional release, the most relevant legal consequence is that the convicted person must return to prison and resume the serving of the prison sentence without deducting the time spent on conditional release in the community.

Therefore, the reform passed in 2015 modified the nature of the concept of conditional release. Instead of being the last stage of the prison classification (see footnote 1), it has now become a period of suspension of the serving of the prison sentence, with the consequent application of the general criteria of suspension of the enforcement of the prison sentence foreseen in articles 80 and subsequent of the Criminal Code. This change in the nature of the conditional release has a relevant impact on the way it is being implemented in practice<sup>10</sup>.

Eligibility for conditional release may be considered for prisoners who have served 3/4 of the sentence (basic conditional release), 2/3 of the sentence (advanced conditional release), advance 90 days per year of effective enforcement of the prison conviction in relation to 2/3 parts (qualified conditional release:), or 1/2 of the sentence (conditional release of first time offenders).

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<sup>9</sup> As explained in footnote 1, once an offender has been sentenced to prison, s/he shall be classified into one of three grades which mark the progress along the Individualized Treatment Program (*Programa Individualitzat de Tractament*) also called ITP. The placement of the inmate into one of the three grades entails a "gradation" of the programmes and activities in which the inmate participates, the extent of supervision s/he receives, the time spent inside the cell as well as the possibility of being granted leaves among other aspects. The first grade being the most restrictive, and the third grade involves an open regime being usually spent in an open prison or in a half-way house to full freedom. Inmates that are granted the third grade are on open regime.

<sup>10</sup> The recidivism rate of inmates who have been granted conditional release is of 9.5% (cases studied at a stage prior to the last reform of the Criminal Code). Recidivism rates of inmates who have been granted third grade and are under open regime, are lower when placed in Dependent Units or are granted art. 86.4 RP than when placed in open prisons (Capdevila, 2019).

The latter one has an exceptional character and as a novelty, is not applicable to inmates who have committed an offense against sexual freedom.

There are other specific cases of conditional release foreseen for septuagenarian inmates (art. 196.1 RP), inmates suffering from severe health conditions (art. 196.2 RP) and for foreign nationals who could serve the conditional release in the country of their nationality (art. 197 RP).

General Penitentiary Organic Law 1/1979 establishes how the prognostic report should be and which are the responsibilities and tasks of the prison social services with regard to all inmates along their prison sentence. The Penitentiary Regulations (arts. 192 onwards), also indicate the requirements to be met.

The Prison Treatment Board shall submit to the Prison Supervision Court the prognostic report and the proposal for granting conditional release to a particular inmate according to the requirements foreseen by law, that is to say arts. 67 to 72 General Penitentiary Organic Law and art. 192 PR. The follow-up of conditional release is carried out by the specific Multidisciplinary Team of the Prison Social Services<sup>11</sup>.

### **3.1.2. Juvenile Justice**

The Organic Law 5/2000 regulating the Criminal Responsibility of Minors and the Royal Decree 1774/2004, govern the probation activities in the field of juvenile justice, including the justice procedure, the criteria and conditions for the adoption and the enforcement of the measures.

In juvenile justice legislation provides that for offences not involving serious violence (according to the Criminal Code that means crimes up to less than five years of imprisonment), the judicial proceedings may be stopped if the minor has repaired the harm caused to the victim or is prepared to do so. In this jurisdiction the mediators are specialised professionals who are part of the Mediation and Assessment Service (SMAT) of the Directorate General for Community Sanctions and Juvenile Justice.

In juvenile justice there is a wider range of community sanctions available and these are called community measures (*medidas de medi obert*) which entail a varying degree of restrictions of rights. The types of community measures that a Juvenile Court can impose on a young person are foreseen by article 7 of the Organic Law 5/2000 regulating the Criminal Responsibility of Minors and are described as follows:

- Therapeutic Outpatient Treatment: the young person under this measure has to attend to the prescribed therapeutic centre with the frequency agreed the centre's health care staff and has to comply with the imposed treatment guidelines.
- Attendance to a day centre: the minor has to perform educational activities in a specialized centre from morning to evening.
- Weekend home arrest: the minor must stay a maximum of 36 hours at their home from Friday afternoon to Sunday morning and carry out the "socio-educational" duties laid down by the juvenile advisor.
- Probation: the minor under this measure must comply with the supervision meetings with the juvenile advisor at consists in the accomplishment of an Individual Educational Program (PEI) which includes educational activities aimed at the reduction of risk of recidivism. The Juvenile Court can also complement this measure with other educative obligations, such as:
  - Obligation to attend an educational centre
  - Obligation to complete a certain educational program
  - Prohibition to go to certain places
  - Obligation to reside in a particular place

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<sup>11</sup> Both the procedure to grant conditional release and the type of interventions that shall be undertaken in the course of the follow up of the inmate on conditional release, are laid down by the Circular 1/2017 of the Directorate General of Prison Affairs.

- Obligation to periodically appear before the Juvenile Court
- And any other obligation of educational content that the Juvenile Court considers the young person should meet
- Cohabitation with another person, family or educational group: the young will have the obligation to live with another person, family or group that is considered beneficial to support him/her in their socialization process.
- Community work: the young person that has to meet with this measure will have to do a fixed number of not paid hours of work in benefit of the community.
- Completion of socio-educational duties: the young person subject to this measure must follow the training courses, activities or educational programs planned by the juvenile advisor in his/her individual work plan.

In addition to the custodial and community measures described earlier which are being enforced by the juvenile advisors, there are some measures that are monitored and enforced by the Juvenile Court judge: the prohibition of approaching the victim within a set distance or communicating with the victim, the deprivation of the driver's licence or other licences, and the total disqualification to hold public positions.

On a different note, restorative justice processes are also foreseen as a possible community intervention with juvenile offenders by the Organic Law 5/2000 regulating the Criminal Responsibility of Minors.

Art. 19 of the Organic Law 5/2000, foresees the possibility for the young person to make amends to the victim and repair the harm caused. This legal provision is however a diversionary measure in nature which takes place at the pre-trial stage and only if the young person is willing to participate. Therefore, it cannot be considered an educative measure in the strict sense because it will not be imposed by the judge as a result of the trial, but will be agreed with the young person before reaching that stage.

Within the SMAT there are dedicated teams of professionals specifically trained in mediation and restorative justice, who will conduct restorative process between young offenders and their victims. The reparation to the victim by the young person may consist of an apology, the reparation of the actual damage caused or an agreement to perform reparatory undertakings instead. When the young person has completed reparation or reconciliation, if the offence lacks any serious act of violence or intimidation, the prosecutor shall propose the termination of the prosecution to the judge who will dismiss criminal proceedings.

A restorative process can always take place after the trial stage with the approval of the judge as established in arts. 51.1 and 51.3. Here the willingness of the young person is also a requisite as it is not an educative measure imposed by the judge, but a choice for the minor. The effects of the reconciliation or reparation to the victim will be taken into account by the judge who can suspend the enforcement of the measure or consider that the measure imposed has been satisfactorily completed and close the proceedings.

The Organic Law 5/2000 regulating the Criminal Responsibility of Minors also lays down other general characteristics of the juvenile justice measures:

- All the measures have to be time-bound
- The young person sentenced by the Juvenile Court will not have criminal records registered
- The Juvenile Court can impose more than one measure for the same offence
- Only some of these measures can be imposed with precautionary character, namely therapeutic outpatient treatment, cohabitation with another person, family or educational group and Probation (with or without obligations)
- The maximum age for this law to be applied by the Juvenile Court is 18 years old. However, the application of the juvenile justice system can continue beyond this age when

required for the length of the measure imposed and the completion of the objectives set with the young person.

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

The mission of the Ministry of Justice is to provide all the services necessary to ensure the reintegration of sentenced offenders with the aim of contributing to improve public safety, social cohesion and community prevention. In juvenile justice this mission should be understood in accordance with the socio-educative principle of the minor.

With regard to crime victims, the service provision and implementation should lead to their full recovery<sup>12</sup>.

### **3.3. Crime Prevention**

Primary and secondary crime prevention strategies are carried out by community and local agencies who design and implement prevention schemes with varying scopes tailored to their local needs.

Under the auspices of the Ministry of Justice the main primary and secondary prevention strategy is the Community Prevention Programme, which aims to provide support to the local bodies for the development of prevention policies. The aim of the programme is to work with and train local experts and professionals who work front line implementing the prevention strategies.

### **3.4. Victim support**

In 2015 the Law 4/2015 on the Victim's Chart was adopted with the aim of transposing into the Spanish national law the European Directive 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA. This legal reform introduces several new developments of which the most relevant are explained as follows.

The 2015 Victim's Chart has a universal scope as the new range of rights for victims of crime are granted to all victims irrespective of the type of crime. Prior to that, the Spanish legal body only awarded rights to victims of specific crimes such as domestic or gender violence, sexual offences or sexual offences to minors. Moreover, the victim is awarded the right to be a part of and be taken into account at certain particular stages of the post-sentence phase of the judicial process.

It also states that victims should have access to RJ services<sup>13</sup> irrespective of the crime or the stage of the process as far as the RJ process would not pose any risk to their wellbeing. It also makes it clear that victims should be informed about the services available to them at every stage of the criminal process. RJ is included among one of the services that victims should be informed about.

In juvenile justice, the victim access to restorative justice practices was already secured by the regulation on mediation and reparation to the victim contained in Organic Law 5/2000 regulating the Criminal Responsibility of Minors at all the stages of the criminal process

In Catalonia, the aim of the Victim Support Office is to be the primary point of contact for information and support for victims, and ensure that victims have access to all the help and care they need in the swiftest possible way. These offices deal with cases either at the request of the

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<sup>12</sup> This is the mission and mission statement included in the Strategic Plan of the Secretariat of Criminal Measures, Rehabilitation and Victim Support, which was approved in 2019 for the period 2019-2027. See also below section 10. With regard to juvenile justice, more information can be found in the so called Specialised Project of Community Juvenile Justice (*Projecte Tècnic de Medi Obert*) drafted by the juvenile justice advisers, coordinators and managers (Comunitat Medi obert de justícia juvenil, 2013).

<sup>13</sup> This is the term used by Law 4/2015 on the Victim's Chart as a generic denomination to refer to any service or programme set up by either the public administration or an NGO, offering victims and offenders the opportunity to access to a restorative justice process. For a restorative justice process to take place, the participation of the parties involved must be fully voluntary and it will have the aim of addressing the aftermath of the criminal behaviour. See section 3.5 on the restorative justice provision.

courts or of the victims themselves.

The Victim Support Office offers both general advice (psycho-social and legal) and specialized support (legal and psychological advice for adults), and it makes referrals and liaises with other services, programmes or agencies based on the victims' needs.

Moreover, since a legal reform introduced in 2003 the Victim Support Office, acts as well as the central coordination point for protection orders imposed by the Courts in gender violence offences. In this respect their role is to ensure the provision of social assistance and protection measures (financial aid, free legal advice, reception centres, housing, employment, etc.). Its main responsibilities are to keep record of the protection order adopted by the judge and to keep the victim permanently informed about the state of proceedings against the suspect or any relevant developments concerning the offender in the course of the enforcement of the prison sentence.

The Deputy Directorate General of Reparation and Community Sanctions and Measures implemented two additional services with the aim of responding to the increasing demands of information and advice that would result from the coming into force of the 2015 the Law 4/2015 on the Victim's Chart, therefore complying with the Council Framework Decision 2001/220/JHA.

On the one hand, there is the Information and Guidance Service for Crime Victims (*Servei d'informació i orientació telemàtica a la víctima del delict*)<sup>14</sup>, which runs from Monday to Friday from 8:00 to 22:00. Any individual that considers him/herself to be a crime victim, can call or e-mail the service asking for information, advice or guidance. Trained professionals, who can speak Catalan, Spanish German, French and English, will assess the inquiry, offer emotional support and if necessary, refer the person to the Victim Support Office or the Restorative Justice Programme. This service is funded and coordinated by the Deputy Directorate General of Reparation and Community Sanctions and Measures and outsourced through public tender to the Red Cross (Creu Roja).

On the other hand, the Court Accompaniment Service for Victims (*Servei d'Acompanyament a la Victima del Delicte en seu Judicial*)<sup>15</sup> which aims at preventing secondary victimisation when the victim becomes involved in a judicial process in any of the 49 judicial districts of Catalonia. From the early stages of the judicial process and also after it ends, it provides, advice and accompaniment to victims of gender violence. This service provides also support, advice and accompaniment to any other victims along the hearings of the trial. Trained professionals will provide emotional support and accompany the victim during the hearings before the court. If the professionals identify the need for additional services or support, they will refer the victim to the Victim Support Offices. This service is also funded and coordinated by the Deputy Directorate General of Reparation and Community Sanctions and Measures and outsourced through public tender to INTRESS.

In addition to the Victim Support Office, in juvenile justice a specific scheme named Victim Support for Victims of Juvenile Offenders (*Programa d'Atenció a les Victimes de Menors Infractors*) was set up in 2014 for the victims of minor offenders. Such scheme is run by Juvenile Justice professionals in coordination with the Victim Support Office staff and it also provides accompaniment and support to victims throughout the judicial process.

### **3.5. Restorative justice**

In the field of adults however, unlike in juvenile justice, restorative justice does not count on comprehensive legal base and there is not a specific principle or rule that could determine the eligibility of the cases for restorative justice.

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<sup>14</sup> More information in Catalan can be accessed here:

[https://sejudicial.gencat.cat/ca/que\\_cal\\_fer/Soc-victima-de.../victima-delicte/servei-telematic-victima-delicte/](https://sejudicial.gencat.cat/ca/que_cal_fer/Soc-victima-de.../victima-delicte/servei-telematic-victima-delicte/)

<sup>15</sup> More information in Catalan can be accessed here:

<http://cejfe.gencat.cat/ca/publicacions/cataleg-activitats-justicia/detalls/fitxa/acompanyament-victima-delicte-judicial>

As mentioned above, in 2015 a legal reform of the Criminal Code was introduced and one of the new developments was the regulation of the suspension of the sentence. In particular, art. 84.1 of the Criminal Code establishes that the prison sentence might be suspended provided that the offender meets one or several of the obligations or measures listed in the article that the judge can impose. The completion of a mediation agreement reached with the victim is one of the three possible measures that the offender could have to meet in order for the judge to grant him/her the suspension of the sentence.

Furthermore, an agreement resulting from a restorative justice process may have an impact on the criminal proceedings through the legal concept of the reparation of the harm to the victim. Besides the explicit mediation provision in art. 84. 1 of the Criminal Code applicable at the post-sentence stage, the Criminal Code and the Criminal Procedural Law (*Ley de Enjuiciamiento Criminal*) foresee a number of possibilities to award legal benefits to the offender that makes the effort of compensating the harm to the victim<sup>16</sup>. Although not explicitly mentioning the term of mediation or restorative justice, these possibilities serve as legal entry doors for restorative practices to play a role in the criminal process. The type of legal benefit will depend on the stage of the process and the type of the crime, e. g. acquittal or dismissal of the case (only in minor cases), mitigation of the sentence, suspension of a custodial sentence or its replacement by an alternative sanction, benefits or licences when the offender is serving the prison sentence or early conditional release, are some of the legal consequences of a restorative justice process in the criminal process.

Except for art. 84.1. of the Criminal Code and the provisions of the Victims' Chart, for the rest of the cases there is no explicit legal provision establishing which authorities or bodies should or could make a referral to restorative justice nor at which stage. Hence, while there is a vagueness on how to refer a case, *de facto* a restorative process is possible at any stage of the criminal process, also during the enforcement of the sentence, for any type of crime, as far as there is a personal victim or a legal entity that has suffered loss or harm. Mediation is excluded explicitly only for gender violence offences when the case is at the pre-trial stage<sup>17</sup>.

Similarly, such vagueness of legal provision allows a wider range of referral sources, next to judges, prosecutors, prison staff and other offender-related services, also victim-related services and self-referrals by the parties involved in the criminal process, are equally possible.

### **3.6. Volunteers' involvement**

Many volunteer organizations are involved in the support of purposeful and treatment activities taking place inside the prisons. Community sanctions and measures are also supported by volunteer organisations.

The principles outlining the actions of volunteer organizations are contained in *Circular 1 /2001, on volunteer management in the prisons of Catalonia*, as well as in *Law 25/2015, of July 30, on volunteering and the promotion of associations* and in the art. 62 of the *Penitentiary Regulations*.

According to Circular 1/2001, volunteer organizations can submit a proposal for an intervention program that should be validated by the competent bodies of the Ministry of Justice. This program must include aspects such as the description of the organization, the objectives to be developed, the number of volunteers participating in the activities, resources, methodology, etc.

The Framework program on volunteers' involvement contains the guidelines established in the mentioned Circular and Law and it provides the training standards for volunteers, the accreditation and the support of the activities that they carry out inside and outside the prisons, such as accompanying inmates in their short leaves from prison.

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<sup>16</sup> Such possibilities or legal entry doors awarding a legal benefit to the offender who compensates the harm to the victim were the result of a previous legal reform of the Criminal Code introduced in 1995.

<sup>17</sup> Art. 44.5 of Organic Law 1/2004 on Comprehensive Protective Measures against Gender Violence (*Ley Orgánica 1/2004 de Medidas de Protección Integral contra la Violencia de Género*).

A pilot project was implemented where volunteers acted as mentors for those inmates who at the time of being released, showed significant vulnerability factors. The mentor accompanied the participant throughout the transition process from deprivation of freedom to living in the community. The accompaniment included emotional support as well as support tailored to the specific needs of the participant. A special focus was placed on the social needs and in particular, in the reintegration in the labour market.

The Ministry of Justice has also signed several collaboration agreements with non-profit organisations and local authorities. In the framework of such agreements, NGO's and local authorities provide schemes for housing, accompaniment for inmates on probation or conditional release, treatment and occupational programmes, drug addiction and mental health programmes as well as placements for community service sentences.

The *Circles of Support and Accountability - CerclesCat*<sup>18</sup> program as example of volunteers' involvement. This programme is being run by the collaboration between the Department of Justice and the Foundation Health and Community (Fundación Salud y Comunidad, and Fundación APIP-ACAM). The target group are sexual offenders who are on conditional release and are willing to participate. Its objective is to provide them support and supervision for social reintegration and to prevent reoffending by addressing some of the key risk-factors for reoffending such as social isolation and emotional loneliness. It is an intervention model based on the participation of volunteers who in groups of 3 or 4 volunteers (the inner circle), are assigned to an ex-offender (the core member). This small group is permanently supervised and advised by specialised professionals (the outer circle).

In the field of Juvenile Justice at present the volunteer involvement takes place through support schemes aimed at the implementation of educative measures. Volunteers who are already enrolled in a volunteer agency, are recruited in order to provide support to the different educative measures. Their work and involvement is governed by the Catalan general volunteer's legislative framework.

Moreover, it is worth mentioning the role played by the Community Participation Board (*Taula de Participació Social*, hereinafter CPB), which was created in 2009 by the regulation *Ordre JUS/370/2009, de 23 de juliol, de regulació de les taules de participació social en l'àmbit penal i penitenciari* which establishes its composition, mission, responsibilities and procedures.

The scope of the Community Participation Board is the criminal justice system including prison and probation. It acts as an advisory body where the Ministry of Justice, NGO's and volunteers' organisations working in the criminal justice field, discuss best approaches to organise the citizens' involvement in the criminal justice system in Catalonia.

At present it is composed by members of public administration agencies and by representatives of NGO's and volunteers' agencies<sup>19</sup>. The members from the public Administration are the Secretary of Criminal Sanctions, Rehabilitation and Victim Support, the Director General of Prison Affairs and the Director General of Community Sanctions and Juvenile Justice, the Deputy Directors Generals who work within the Secretariat and the Deputy Director General of Social Cooperation and Volunteering which belongs to the Ministry of Labour, Social Matters and Family. The members of the community are 6 representatives of the agencies who are at present contributing to the CPB and 3 representatives of the volunteer agencies.

The most relevant tasks assigned to the CPB are the following:

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<sup>18</sup> See the framework project website Circles4Eu (COSA) at <http://www.circleseurope.eu/>

Also see website of the Catalan project at [http://justicia.gencat.cat/ca/ambits/reinsercio\\_i\\_serveis\\_penitenciaris/cercles/](http://justicia.gencat.cat/ca/ambits/reinsercio_i_serveis_penitenciaris/cercles/)

<sup>19</sup> More information can be checked up here:

[http://justicia.gencat.cat/ca/ambits/reinsercio\\_i\\_serveis\\_penitenciaris/collaboracio\\_institucional/funcions\\_i\\_principis/](http://justicia.gencat.cat/ca/ambits/reinsercio_i_serveis_penitenciaris/collaboracio_institucional/funcions_i_principis/)

- Informing and launching social participatory processes about the strategic matters in the prison and probation fields which relevant to community involvement.
- Discusses and proposes joint action for improving the communication strategy regarding the social and rehabilitative dimension of prison and probation policies with the aim of raising public awareness
- Organising training for professionals and volunteers
- Monitors the existing channels of communication among community agencies and the Secretariat and proposes improvements to streamline the collaboration mechanisms when necessary

Although some of the aforementioned regulations (laws, decrees and circulars) predate the approval of the European Probation Rules, all of them include specific instructions that are fully in line with the contents of rules 1,34,95, 97 and 98 of the European Probation Rules (social inclusion, tasks and responsibilities of probation agencies, the role of volunteers, the rights of victims and offenders in the criminal and restorative justice process and the participation of probation agencies in the development of crime reduction strategies).

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

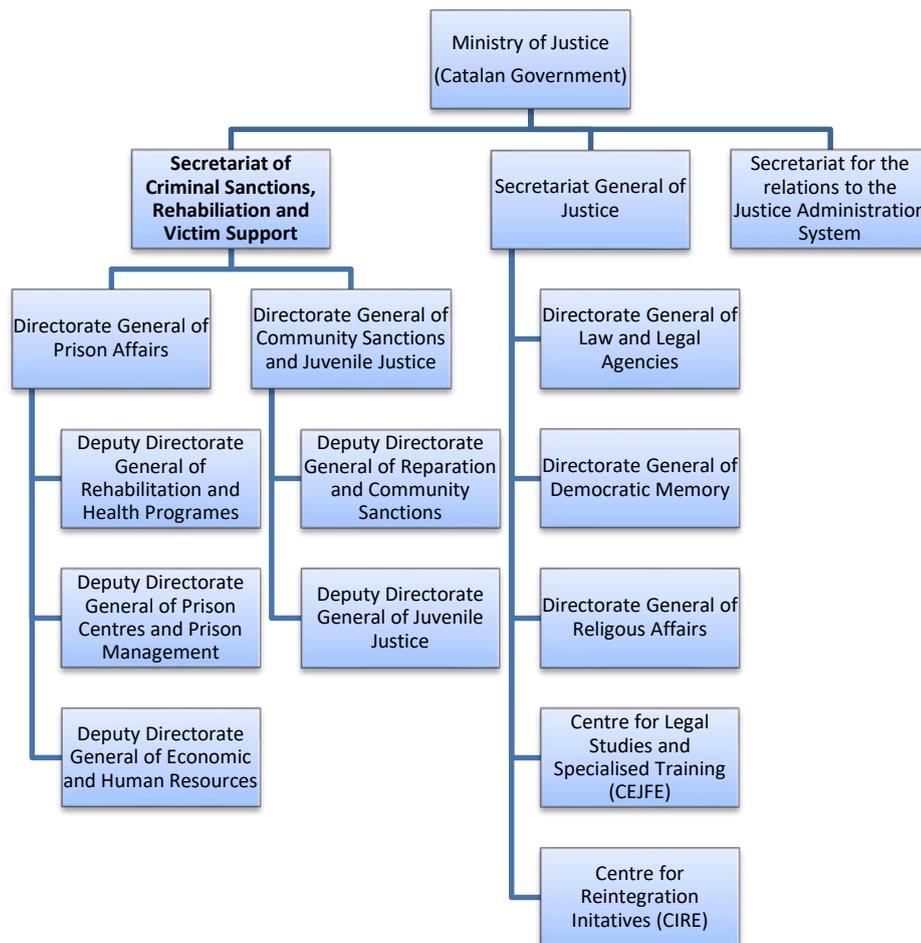
The organisational structure of probation services for adult offenders differs from that for minors (young persons under 18 years of age) as it is described through this section. Nevertheless, both probation services are aligned with the EPR provisions in the following aspects:

- In line with Rule 18 regarding the necessary resources for probation officers to carry out their assigned tasks, a ratio of cases per officer is established. The number of probation officers that are being supervised by each coordinator it is also set. In addition, there is a systematic and regular follow-up of the teams and probation officers' workload in order to identify when there is a peak of cases in a particular team or geographical area. In order to address a sharp increase of workload, the measures that could be adopted could entail a reallocation of professionals in order to reinforce the particular geographical area or team or hiring new probation officers.
- The Ministry of Justice through the dedicated units responsible for each of the different programmes and services, lays down the organisational and operational guidelines. These are not only applicable to the teams and professionals working at services directly provided by the Ministry but also to for those working at services externalised or outsourced to NGO's via public tender. In the case of the outsourced or externalised services, the standards and requirements for service delivery are being established by the Ministry of Justice in accordance with the legal framework. It is also the Ministry who conducts both the supervision and the evaluation of the service implemented (Rule 19 and 20).
- When it comes to staff recruitment as stated in Rule 22, in juvenile justice it is conducted by the Ministry of Justice which eventually hires their juvenile advisers after having assessed not only their skills but also their values and attitudes. For the staff working in probation for adults, the selection process is being led by the partner agency that has won the public tender which also hires the staff members recruited. The specific contract laying down the conditions of the public tender with the agency to which the service is outsourced, also establishes the criteria and aspects that need to be assessed by the agency along the selection process of a staff member.
- The initial and continuing education or training (EPR 23 to 28) for the staff directly hired by the Ministry Justice is provided by the Centre for Legal Studies and Specialised Training (CEJFE), which is an autonomous body belonging to the Ministry of Justice (see

below in this section). For the staff working at the outsourced or externalised services, it is being provided jointly by both, the NGO or agency as stated in the public tender conditions, and the CEJFE. This part of the training will focus on the topics that are deemed to be strategic and also necessary for all the staff working within the Ministry of Justice such as ethics, gender issues or aspects related to the use of the information system and the data base. Moreover, the CEJFE organises and leads the knowledge sharing projects in which the different professional groups are organised as communities of practice (*comunitat de pràctica*) on topics relevant to their daily work in order to bring together the knowledge acquired along their years of working experience. A community of practice will establish a methodology and work around a topic with the support of the CEJFE staff as well as with the input from external experts. They will conclude their work by producing a report or a guide that systematises the information and knowledge gathered and processed by the members of the group.

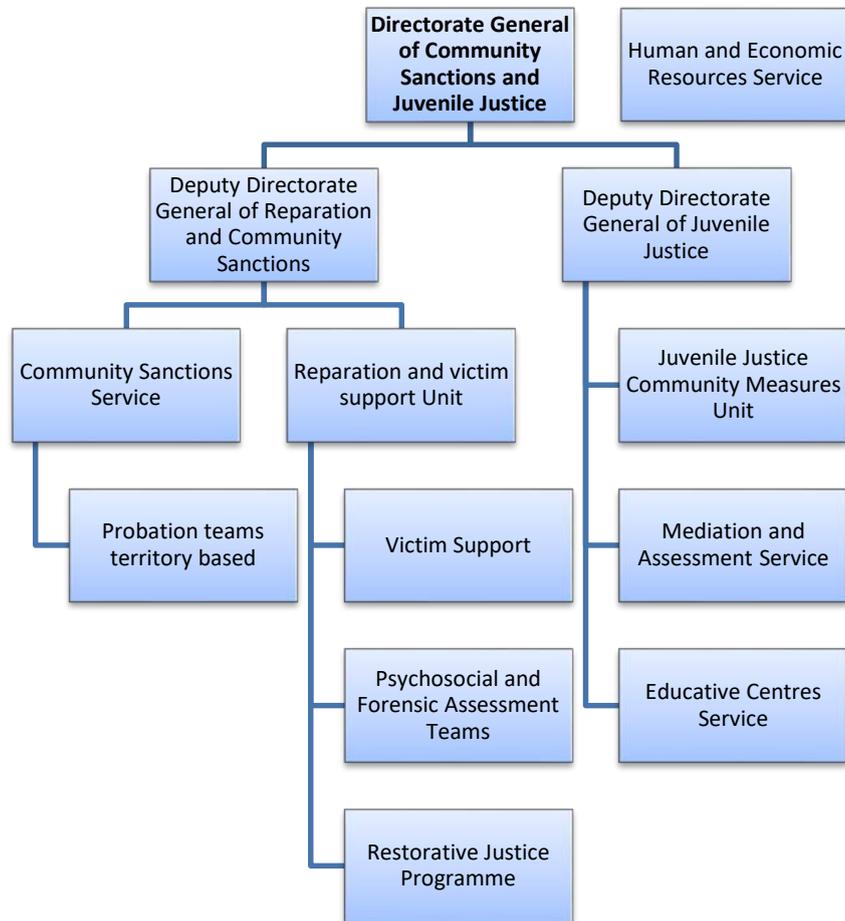
#### 4.1. Main characteristics

As mentioned earlier in section 1.1., in Catalonia the Ministry of Justice is the competent authority for prison services, community sentences and juvenile justice. Within the Ministry of Justice, the Secretariat of Criminal Sanctions, Rehabilitation and Victim Support (hereafter, the Secretariat) is the overarching administration body responsible for the enforcement of criminal sanctions in both, the adults' jurisdiction system and the juvenile justice system, victim support and restorative justice. The Secretariat encompasses on the one hand the Directorate General of Community Sanctions and Juvenile Justice and, on the other hand, the Directorate General of Prison Affairs.



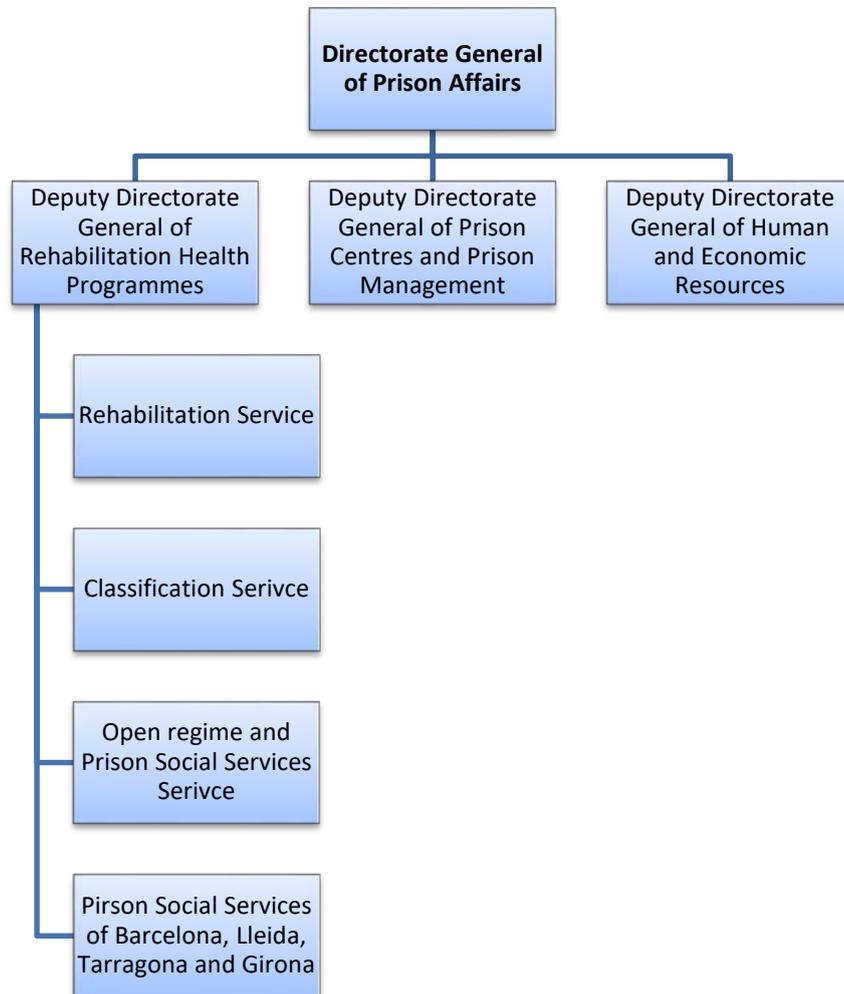
Organisation chart 1: Ministry of Justice.

The Directorate General of Community Sanctions and Juvenile Justice is divided into the Deputy Directorate General of Reparation and Community Sanctions and Measures and the Deputy Directorate General of Juvenile Justice. The former is responsible for the adults' justice system with regard to community sanctions and measures, the pre-sentence reports teams (*Equip d'Assessorament Tècnic Penal*), Victim Support and the Restorative Justice Programme. The latter is responsible for the enforcement of educative measures in juvenile justice (both community and custodial measures).



Organisation chart 2: Directorate General of Community Sanctions and Juvenile Justice.

Within the Directorate General of Prison Affairs, the services related to the prison system are grouped into three Deputy Directorate Generals: Deputy Directorate General of Rehabilitation and Health Programmes, the Deputy Directorate General of Prison Establishments and the Deputy Directorate General of Economic and Human Resources.



Organisation chart 3: Directorate General of Prison Affairs

The Deputy Directorate General of Rehabilitation and Health Programmes is responsible for the Rehabilitation Service, the Classification Service the Open Regime and the Service of Prison Social Services and the Prison Social Services in Barcelona, Girona, Lleida, Tarragona and Terres de l'Ebre). The Open Regime and Social Services Service is located in the Secretariat central office and supports to the provincial Prison Social Services and the respective open prison multidisciplinary teams by establishing collaboration relations with community agencies and coordinating their working plan by elaborating guidelines and internal policy. The Prison Social Services are provincially based and, amongst other tasks, together with the inmate are responsible for drawing up the individualised plan when s/he has been granted the third grade (open regime also known as semi-freedom regime, conditional release and aftercare).

The Decree 6/2019 reorganising the Ministry of Justice, lays down a territorially based organisation with regard to the justice system, probation, juvenile justice and the Prison Social Services, with the aim of maximizing the geographical proximity of service provision to the citizens across the autonomous community. In addition to the offices providing services across the province of Barcelona, there are also four other offices which are based in Girona, Lleida, Tarragona and Terres de l'Ebre.

## 4.2. Internal organisation

The Directorate General of Criminal Sanctions and Juvenile Justice is divided into two deputy directorate generals to fulfil its responsibilities. One of them being a Deputy Directorate General and the rest named as 'services' (*servei o àrea*). The Human and Financial Resources Unit serves the whole of the Directorate General.

The Deputy Directorate General of Reparation and Community Sanctions and Measures is responsible for the management of all the programmes and services aimed at supervising the enforcement of community measures, as well as the Specialised Assessment Teams and the Restorative Justice Programme within the adults' justice system. It is also responsible for the Victim Support Office, which serves victims of all types of crimes.

The enforcement of the different type of community measures and sanctions is outsourced to the non-profit agencies via a public tender launched to this purpose. At the time this chapter is written such non-profit agencies are the following:

- Social Rehabilitation Institute (*IRES-Institut de Reinserció Social*): is responsible for the Training and Treatment Programs implemented in the province of Barcelona;
- Association for the Promotion and Professional Resettlement (*APIP, Associació per la Promoció i la Inserció Professional*) takes care of the management of all measures of community service, as well, in whole province of Barcelona;
- Institute of Social Work and Social Services (*INTRESS, Institut de Treball I Serveis Socials*) oversees the whole range of alternative sanctions in Girona, Lleida, Tarragona and Terres de l'Ebre.

The area of community measures is composed of twenty-five teams, sixteen of them for the adult jurisdiction (managed by IRES, APIP and INTRESS) and nine for juveniles (formed by civil servants of the Ministry of Justice).

Since January 2011 the Foundation for Comprehensive Care (*AGI, Fundació Assistència i Gestió Integral*) runs the Restorative Justice Programme for the adult population as a result of a public tender with the Directorate General of Probation and Juvenile Justice. The staff assigned to the Restorative Justice Programme is based in the offices where the Specialised Assessment Teams and the Probation Teams are located, which favours the coordination among them when required for the case.

Under the Deputy Directorate General of Juvenile Justice, all probation activities are supervised and implemented by the staff of the Mediation and Assessment Service (*Servei de Mediació i Assessorament Tècnic*) and the Enforcement of Community Sanctions Unit (*Àrea d'Execució de Mesures en Medi Obert*). There are nine teams responsible for the enforcement and follow up of community educative measures for minors. These are formed by public employees of the Ministry of Justice: one in each of the territorial areas of Lleida, Girona, Tarragona and Terres de l'Ebre, and four in the province of Barcelona.

The Prison Social Services are overseen by the Deputy Directorate General of Rehabilitation and Health Programmes which belongs to the Directorate General of Prison Affairs.

At present, there are 14 prison establishments in Catalonia amongst which there are five open prisons and a Prison Hospital which consists of a wing attached to a public hospital and it is called *Pavelló Hospitalari de Terrassa*.

Those inmates that are granted open regime are placed in an open prison or also so called open unit (*secció oberta*). These are attached to regular prisons albeit with different entry access and life regime than that of the prison. In addition, as mentioned above, there is a Prison Social Services unit in each of the four geographical demarcations of Catalonia.

The teams of the Prison Social Services, although focusing on social work, are multidisciplinary and therefore are made up of social workers, social educators, psychologists, jurists, educators (these to a lesser extent), and administrative staff. The purpose of these units is to carry out all social work related interventions with inmates along all the stages of the prison sentence in closed regime, ordinary regime and in the different forms of open regime as well as conditional release and aftercare.

### **4.3. Probation officers**

The ratio of cases for probation officers is defined in order to allow the necessary time for building the working alliance with the offender and carry out quality monitoring. Moreover, is a fundamental part of the probation work to maintain fluent contact with related services within the Ministry of Justice and NGO's collaborating with probation, in order to align their respective interventions and secure the fulfilment of the objectives established in the individualised work plan.

#### **Community Sanctions**

Currently, in addition to coordinators and administrative staff, there are 125 probation officers whose work focuses on casework. The average number of clients that a probation officer can be supervising at a given time is 70, although this number can vary along the year.

#### **Prison open regime and conditional release**

In the prison social services teams there are staff members with managing duties, social workers, legal advisors, social educators, psychologists, job-sourcing specialists, pedagogues, a liaison officer with mental health institutions in the community and administrative staff. In what follows an estimate of the ratio of inmates being served at a given time by one professional is provided:

- Social educator: 35 inmates
- Psychologist: 80 inmates
- Social Worker: 50 inmates
- Legal advisors: 100 inmates

#### **Juvenile justice**

There are a total of 73 juvenile advisers who work together with coordinators, psychologists and administrative staff. In 2020 a juvenile adviser dealt with an average of 34 minors over the year.

##### **4.3.1. Education, training requirements and opportunities**

The qualifications required to access the job positions within probation, slightly vary depending on the programme. The job posts for probation in both, the juveniles' and the adults' system, in accordance to the European Probation Rules, establish the need for candidates to meet education and training requirements as well as the personal skills appropriate to dealing directly with individuals undergoing difficult social and personal situations.

##### *Adults' justice system*

Depending on the role that the specific professional is assigned to in the Assessment Teams, a university degree on social work or a degree on psychology is required.

Probation officers working with adults, preferably should hold a university degree in social work, criminology or social education, although people with a degree in psychology, teaching, law or criminology are also recruited.

Mediators of the Restorative Justice Programme should hold a university degree in the field of social sciences, social work, psychology, criminology, law or social education. These professionals are required further specialized training in conflict resolution.

With regard to the prison system, the professionals working with inmates on open regime and conditional release, are selected on the basis of a number of criteria. The experience in the field of criminal enforcement is a key aspect. Moreover, the competences and skills selection model is also critical. This includes the assessment of communication skills, teamwork, knowledge on the community related services and stress management skills.

In particular, professionals working at the prison social services must hold a degree on social work. Those with a degree in psychology or social education can also be selected to work in the multidisciplinary teams of the Criminal Enforcement Social Services units. Moreover, when selecting new staff members, having undergone continued education through other courses or post-graduate programmes, is also valued.

In this respect, a number of training opportunities are offered by universities in Catalonia. It is worth mentioning the official post-graduate master on Probation and Restorative Justice (both in juvenile justice and adults) which was launched in 2011 as a result of an agreement reached between the University of Barcelona, the IRES Foundation, the Ministry of Justice and other partners.

#### *Juvenile Justice*

In order to work at the Juvenile Justice Community Measures Unit (*Àrea de Medi Obert*) a university degree on social education or pedagogy is required to those working as juvenile advisors, whereas a university degree on psychology is required to the members of the team who work as psychologists.

#### **4.3.2. Employment relationship**

The professionals working in the Forensic Assessment Teams in the adult jurisdiction, practitioners working at the Juvenile Justice units, Victim Support Office, and Prison Services including the Prison Social Services, are public employees belonging to the Ministry of Justice. A high level of occupational stability distinguishes such type of working relationship. For the most part, when these professionals join the staff of one specific unit they already have had several years of experience in the field of justice.

By contrast, probation officers and restorative justice facilitators working in the adults' system are being hired by the agencies that have won a public tender to manage the different programmes, namely by the IRES Foundation, APIP, INTRESS and the AGI Foundation.

Notwithstanding the different working relationship, all staff members including both, public employees and those working at non-profit organisations shall comply with the principles described in the Ethics Code of the Catalan Prison and Probation Services, which directly draws on the Council of Europe Code of Ethics for Prison Staff (Recommendation 2012(5))

#### **4.4. Support agencies**

There are three agencies of different nature providing support to the mission of the Secretariat of Criminal Sanctions, Rehabilitation and Victim Support.

Starting by the Community Participation Board, already described under 3.6., which acts as a key player in favouring the active involvement of citizens in the rehabilitation goal of criminal sanctions. In addition, there is the Centre for Reintegration Initiatives (CIRE) and the Centre for Legal Studies and Specialised Training (CEJFE) that are further described in the following sections.

#### **4.3.3. Initial in-house training and lifelong learning**

The staff of the Ministry of Justice is entitled to 40 hours per year of training during working hours, which may be used for the in-depth study of skills and methodologies associated with each of the programmes, or for a flexible training curriculum that enables them to acquire knowledge that will be useful for their professional future.

There is also the ever more frequent possibility of studying master's degrees related to the enforcement of sentences, forensic psychology, criminal law, criminology and restorative justice, amongst others.

The initial and ongoing training of the probation staff (adults and juveniles) within the Ministry of Justice is organised and delivered by the Centre for Legal Studies and Specialized Training which meets the standards of the European Probation Rules. The training for the probation staff of the outsourced services (IRES, INTRESS, APIP), is organised and delivered by the respective partner agencies.

Initial training may be individualised and practical, allowing the new member of the team to gradually learn the tasks and responsibilities assigned with the support of a colleague from the same team. For services and programmes delivered by public employees, initial training is organised and scheduled by the Centre for Legal Studies and Specialised Training. For the services and programmes delivered by external agencies, will be these to deliver the initial training for their employees in accordance with the standards set by the Ministry of Justice.

#### **4.4.1. Centre for Reintegration Initiatives (CIRE)**

The CIRE is a public agency whose aim is reintegrating offenders into the community by offering a range of different professional and vocational training options and by encouraging positive working habits. To this end CIRE implements and runs manufacturing workshops located inside and outside the prison establishments. Although most of the CIRE's activities, both training and manufacturing, take place inside the prison, it also offers an Employment Resettlement Service to those who are serving a sentence in open regime and conditional release. This service includes the management of a job exchange which offers jobs arranged with companies, employment plans, occupational and training workshops and work contracts for the provision of services contracted by the CIRE with the public administration to perform activities such as the refurbishment of buildings, furniture management and alike.

#### **4.4.2. The Centre for Legal Studies and Specialised Training (CEJFE)**

In line with Rules 23 to 26 and Rules 104, 106 and 107 of the EPR, the Ministry of Justice in Catalonia has historically placed a great emphasis on training and research. That is why it set up the CEJFE as early as in 1990 and it has always played a crucial role in the initial and continuous training of the staff working at the Ministry of Justice including prison and probation staff as well as juvenile justice and victim support practitioners amongst others.

The CEJFE<sup>20</sup> is an autonomous administrative body ascribed to the Ministry of Justice. It was created by Act 18/1990, of 15 November, with the purpose of conducting specialised training and research activities in the field of law and justice.

In what follows, the activities carried out within the two main fields of action, namely training and research, are outlined:

##### *Training*

These activities can be grouped into three different categories:

- Training in criminal enforcement: provides initial and continued training for professionals working in the field of juvenile justice, probation and the prison system. It also offers activities in criminology and criminal enforcement.
- General and management training: basic enrichment and strategic training in the knowledge and attitudes needed to improve the job skills of the Ministry of Justice staff.
- New Training Programs: two types of training activities are being emphasised. First the so called information and knowledge management programmes for the Ministry of Justice, of which the "Sharing practice programme" (*Programa Compartim*) is the most

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<sup>20</sup> See the CEJFE website here <https://cejfe.gencat.cat/en/inici/index.html>

clear example. Other initiatives include training and activities geared towards innovation in training and exploring new formats and methodologies, in addition to activities related to the planning and delivery of informal learning experiences.

### *Research*

The CEJFE promotes and funds external studies and research projects, conducts its own research studies in the fields of criminal enforcement, restorative justice and victim support. Part of the CEJFE research has to do with the evaluation of the services of the Ministry of Justice including those of the Secretariat. The results of these studies help guide the design and improvement of policies to be implemented by the Ministry of Justice.

The CEJFE has two prime objectives in this field: the promotion of research, primarily through grants that are awarded annually, and the dissemination of the resulting reports by organising Research Sessions, managing the Research Catalogue and publishing the newsletters *Justidata* and *Invesbreu*.

#### Research sessions

Research sessions are public presentations in which the authors present the main results of research they have conducted with the support of the CEJFE or that have been carried by the CEJFE staff.

They are intended for all professionals at the Ministry of Justice as well as external professionals and students who are interested. Registration will be online and opens a few days before a particular session is held. Entrance is free of charge. When in-person attendance is not possible, sessions can be followed live on streaming video and questions can be submitted online during the presentation. Sessions are also made available on the Youtube channel of the Ministry of Justice about three days after they are held.

#### Research catalogue

The online catalogue includes all research reports that the CEJFE has entirely or partially funded from 1987 to present and can be downloaded without charge. The studies are classified by topic or chronologically<sup>21</sup>.

Moreover, a hard copy of all reports is available at the CEJFE's library. Some of the research results have been published in books or journals of the Government of Catalonia, or as indicated in the abstracts of studies and can be purchased at the Government of Catalonia's book shops. Studies have also been published in PDF format, which has also been noted in the catalogue, and may be viewed and downloaded directly from this website.

### *Library*

The Library of the CEJFE is a specialized public library. You can find documentation on criminal law, penitentiary law, criminology, juvenile justice, administrative law, civil law, family law and other matters such as psychology, pedagogy, social work or knowledge management.

### *Publications*

The CEJFE publishes both hard copies and in digital format. They are usually in Catalan and Spanish, but in many cases in English as well. Whenever possible they are distributed with a Creative Commons licence for wider access.

#### **4.4.3. Postgraduate course on Probation and Restorative Justice**

Additionally, and as a very promising practice, the Ministry of Justice, in partnership with the University of Barcelona and the IRES and the AGI Foundation, organise a postgraduate course of two years of duration with the purpose of training post graduate students of social sciences' degrees in the skills required to become a probation officer or a restorative justice facilitator.

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<sup>21</sup> See <http://cejfe.gencat.cat/ca/recerca/catalog/>

This postgraduate course is part of the official offer of the University of Barcelona hence, once completed the students obtain an accredited diploma. The first edition was launched in the academic year of 2015-2016.

Although this postgraduate course is not a requirement for taking part in the recruitment processes for community sanctions, is highly valued when assessing candidates.<sup>22</sup>

#### **4.5. Probation and offenders abroad**

With regard to Rule 65 of EPR, it should be noted that within the Secretariat of Criminal Sanctions, Rehabilitation and Victim Support no specific unit or scheme is foreseen neither for the follow-up of Catalan residents who are serving a prison or a community sentence abroad, nor for foreign nationals who are serving a prison or a probation sentence in Catalonia. However, the External Affairs Unit (*Unitat de Comunicació i Relacions Externes*) of the Secretariat of Criminal Sanctions, Rehabilitation and Victim Support, has regular contact with Consulates and Embassies located in Catalonia and Spain and supports them in their task of providing consular assistance to their nationals in prison.

For foreign nationals from the EU and for Spanish citizens in the rest of the EU, the Framework Decisions 947/2008 and 829/2008 were transposed by the Spanish Parliament in 2014 (Law 23/2014, of 20th of November, on mutual recognition of the criminal resolutions in the EU). However, in practice their degree of implementation has been very scarce to date. A possible factor contributing to this limited implementation could be the lack of awareness among judicial authorities and stakeholders about the streamlined processes such legal instruments provide. For foreign nationals out of the EU and Spanish nationals who are outside the EU, there are bilateral agreements between Spain and certain countries outside the EU which establish the requirements, the specific procedure and the bodies involved in the transfer of foreign nationals.

### **5. Different Stages of the Criminal Justice Process**

In accordance with the European Probation Rules, all interventions performed before trial require the consent of the defendant. This consent does not imply an acknowledgment of guilt of criminal nature. The Spanish legislative body governing the implementation of community service states that these activities cannot replace any other paid jobs and, where possible, these should entail a symbolic way of repairing the damage and therefore must be related in some way to the nature of the damage caused. At the beginning of each measure the probation officer has the duty of accurately informing the offender about the nature and conditions to be met along the enforcement of the measure and the consequences of non-compliance.

Beyond the monitoring role, the aim underlying the work by the professional supervising the enforcement of community measures is the social integration of the offender and ensuring that s/he has all the relevant information and advice concerning their criminal process, labour resources, education and health services. Such comprehensive approach also applies when electronic monitoring is implemented as the professional will also closely work with the client subject to such measure in order to provide him/her with the support, information and advice, all of which should favour their reintegration process (see 3.2 and 6.1)

In Juvenile Justice, the law establishes that when a custodial measure is imposed on a young person, the Juvenile Court judge must also foresee a community measure in addition to it, which should be implemented right before the end of the custodial measure in order to ensure that the young person receives support in the transition process from the custodial measure to the life in the community.

The juvenile advisor will always take into account the views and commitment of the offender in

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<sup>22</sup> More information on this postgraduate course can be checked here [https://www.ub.edu/web/ub/ca/estudis/oferta\\_formativa/masters\\_propis/fitxa/E/201711609](https://www.ub.edu/web/ub/ca/estudis/oferta_formativa/masters_propis/fitxa/E/201711609)

the design of their individualized work plan to ensure that its objectives are successfully achieved. In the individual work plan and in the reports to the courts, the juvenile advisor will include any referral/s to any social, educational and health services that need to be made in every case. Thus, beyond the duration of the judicial measure, the goals of social integration can be carried out within the period of time required on a case by case basis (see 5.3).

### 5.1. Pre-trial/remand/trial stage

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

Sanctions/ Measures/ Penalties/ Conditions attached to a conditional sentence	Provision in legislation	Probation service involvement	Main characteristics of the probation activity (e.g. supervision, coordination, reporting, referral, help & support)
Unconditional waiver by the public prosecutor	Only in Juvenile Justice		
Conditional waiver by the public prosecutor	Only in Juvenile Justice	X	Victim - offender mediation or other education activities
Conditional suspension of the pre-trial/remand detention	X		
Pre-trial/remand detention	X	X	Restorative Justice programme  Reporting and supervision belongs to the multidisciplinary teams of the prison or the young offender institution.
Police custody			
Bail	X		
Caution			
Surety			
House arrest			
Electronic monitoring			
Community service			
Treatment order	Only in Juvenile Justice	X	The young offender is placed in a different family unit, person or educative group for a period of time

Training/learning order			
Drug/alcohol treatment program			
Compensation to the victim	X	X	Restorative Justice (adults and juveniles)
Mediation	X	X	Restorative Justice (adults and juveniles)
Semi-detention			
Attending a day centre			
Liberty under judicial control	X	X	Reporting and Supervision (only in Juvenile Justice)
Interdiction to leave the country	X		
Interdiction to enter different cities/ places	X		
Interdiction to carry out different activities	X		
Interdiction to contact certain persons	X		
Psychiatric treatment	X		
Deferment of sentence			
Fine			
Other financial sanctions	X		

### 5.1.2. Adults' justice system

#### *Pre-sentence reports*

With regard to Rule 42 of the EPR on this topic, the Spanish legal system does not establish the obligation by the courts request nor by the probation services to prepare pre-sentence reports on individual alleged adult offenders with the aim to assist the judge on imposing a community sentence or measure. This is only compulsory in the juvenile justice system for offenders between 14 to 18 years of age as it will be described later.

The Specialised Assessment Teams in place may issue reports at the request of the court. Such reports may contain various kinds of information with regard to social and

psychological factors such as the need to modify the criminal responsibility due to mental disorder, alcohol or drug addiction, the degree of dangerousness, the risk of recidivism and any other relevant personal circumstances. The judge can also request from such teams a report on the assessment of the impact of the crime on the victim. Therefore, when facing a crime punishable with a community sanction or measure sentence, the court has the possibility to request a report in the terms described in Rule 42, but the law does not foresee it as a compulsory step to be met by the court before passing the sentence. In practice this means that only occasionally do the courts request such type of reports in these cases. Notwithstanding, it would be a significant improvement if the law would actually state the obligation of requesting such reports before deciding on a community sanction or measure. This would allow the court to tailor the criminal sanctions to be imposed and the subsequent interventions by probation and criminal justice staff to the actual risk and criminogenic needs of the offender.

It should be mentioned that the Specialised Assessment Teams also provide specialised professional support to minors and witnesses who have to testify in front of the judge but due to their personal physical or mental condition, are especially vulnerable. This scheme is called *Support Programme to Vulnerable Witnesses* and its activated at the request of the judicial authorities.

#### *Restorative Justice*

In the adult system reparation to the victim before trial may be taken into account by the judge as an attenuating circumstance. Although it is less common, it can also lead to a withdrawal the prosecution and avoid the trial. As mentioned above, in this jurisdiction the Restorative Justice Programme is an outsourced scheme delivered by specialised staff<sup>23</sup>.

Restorative justice processes can take place at any stage of the judicial process and for any crime, as long as there is an identifiable victim. Only in gender violence cases, the Organic Law 1/2004 on the Comprehensive Protective Measures against Gender Violence, explicitly precludes the possibility to refer the case to restorative justice at the pre-trial stage.

#### *Victim Support*

The teams forming the Victim Support Office, lend support and guidance to any citizen who has been a victim of a crime regardless of the age of the accused person. The Victim Support Office liaises with all agencies and institutions that can be of help for the victim including the health system, social services, the police and in particular the police unit specialised in victim support, who are trained to provide initial support and information.

#### **5.1.3. Juvenile Justice**

##### *Initial attention delivered by the Juveniles' Police Unit<sup>24</sup>*

The Directorate General for the Support of Children and Young Persons (*Direcció General d'Atenció a la Infància i l'Adolescència*), which is under the responsibility of the Ministry of Social Rights (*Departament de Drets Socials*), employs a group of specialised educators with the aim to provide immediate support to minors who have been arrested by the Juveniles' Police Unit. This intervention may provide social and educational guidance to the young person and their family.

##### *Support at the prosecutor's office*

Since 2001, a round-the-clock system of rotations among the staff of the Specialised Assessment Teams within the SMAT was set up in order to meet the needs of the permanent service of the juvenile prosecution offices. The Specialised Assessment Teams' reports serve

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<sup>23</sup> Currently, the organisation running the programme is AGI Foundation (*Fundació d'Assistència i Gestió Integral*)

<sup>24</sup> In Catalonia, the police body who is responsible for the support to the criminal justice system is the autonomous police body which is called *Cos de Mossos d'Esquadra*.

as a grounds for the public prosecutor to decide whether the judge should adopt a precautionary measure for the minor.

### *Pre-sentence reports*

In juvenile justice, the Specialised Assessment Teams belonging to the SMAT, must produce a report on the psychological and social aspects that are relevant to the education of the minor offender. According to art 27 of Organic Law 5/2000 regulating the Criminal Responsibility of Minors this report is mandatory in all cases, except for those in which, with the agreement of the Prosecution Office, it is decided to start a restorative justice process. In order to prepare such report, professionals of the Specialised Assessment Teams shall interview the young person and gather information from him/her and other professionals or agencies that can be of help to have a comprehensive view of the situation of young person. On these grounds, the professional may also propose the Youth Court the educative measure to be imposed. They can also attend judicial hearings. Such report enables judges and prosecutors to decide about the most appropriate measure or measures to impose on the young person. The support and supervision of the young person who is complying with a precautionary measure and their families is carried out by the juvenile advisors.

As mentioned earlier, the art. 27 of Organic Law 5/2000 regulating the Criminal Responsibility of Minors concerning pre-sentence reports, fully complies with Rule 42 of EPR, related to the need of presentence reports that serve to assist the judicial authorities to decide whether to withdraw prosecution or to continue with the proceedings, and in the latter case, what would be the educative measure more appropriate for the young person.

### *Restorative justice*

In juvenile justice, legislation provides that for offences not involving serious violence (according to the Criminal Code that means crimes up to less than five years of imprisonment), the judicial proceedings may be terminated if the minor has repaired the harm caused to the victim or is prepared to do so. In this jurisdiction the mediators are specialised professionals who are part of the SMAT of the Directorate General of Community Sanctions and Juvenile Justice.

## **5.2. Enforcement stage**

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

Sanctions/Measures/ Penalties/Conditions attached to a conditional sentence	Provision in legislation	Probation service involvement	Main characteristics of the probation activity (e.g. supervision, coordination, reporting, referral, help and support)
Imprisonment	X	X	Probation Services are in regular contact with the prison or juvenile justice custodial centre to prepare the enforcement of conditional release when applicable
Suspended sentence	X	X	Supervision, reporting and support
Conditional sentence	X	X	Supervision, reporting and support

Affidamento in prova			
House arrest	X	X	Juvenile probation officers provide follow-up and support
Electronic monitoring	X	X	Supervision and reporting
Community service as sanction	X	X	Supervision, reporting and support
Semi-liberty	X	X	Supervision, reporting and support
Semi-detention			
Treatment order	X	X	Supervision, reporting and support
Training/learning order	X	X	Supervision, reporting and support
Drug/alcohol treatment program	X	X	Supervision, reporting and support
Educational measures	X	X	Supervision, reporting and support
Compensation to the victim	X	X	Supervision, reporting and support
Mediation	X	X	Coordination and reporting
Attending a day centre	X	X	Supervision, reporting and support
Interdiction to leave the country	X	X	Reporting
Interdiction to enter different cities/places	X	X	Reporting
Interdiction to carry out different activities	X	X	Supervision, reporting and support
Interdiction to not to contact certain individuals	X	X	Informing and reporting
Fine			
Day fine	X		Could be replaced by a community sanction
Other financial penalties			

In/out patient order (psychiatric treatment)	X	X	Supervision, reporting and support
Security measures	X	X	Supervision, reporting and support
Combined order	X	X	Supervision, reporting and support
Community punishment	X	X	Supervision, reporting and support
Conditional release / Parole	X	X	Supervision, reporting and support
Automatic release			
Open prison	X	X	Supervision, reporting and support
Penitentiary program outside the prison	X	X	Supervision, reporting and support

With regard to attending a day centre, it should be borne in mind that this option only exists as an educative measure in juvenile justice because in the adults' justice system the legal provisions do not foresee such measure as one of the possible community sanctions.

### **5.2.1. Adults' justice system**

Probation officers working in the adults' justice system are responsible for supervising suspended sentences, community service and security measures.

#### *Suspended sentences*

As mentioned above, the judge can impose on the offender the fulfilment of different types of conditions during the suspension period. The probation services are responsible for the follow-up, supervision and reporting to the judge about the degree of compliance of such conditions by the offender. Moreover, probation officers will refer the offender to the dedicated agencies where s/he will undergo the treatment required for his/her substance abuse or mental health condition or where s/he will follow training programmes that will address the aspects conducive to his/her offending behaviour (violent crimes, gender crimes, sexual violence, hate crimes, traffic offences and community responsibility).

#### *Community Service*

The probation officer together with the offender will draft an individualised work plan where the kind of community service is agreed as well as the schedule and the calendar taking into account the social, labour and family circumstances of the client. The working plan will be submitted to the judge who must formally agree to the plan in order for it to be enforced. The probation officer will do the follow-up of the compliance and will issue the final report for the judge.

#### *Security measures*

The probation officer will refer the sentenced person to the health service where s/he will undergo the appropriate treatment and will also follow-up the compliance of the security measure in coordination with the staff of the health services. S/he will be responsible for reporting to the judge on the possible difficulties encountered and the overall evolution of the offender with regard to the treatment.

### *Open regime*

The multidisciplinary teams of the Prison Social Services are formed by legal advisors, social workers, psychologists and social educators. They are in charge of the supervision of all inmates, including those who have been granted open regime.

This type of life regime involves either the placement in an open prison, which allows for a life regime more flexible than in a regular prison, or the placement in the open prison only to stay overnight (see section 3.1.1 D) and E)). In all cases, when being in open regime, the inmate is being monitored and supervised by the prison staff. When deemed appropriate and in addition to the regular staff supervision, s/he can also be subject to electronic monitoring.

In this context, the multidisciplinary teams issue reports in the case of incidents leading to regression of grade (e.g. when the inmate commits a new offence), or to support the conditional release proposal. Moreover, they also issue reports at the judge request in order to provide more information on a particular aspect of the inmate's process or when a prison leave needs to be awarded.

### *Conditional release supervision*

Within the Prison Social Services, there are social workers who are assigned to the supervision of offenders on conditional release. They have to report regularly to the judge and when any relevant incidents occur. In such events, the report will propose the maintenance or revocation of the conditional release. The reporting can also serve to ask for a permission for the inmate to travel outside the autonomous community or to request the termination of the serving of the sentence.

The supervision by the social workers can be implemented in one of the three possible degrees of intensity:

- *Ordinary*: it entails at least one interview with the social worker per month.
- *Advanced*: those inmates who are making good progress will hold one interview with the social worker once every three months.
- *Intensive*: inmates included in special programs of sexual offences, domestic violence and mental health are regularly interviewed by the social worker and the psychologist of the Prison Social Services.

### *Victim support*

At the enforcement stage the Victim Support Office monitors the compliance of restraining orders imposed by the judge to protect the victim. It also provides the victims with access to social services or other specialised services when necessary.

#### **5.2.2. Juvenile justice**

The educative measures than a judge can impose to a young person and therefore, are taking place at the enforcement stage, have been fully described above under section 3.1.2. Depending on the degree of involvement of the juvenile advisors, these can be grouped into two types:

- Fully and directly enforced by the juvenile advisor, such as probation and weekend home arrest, who follows up how the young person is complying with the measure and regularly reports to the judge.
- Enforced by the juvenile advisor in collaboration with other services, such as therapeutic outpatient treatment, attendance to a day centre, coexistence with another family or educational group, community work and socio-educational duties.

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

Providing support to the families of the offenders or inmates	X
Coordinating volunteer prison visitors	X
Preparing inmates for conditional release and/or release	X
Preparing inmates for home leave and/or providing support during home leave	X
Providing support to offenders that have been pardoned or amnestied	
Providing advisory report with respect to amnesty or pardon	X

As mentioned earlier restorative justice, although less frequently used, is also available at the post-sentence stage in both, juvenile justice and the adults' justice system, regardless of whether the offender is complying with a community sanction, a prison sentence or a custodial measure.

### **5.3. Resettlement and after-care**

#### **5.3.1. Adults' justice system**

At the last stages of a prison sentence, a community sanction or a security measure, any probation and prison professional will work in a coordinated way with the services, agencies and any relevant institution of the community network (social services, health, drug addiction, mental health, associations, other collaboration agreements with other public administrations etc.) in order to prepare the reintegration process of the offender.

In the adult justice system, when certain requirements are met, some inmates that have completed their sentence might be eligible to receive an unemployment benefit for a maximum period of 18 months. Those who have never been employed before, are entitled to receive an inmate's release subsidy for a period of 6 months. For those who have completed their sentence there are two specific schemes focusing on resettlement and after-care.

Firstly, for those inmates who are in a particularly vulnerable situation for not having sufficient means nor bonds with their community, and voluntarily require to receive support after the final release day, the Prison Social Services will agree to accompany and guide them for a brief period of time over the first stages of the transition to life in the community. An individualised plan will be devised together with the inmate in order to identify the main areas of urgent need. Over two months right after the final release from prison, the Prison Social Services will focus on providing advice and supporting the individual in liaising with the community services and agencies that s/he will need to resort to for their reintegration into the community. Receiving this kind of support is voluntary and will only be provided at the request of the ex-inmate and for a very limited period of time.

Secondly, the Community Support Scheme (*Pla de Suport Comunitari*) offers support to those inmates with more vulnerability indicators with regard to their family, housing, health and work. It aims at bridging the gap among particularly vulnerable inmates with the community services and agencies that will be useful for them. The multidisciplinary team start this intervention with the inmate at least 6 months before the final release date and can last up to one year after that date. This specific scheme is set up in collaboration with the Community Participation Board as

the collaboration and networking strategy among community and non-profit organisations and other institutions is pivotal for the its implementation.

There are two underlying approaches to these programmes. On the one hand the model based on the assessment of the risk of recidivism which focused on cognitive and rehabilitative intervention and, on the other hand, the model based on post-criminal social reintegration, aimed at establishing social and community ties.

### **5.3.2. Juvenile Justice**

As mentioned earlier, as a general rule when a custodial measure is imposed on a young person, a community measure should also be established. The community measure will be enforced right before the custodial measures ends with the aim of ensuring the gradual reintegration of the young person into the community. Besides this provision, the Directorate General of Community Sanctions and Juvenile Justice runs an after-care scheme for those cases in which the educative measure has come to an end but the young person needs more time to finish a programme, a course, a treatment or another type of process foreseen in his/her working plan and that it is deemed important. This after-care scheme allows for the young person to voluntarily request for the support of the juvenile advisor for a limited period of time that s/he will need to complete the programme or task.

## **6. Probation Methodology**

The working methodology that is gradually becoming more prevalent with minors and adults consists on addressing the risk factors and strengthening the protective factors of the specific client and therefore, individualising the response in the enforcement of the criminal sanction or measure. Consequently, the use of standardised assessment tools is common practice. Moreover, promoting and facilitating the community involvement in criminal enforcement interventions through support schemes, is also a fundamental principle underlying all probation interventions.

### **6.1. Adults' justice system**

#### **6.1.1. Community sanctions and security measures**

According to the EPR in all cases regular coordination is arranged between the Ministry of Justice and the staff of the agencies where the court's decisions are implemented. The agencies implementing these measures have signed contracts with the Ministry of Justice after winning a public tender. They have to comply with the principles, requirements and procedures agreed with the Ministry of Justice. All intervention programs are individualized and aimed at reducing recidivism and achieving social reintegration.

When enforcing a community sanction, probation officers will carry out a needs assessment and on these grounds, they will design the degree of their intervention and the intensity of their follow-up and monitoring of a particular offender. When enforcing educative and training programmes, probation officers also conduct a needs assessment. However, a structured and validated risk assessment tool is not available for community sanctions in the terms stated in Rule 66 of the EPR.

As it is well known, this depends largely on the effective involvement of the offender in the plan for implementing the community sanction. Once the sentence has been issued, an individualised work plan agreement is signed between the probation officer and the offender where the two following aspects are addressed:

- Kind of supervision by the probation officer and how it will be implemented.
- The responsibilities and/or duties of both, the offender and the probation officer.

The goals set in the plan may include the fulfilment of the activities or treatments previously decided by the judge such as community service, participation in cognitive behavioural

programmes, employment or training programmes and socio-medical treatment amongst others.

It requires the offender to take responsibility with regard to compliance of the commitments agreed in the plan. The degree of acceptance and responsiveness varies from person to person and also depends on their situation at the time. The variables determining the degree of commitment are amongst others:

- The personal characteristics of each person.
- The adjustment to the conditions imposed by the court and the personal capacity of the individual.
- The need to observe the court's ruling.

In some cases, it is possible for the probation officer to propose modifications to the community sanction or treatment laid down by the judge. As a way of example, when the judge has imposed the sanction of community service and the probation officer identifies that there is a need of treatment or training, s/he may propose to the judge to impose a community service sanction that also involves treatment or training. In addition, in some cases the completion of an activity or treatment might not meet the deadline foreseen by the sentence. In such situation it needs to be determined whether it is appropriate to continue with the socio-educational supervision and, therefore, define the conditions under which it should be conducted over the time still left.

Generally speaking, it is particularly important for the probation officer to ensure close coordination with the public network of social and health care services, education and employment services and NGO's and other agencies operating in the field of probation.

The main responsibilities of probation officers in the implementation of community service are the following:

- Ensuring that the obligations imposed by the judge and responsibilities foreseen in the individualised work plan are being met by the offender.
- Keeping the relevant judicial authorities informed about sanction or measure compliance and the progress made.
- Promoting the social integration of the sentenced person through educational follow-up.
- Promoting social and community resources suited to the needs of the person.
- Raising awareness and engaging the community in the enforcement of such sentences.

When the enforcement of the sanction or measure starts, the probation officer assigned to the case will arrange a first interview with the goal of fully informing the offender about the terms of his/her sentence and to reach an agreement with him/her about the individualised work plan. The probation officer will send an initial report to the court informing about the plan agreed, the objectives and the deadlines.

The probation officer will then hold regular interviews with the offender in order to follow-up how the terms of the plan are being implemented. The frequency of the interviews can be increased if the probation officer identifies particular needs or a specific risk. Moreover, during the interviews the probation officer should work towards establishing a helpful and supportive relationship with the offender so that relevant challenges of the individual's situation can arise and addressed whenever possible. In this way the aims of the community sanction or the measure can be fully accomplished.

It should be pointed out however, that a risk and needs assessment about the evolution of the offender across the time s/he serves the sentence, is not carried out in a systematic way as foreseen by Rule 81 of the EPR.

Probation officers have different educational backgrounds such as social work, psychology,

criminology, social education or law but they all perform the same set of tasks when dealing with offenders except for the team coordinator. Probation teams may resort to professionals from other services or organizations depending on the needs of each case at different levels of care, training or treatment.

The probation officer will keep a record of the interviews held with the offender, any developments occurred in the course of the plan and any contacts made with other agencies or services related to the case. Every three months, the probation officer shall prepare a report for the judge describing the degree of compliance of the commitments and obligations by the offender. If the probation officer deems it necessary to introduce changes to the plan, this is also expressed in this report to the judge. Therefore, the aim of the probation officer through the report is not to merely pass the information on to the judge, but to act as an interlocutor with the court, channelling various requests and propose any changes that can help adjust the court's sentence to the aims of the intervention. The reports produced by the probation officer have to be drafted in accordance with specific deadlines that are established according to the length of the sentence and the nature of the report. Finally, when the sanction or measure is completed, the probation officer will draft a final report evaluating the results of the plan to be sent to the court.

It should be noted that all teams of probation officers have a coordinator whose task is supervising the overall functioning of the team and acting as a reference person.

#### **6.1.2. Open regime and conditional release**

The goal of the open regime is to enhance the inmate's social skills and the positive factors for their reintegration once they have already reached third grade or conditional release.

The prison professionals working with inmates on open regime and conditional release provide support and guidance to the inmate in their process of reintegration in the community. When certain circumstances are met, the enforcement of the prison sentence can be done on open regime from the outset.

The prison professionals use assessment tools to support their work with inmates along all the stages of the prison sentence including open regime and conditional release. The main model followed is the Risk-Need-Responsiveness Model of Andrews and Bonta (2006) and in particular a tool called RisCanvi, which allows to identify risk and protective factors (dynamic and static) of the inmates in the course of the serving of the sentence. The results of this tool indicate the degree of risk of different aspects such as self-directed violence, intra-institutional violence, violent recidivism and breach of the sentence. Complementarily, the Good Lives model of Ward (2002) is also used. Based on the outcomes of the implementation of these tools, the type of follow-up with the inmate will have three possible degrees of intensity as described in 5.2.1.

Finally, other resources to support inmates who have addiction issues are also available in their transition into the community, particularly in those cases where the social support in the community is lacking. That could be the case of agreeing on a placement of the inmate on a therapeutic community for drug treatment or NGO's who provide socio-educational support assigning a professional that will support him/her in liaising with services and institutions in the community.

#### **6.1.3. Restorative justice programme**

In both, the adults' and the juvenile justice scheme, victim-offender mediation is the restorative practice mostly used. This includes individual interviews with victim and offender as well as face-to-face meetings (as long as these meetings are considered appropriate and are accepted by the parties). Confidentiality throughout the process is crucial and participation for all parties must be voluntary, which means that they can withdraw from the restorative process at any stage. The mediators for both schemes have been trained to conduct other restorative practices based on adapted forms of circles or conferencing, thus when the case requires so, the mediator/s assigned to the case will design a restorative process according to what

better meets the needs of the case.

The restorative process can conclude with specific agreements for reparation to the victim. These agreements are drawn up in a document signed by both parties and by the mediator who is responsible for supervising its compliance. Once the restorative process has concluded, the mediator communicates the results to the judicial authority. If the restorative process finishes with no possibility for reparation in sight, this is also communicated to the court. Particularly in the adults' justice system, it is made clear that a lack of agreement will not influence the judge's decision in favour of any of the parties.

## **6.2. Juvenile justice**

### **6.2.1. Educative measures**

The juvenile advisor shall devise a differentiated individualised intervention plan for each educative measure to be completed by the young person. The juvenile advisor will apply the risk assessment tool called SAVRY (Structured Assessment of Violence Risk in Youth) and will identify the risk and protective factors on which individualised intervention plan with the minor has to focus along the completion of the educative measure.

The juvenile advisor will carry out the Plan resorting to the different services and options available and publicly funded. There are a number of different tools and specific programmes that the juvenile advisor can implement by him/herself either working individually with the young person or with a help group that is being managed with a psychologist of the team or a volunteer. Moreover, within their team, the juvenile advisors also count on a psychologist who will support them whenever it is deemed necessary.

### **6.2.2. Restorative Justice programmes**

In juvenile justice the Mediation and Assessment Service is responsible for facilitating restorative processes between young offenders and their victims. Victims and young offenders will only take part in the process voluntarily. Mediators are trained to conduct mediation processes and other restorative practices.

The mediators will conduct the restorative process and when an agreement is reached, they will supervise its compliance as well. Once the process is completed the outcome is communicated to the prosecutor. If the outcome is positive, the case will be dismissed and no trial will be held. If the restorative process finishes with no possibility for reparation in sight, the judge will assess whether the young person has made an effort to achieve reparation and will take this into account when deciding upon the sentence. This is because juvenile justice is informed by the principle of the best interest of the minor.

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

As it was stated 4.2, the relevant probation rules related to the recognition and financing of probation agencies are established throughout contracts between the Ministry of Justice and external agencies that won the public tender. The Ministry of Justice covers 100% of the costs of the resources needed to implement the probation intervention programs. Moreover, research and evaluation of services and programs in the field of the criminal justice system are promoted by the Centre for Legal Studies and Specialized Training through their own department of research or by funding yearly external research projects (see 4.4.2)

### **7.1. Finances**

All the services described, including those that form part of the administrative structure of the Generalitat de Catalunya and those outsourced through collaboration agreements or service

contracts, are financed with the budget of the Ministry of Justice of the Catalan government. The budget covering the tasks of advising judges and courts, restorative justice programmes, victim support and the enforcement of the community-sanctions and security measures in both, the adults' system and the juvenile justice systems, is prepared by the Secretariat of Criminal Sanctions, Rehabilitation and Victim Support within the Ministry of Justice.

The global 2019 budget for these bodies and services grouped together was of € 462.398.954,12 and in 2020 was of € 487.776.526,31. In what follows the amounts allocated to the different services and programmes is detailed:

	<b>2020</b>	<b>2019</b>
Non-custodial sentences adults	7.132.074,84	7.190.343,81
Victim Support Service	1.159.273,60	1.079.778,25
Restorative Justice Programme adults	525.982,00	535.680,00
Assessment Team adults	1.720.953,76	1.743.380,35
Young Offenders Probation Teams	4.621.892,40	4.394.885,81
Assessment Teams juvenile justice	3.860.706,44	3.775.703,83

## **7.2. Accounting**

The financial administration of the economic resources devoted to the various programmes and services in the field of the enforcement of sentences in the community is not differentiated from that of the rest of public administration services. There are a number of mechanisms for the supervision and monitoring of the expenditure which are applied by the public administration itself through the Ministry of Justice General Auditor, as well as by external auditing by the Audit Board (*Sindicatura de Comptes*), whose task is to inspect the public sector's economic and financial administration and then submit the resulting reports to the Catalan Parliament.

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

All the services and programmes of the Secretariat of Criminal Sanctions, Rehabilitation and Victim Support employ data collection systems which gather the client personal data, judicial and administrative documentation of their case, calculation of periods for compliance, deadlines for the submission of reports as well as log sheets for the staff to introduce their activity.

In particular, there is the prison service information system (*Sistema d'Informació Penitenciari Català*) for pre-trial and sentenced inmates, including those on open regime and conditional release. There is a differentiated information system that includes the data base of community sanctions, assessment teams for adults, restorative justice programme for adults and juvenile justice programmes. However, each professional has only access to the data concerned with the programme or service to which s/he assigned.

Together with other appropriate instruments, such information systems also serve to extract the data for the annual reports, evaluate the outcomes of the programmes and for study and research purposes. The Strategic Projects and Planning Unit of the Secretariat publishes a statistical bulletin on a weekly basis, providing information of a general nature about the services and programmes implemented. In addition, a bulletin providing information concerning the client population as a whole throughout the various sentences (kind of sentence, crimes, sex, age, nationality, participation in treatment programmes, training and employment programmes, etc.) is published every six months.<sup>25</sup>

Spanish law allows any interested party to exercise their right to access the information, correct

<sup>25</sup> Updated statistics on community sanctions, security measures, prison sentences and juvenile justice, are available here [http://justicia.gencat.cat/ca/departament/Estadistiques/mesures\\_penals/](http://justicia.gencat.cat/ca/departament/Estadistiques/mesures_penals/) The main indicators can also be checked in the SPACE I and SPACE II annual reports for the entry *Spain (Catalonia)*

it or erase it. The law establishes that any interested party or their legal representatives, has the right of accessing the public administration records as well as the right to rectification and to erasure. The scope of these rights can be restricted on the grounds of security or the protection of third parties' rights to privacy.

## **8. Societal Support and Clients' Views**

As described above in section 3.6 the most relevant European probation rules relating to information and awareness of the public about the mission of probation services (rules 17,106, 107 and 108) include the activities carried out by the Community Participation Board (*Taula de Participació Social*) and the Ministry of Justice itself through a continuous contact with the media. In this regard it should also be highlighted the permanent activity of dissemination and research carried out by the CEJFE in promoting social and criminological research about the results of the work made by probation services (see 4.4.2)

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

In 2011, the Centre of Opinion Studies, a body that belongs to the Government of Catalonia, conducted a survey in order to gauge the opinion of the citizens with regard to certain topics that were deemed relevant at the time. This survey included several questions with regard to the services provided by the Ministry of justice, amongst others it inquired about the view of ordinary citizens on the use of community sanctions as an alternative to prison in certain cases. Respondents were asked whether for minor crimes they would prefer to impose a prison sentence or a community sanction. The results revealed a very good acceptance by the respondents on the usefulness of community sanctions. Out of 800 respondents, 92% preferred community sanctions to a prison sentence, 5.9% preferred a prison sentence, and 1.7% did not answer<sup>26</sup>.

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

In several studies of the victim-offender mediation programs conducted by Dapena and Martín (2000) and Vall and Villanueva (2003), to evaluate client's satisfaction, the way both sides were treated, the neutrality of mediators and the confidentiality of the mediation process. The findings of these studies showed very positive results for all the items.

In particular, in the study by Dapena and Martín (2000) 96% of the victims and the defendants that responded to the survey thought that the attitude of the mediator was impartial. Regardless of whether the final agreements were fully or partially met, on a scale of 10, the respondents expressed their satisfaction with the mediation process with 8.65 on average. In the study of Vall and Villanueva (2003), on a 10-point scale, the satisfaction level of victims in relation to the agreements reached was 9.20 and the satisfaction of the offenders scored 9.52.

In 2013, professor Tamarit, from the University of Lleida, conducted a study with victims that took part in a restorative justice process. Among other aspects, the study evaluated the degree of satisfaction by the victims and the impact that participating had had on their sense of empowerment.<sup>27</sup>

In 2007 the Directorate General of Community Sanctions and Juvenile Justice set up a specific structured selective programme of preventive intervention addressed to families of minors aged 14 to 18 years' old who had been in contact with the juvenile justice system for the first time. It is called Limits Programme (*Programa Límits*), and it focuses on training groups of families on parental skills aimed at preventing their children from further transgressing the rules. The programme includes the evaluation of the results with the families as well as their satisfaction

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<sup>26</sup> The report can be accessed here [http://ceo.gencat.cat/web/.content/30\\_publicacions/Anuaris/anuari\\_CEO\\_2011.pdf](http://ceo.gencat.cat/web/.content/30_publicacions/Anuaris/anuari_CEO_2011.pdf)

<sup>27</sup> This report can be accessed here [http://cejfe.gencat.cat/web/.content/home/recerca/cataleg/crono/2014/mediacio-penal-adults/mediacionPenalAdultos\\_investigacion.pdf](http://cejfe.gencat.cat/web/.content/home/recerca/cataleg/crono/2014/mediacio-penal-adults/mediacionPenalAdultos_investigacion.pdf)

with their experience in taking part in the intervention (Martínez and Arnau, 2014).<sup>28</sup>

Currently, in accordance to Rule 83 of the EPR, the Deputy Directorate General of Reparation and Community Sanctions and Measures is devising a survey for offenders to give their feedback with regard to their satisfaction with the attention received from probation officers. This will allow to integrate the client's views in the evaluations that are regularly carried out about the probation services.

## **9. Rights of offenders on probation**

The most relevant European probation rules related to the clients' rights are fully integrated in the Spanish criminal and prison legislation. Its implementation is safeguarded through various supervisory and monitoring mechanisms lead by the competent authorities whose central goal is to ensure the respect of the individual and collective rights of the clients.

Judicial authorities supervise the enforcement of community sentences, and therefore safeguard as well the rights of the individuals who are subject to such measures. In the case of juvenile justice, the Juvenile Court is responsible for the judicial process for minors and for taking the appropriate decisions based on the reports provided by the Juvenile Adviser in order to safeguard the rights of the young person while the educative measure is decided or enforced. In the case of the adults' justice system, such responsibilities are held at the first instance/judicial level, either by the same Criminal Investigation Court (*Juzgado de Instrucción*) that has imposed the sentence and when the person is serving a prison sentence, by the Prison Supervision Court when the person is at the last stages of their prison sentence. The decisions of these courts can be appealed to the immediately higher court in the criminal jurisdiction.

When it comes to community sentences, the responsibility of safeguarding the rights of the person corresponds to the criminal court that supervises the completion of the measure. Some of the main tasks of such court in this respect can be described as follows:

- Approving the individualised work plan proposed by the probation officer assigned to the case.
- Receiving every 3 months a report about the progress made by the sentenced person prepared by the probation officer.
- Requesting information at any time about any aspect concerning the enforcement of the community sentence.
- Responding at any possible incident occurring in the course of the serving of the sentence

Moreover, the Ministry of Justice counts on its own supervisory instruments called Inspection Services. In the field of adults, an Inspection Service is established as foreseen in the General Penitentiary Organic Law 1/1979. It is an organ attached to the Directorate General of Prison Affairs albeit independent from the various administrative units that might be subject to inspection. Although traditionally the area to which it has devoted special attention has, until now, been the observance of prison sentences in ordinary and closed regimes, there have been regular inspections, either for fact-finding or to guide administrative proceedings on how sentences in semi-open regime and in open regime are being enforced. In the field of juvenile justice, both Organic Law 5/2000 regulating the Criminal Responsibility of Minors together with the Catalan Parliament Law 27/2001 on Juvenile Justice, regulate the Inspection Service and its functions. In addition, the Inspection Services mentioned earlier can also monitor Educative Centres where young offenders can be placed.

In addition to this internal supervision instruments, any citizen subject to custodial or community

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<sup>28</sup> The full research report published in 2015 by Martínez, M., Arnau, L. and Sabaté, M. can be accessed here <http://cejfe.gencat.cat/ca/recerca/catalog/crono/2015/programa-limits/>

sanctions claiming to have suffered a violation of rights by the institution, can file a complaint against the Ministry of Justice before the Catalan Ombudsman (*Síndic de Greuges*) and before the Spanish Ombudsman (*Defensor del Pueblo*).

A second level of supervision that reinforces the safeguards of the clients' rights is related to the own institution evaluation processes. Various services within the Ministry of Justice that hold responsibilities on the enforcement of sentences, regularly conduct evaluation on their own work. When the enforcement is the responsibility of an external agency such as those mentioned above (IRES, APIP, INTRESS, AGI Foundation) the terms of the collaboration agreement between the agencies and the Ministry of Justice explicitly establishes the creation of a monitoring committee to oversee the compliance of the agreement by these agencies.

On a different note, in accordance with the Organic Law 3/2018 on personal data protection and digital rights and the provisions of the European Probation Rule 92, all offenders sentenced to a community measure are informed that their data cannot be transferred to third parties and are informed of their right of access, rectification, cancellation and opposition to their data being kept in the institution records.

## 10. Developments to be expected

The Strategic Planning of Criminal Enforcement for Adults 2017-2027, (*Pla Estratègic d'Execució Penal d'Adults*)<sup>29</sup> lays down the aims and actions of both directorates general and their numerous units in charge of implementing the core strategies for prison, community sanctions, victim support and restorative justice in the field of adults. The strategic goals foreseen by this Plan are as follows:

- Promoting community sanctions as alternative to prison. Serving a community sentence increases the likelihood of reintegration and reduces the social and economic costs of the criminal justice response. It is important to contribute and support legal and organizational developments that broaden the scope for using community sanctions in more instances instead of using prison sentences, and introduce ways alternative to criminal justice to respond to behaviours that can be dealt with by other fields of the law. The offer of community sanctions should be improved in order to decrease the time lapse between the sentence and its actual enforcement to a maximum of 90 days.
- Fostering the demand of community sanctions so that these have a greater impact in the criminal justice system and become an actual alternative to prison sentences.
- Streamlining the intervention model in the closed and regular prison regimes. The enforcement of prison sentences must ensure the reintegration into the community of the sentenced person. The prison should be open to society. It is pivotal to continue to work closely with inmates and strengthen individualised support in order to promote the progression to open regime in more instances.
- Promoting the open regime and conditional release as instruments fostering reintegration. Serving a prison sentence in open regime increases the efficiency of reintegration into the community and reduces the social and economic costs of the criminal justice response. The intervention of the prison treatment staff shall aim at increasing the number of inmates under open regime and conditional release. Ensuing from this, the necessary resources to be prepared to deal with an increasing number of inmates in open regime shall be implemented.
- Streamlining the efficiency of the already available resources in order to increase the

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<sup>29</sup> The Strategic Planning of Criminal Enforcement for Adults 2017-2027 and its updated versions can be found in Catalan here [http://justicia.gencat.cat/ca/departament/Plans\\_i\\_projectes\\_estrategics/](http://justicia.gencat.cat/ca/departament/Plans_i_projectes_estrategics/)

efficacy of our public service while being fully aligned with its mission.

- Fostering the social recognition of prison and probation staff with the aim of improving social awareness and the acknowledgment of the value of their task.
- Devise a career plan that promotes professional development and professionalization. Thrive for increasing equality between men and women.
- Achieving the technological transformation of the prison and probation systems with regard to the resources in place for both, inmates and staff. Expand the use of ICT among inmates and continue to promote their digital literacy.
- Furthering a culture for a comprehensive evaluation of the task carried out, its impact on sentenced people and on the citizenry.
- Strengthening and improving victim awareness and the victim's approach throughout all programmes of the Secretariat and in particular in the Young Offender Probation Teams, Community Sanctions and Security Measures in the adults' justice system as well as with inmates on Open Regime and Conditional Release.

In particular, following rule 10 of the Council of Europe Probation Rules, currently more work and investment is being placed in order to bring about an improvement in the short and midterm of two aspects that have traditionally required further development. On the one hand, steps are being taken to increase social awareness and greater understanding of the key task carried out in the field of community sanctions with adults. On the other hand, more actions are being undertaken in order to increase human resources and be able to reduce waiting lists of people waiting to start serving their community sentence.

With regard to Juvenile Justice, the Probation Framework Project (*Projecte Tècnic de Medi Obert*) (Comunitat de Medi obert de justícia juvenil, 2013) laid down the goal of elaborating and consolidating evaluation procedures and methodologies in order to measure the efficiency and the efficacy of the types of interventions carried out with young offenders that have been imposed an educative measure. With the aim of consolidating a generalised and consistent evaluation strategy, four different levels of evaluation were identified:

- Evaluation of the educative interventions of the juvenile advisor, which include the evaluation of the enforcement of the actual educative measures, didactic materials and intervention programmes and the evaluation of the processes and methodologies of intervention implemented by the juvenile advisor.
- Evaluation of the working conditions of the juvenile advisor.
- Evaluation of the efficacy of the interventions
- Evaluation of the Probation Framework Project itself.

To date, regular evaluation actions have been successfully introduced in some of the interventions and it is foreseen that all the levels will gradually be covered with the appropriate evaluation methodologies.

## 11. Publications

Blanch Serentill, M. et al (2017). La Reincidència en la Justícia de Menors. Centre d'Estudis Jurídics i Formació Especialitzada, Departament de Justícia. Available at: [http://cejfe.gencat.cat/web/.content/home/recerca/catalog/crono/2017/reincidenciaJJ\\_cat.pdf](http://cejfe.gencat.cat/web/.content/home/recerca/catalog/crono/2017/reincidenciaJJ_cat.pdf) (This study is carried out regularly every 5 years and made available at the CEJFE website).

Capdevila Capdevila, M. et al. (2015). La reincidència en mesures penals alternatives, 2015.

Centre d'Estudis Jurídics i Formació Especialitzada, Departament de Justícia. Available at: <http://cejfe.gencat.cat/ca/recerca/catalog/crono/2016/reincidencia-mpa/>

Guasch García, M. et al. (2015). L'execució penal a Justícia Juvenil a Tarragona. Anàlisi comparativa entre Tarragona, Lleida i Girona. Centre d'Estudis Jurídics i Formació Especialitzada, Departament de Justícia. Available at: [http://cejfe.gencat.cat/web/.content/home/recerca/catalog/crono/2015/execucio\\_jj\\_tarragona/execucio\\_penal\\_justicia\\_juvenil\\_cat.pdf](http://cejfe.gencat.cat/web/.content/home/recerca/catalog/crono/2015/execucio_jj_tarragona/execucio_penal_justicia_juvenil_cat.pdf)

Martín Barberan, J. (2005). Juvenile penal mediation in Spain: the experience of Catalonia, in A. Mestitz and S. Ghetti, (Eds.) Victim- Offender Mediation with Youth Offenders in Europe. Springer, Dordrecht, pp. 347-371.

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There is also a wide range of research studies funded and published by the CEJFE in all areas of law and the enforcement of criminal sanctions, juvenile justice, victims and restorative justice amongst which those on recidivism mentioned earlier, that are available from their website catalogue<sup>30</sup> <http://cejfe.gencat.cat/ca/recerca/catalog/>

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Capdevila M. (coord) (2019) Rate of recidivism during conditional release and desistance at 3rd degree in Catalonia, Executive Summary. Centre d'Estudis Jurídics i Formació Especialitzada, Departament de Justícia. Can be accessed here: [http://cejfe.gencat.cat/web/.content/home/recerca/catalog/crono/2019/taxaReincidencia\\_informeExecutiu\\_EN.pdf](http://cejfe.gencat.cat/web/.content/home/recerca/catalog/crono/2019/taxaReincidencia_informeExecutiu_EN.pdf)

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Centre d'Estudis d'Opinió Anuari (2012) Anuari 2011. Les enquestes del CEO durant el 2011. Available here [http://ceo.gencat.cat/web/.content/30\\_estudis/03\\_publicacions/Anuaris/anuari\\_CEO\\_2011.pdf](http://ceo.gencat.cat/web/.content/30_estudis/03_publicacions/Anuaris/anuari_CEO_2011.pdf)

Comunitat de Medi obert de jutícia juvenil (2013) Projecte Tècnic de Medi Obert. Programa Compartim. Centre d'Estudis Jurídics i Formació Especialitzada. Available at [http://justicia.gencat.cat/web/.content/home/departament/publicacions/publicacions\\_per\\_temes/gestio\\_del\\_coneixement/projecte\\_tecnic\\_medi\\_obert.pdf](http://justicia.gencat.cat/web/.content/home/departament/publicacions/publicacions_per_temes/gestio_del_coneixement/projecte_tecnic_medi_obert.pdf)

Dapena Méndez, J. and Martín Barberan, J., (2006). Avaluació de l'aplicació de l'experiència pilot de mediació i reparació a la jurisdicció penal ordinària, Novembre de 1998 – Novembre de 1999. Centre d'Estudis Jurídics i Formació Especialitzada. Available at:

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<sup>30</sup> The searching engine allows for two possible search entries: topic or year of publication. It is advisable to first attempt the search by topic.

<http://cejfe.gencat.cat/web/.content/home/recerca/cataleg/crono/2006/experienciaPil-otMediacio.pdf>

Vall i Rius, A. and Villanueva Rey, N. (coord.) (2003). El Programa de Mediació en la Jurisdicció Penal Ordinària: un estudi sobre tres anys i mig d'experiència. Invesbreu Núm. 25 Maig del 2003. Available at

[http://cejfe.gencat.cat/web/.content/home/publicacions/butlleti\\_invesbreu/invesbreu\\_25.pdf](http://cejfe.gencat.cat/web/.content/home/publicacions/butlleti_invesbreu/invesbreu_25.pdf)

Dapena Méndez J. and Martín Barberan, J. (Coord) (2000) Avaluació de l'experiència pilot de mediació i reparació a la jurisdicció penal ordinària, Novembre 1998 - Novembre 1999, Departament de Justícia, Barcelona.

Martinez, M. and Arnau, L. (2014) Assessment of the limits parenting skills training programme. Invesbreu No. 66 November 2014. Available at

[http://cejfe.gencat.cat/web/.content/home/publicacions/butlleti\\_invesbreu/invesbreu\\_66\\_EN.pdf](http://cejfe.gencat.cat/web/.content/home/publicacions/butlleti_invesbreu/invesbreu_66_EN.pdf)

Tamarit Sumalla, Josep M. (2013) Avaluació del programa de mediació penal d'adults del Departament de Justícia. Centre d'Estudis Jurídics i Formació Especialitzada, Barcelona. Available at

[http://cejfe.gencat.cat/web/.content/home/recerca/cataleg/crono/2014/mediacio-penal-adults/mediacioPenalAdults\\_recerca.pdf](http://cejfe.gencat.cat/web/.content/home/recerca/cataleg/crono/2014/mediacio-penal-adults/mediacioPenalAdults_recerca.pdf) Last accessed 23/08/2018.

Vall Rius A. and Villanueva Rey N. (Coord) (2003) El programa de mediació penal a la jurisdicció penal ordinària. CEJFE, Barcelona.

Ward, T. (2002). The management of risk and the design of good lives. Australian Psychologist, 37, 172-179.

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

**Departament de Justícia,  
Secretaria de Mesures Penals,  
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Tel. +34 93 857 37 09

[www.gencat.cat/justicia](http://www.gencat.cat/justicia)

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Formació Especialitzada**

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madeincire@gencat.cat

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informacio@creuroja.org

<http://www.creuroja.org/AP/CM.aspx>

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fsyc@fsyc.org  
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**Fundació INTRESS**

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intress@intress.org  
<https://www.intress.org/ca/intress/fundacio-intress/>

**Fundació AGI**

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<http://www.fundacioagi.com/>

**Fundació APIP-ACAM**

C/ La Paloma 21-23  
08001 Barcelona  
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apip@apip.org  
<https://fundacioapipacam.org>

**SUARA**

Sancho de Àvila, 52-58, 1r  
08018 Barcelona  
Tel. 932 547 690  
<https://www.suara.coop//ca>

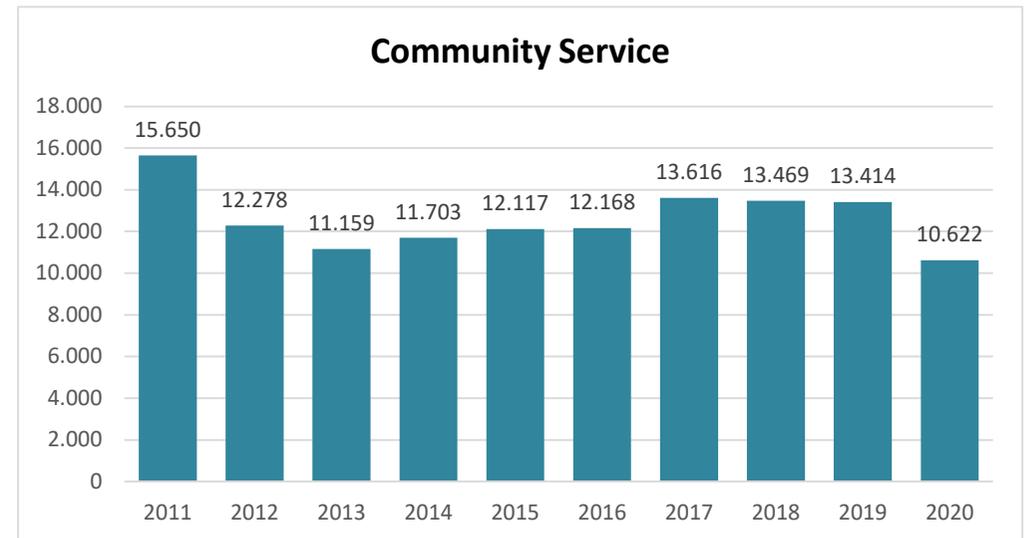
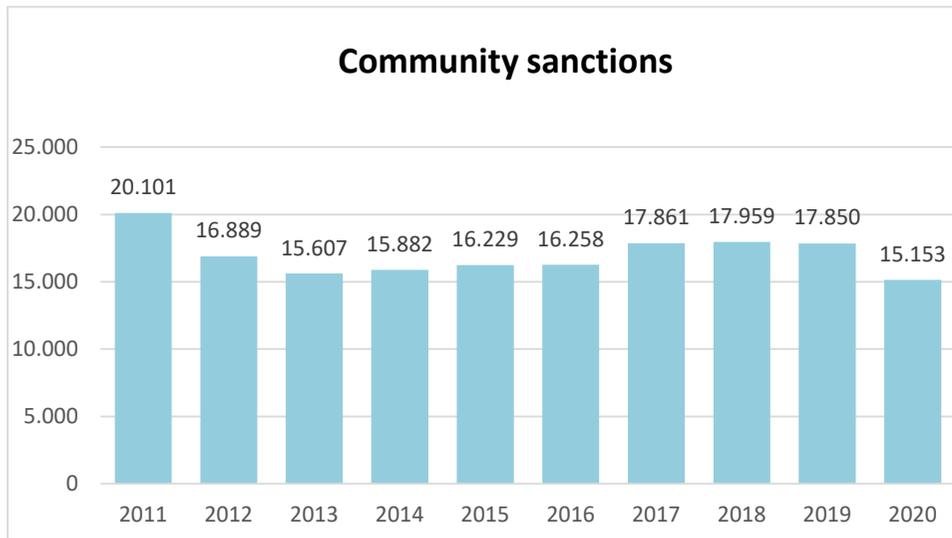
## ANNEX Statistics

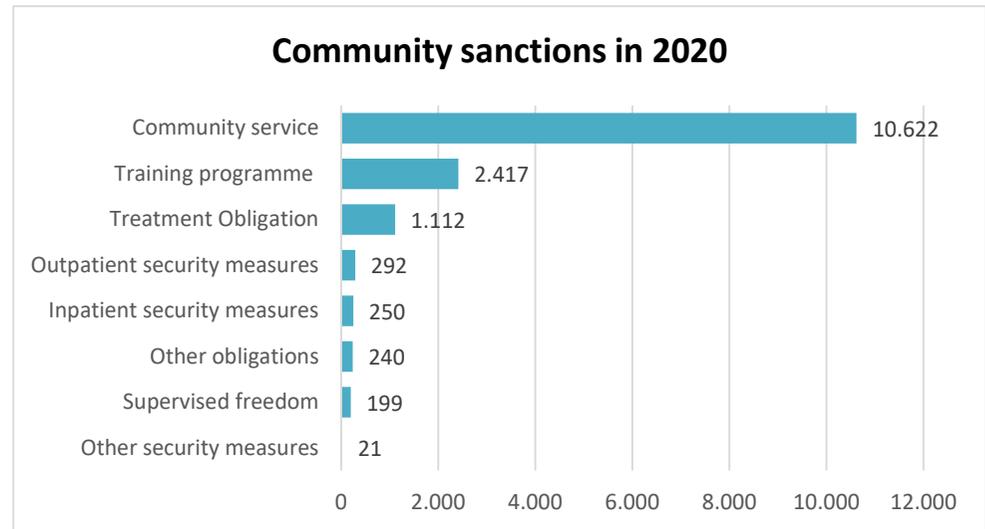
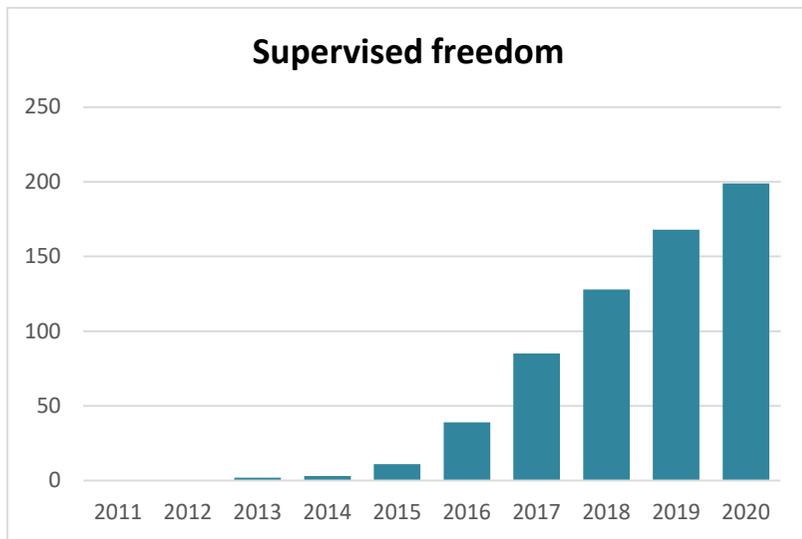
### 1. Adults' justice system

#### 1.1. Community sanctions and security measures

Community sanctions and security measures	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
Training or educative programmes	14	13	14	5	11	25	27	13	6	7
Family custody measure	5	4	5	7	9	8	9	11	17	14
Duty to appear before the authorities	1	1	1	1	1					
Placement in inpatient treatment	89	78	89	73	60	51	61	65	45	31
Placement in special education centre	6	4	6	3	4	5	3	2	3	4
Placement in a psychiatric institution	231	232	231	215	228	228	218	220	243	215
Outpatient drug treatment measure	115	114	115	89	78	68	39	46	64	62
Outpatient mental health treatment	258	274	258	217	235	231	221	235	262	230
Duty to appear before the court	222	241	222	212	162	133	120	128	114	114
Duty to comply with obligations	46	56	46	52	62	63	69	96	117	111
Compulsory inpatient drug treatment	21	17	21	20	22	27	20	18	16	15
Obligation to follow training programmes	2412	2527	2412	2292	2203	2144	2231	2310	2143	2417
Compulsory outpatient drug treatment	1031	1050	1026	990	1026	1068	1142	1218	1238	1112
Community Service	15650	12278	11159	11703	12117	12168	13616	13469	13414	10622
Supervised freedom	0	0	2	3	11	39	85	128	168	199
<b>Total</b>	<b>20101</b>	<b>16889</b>	<b>15607</b>	<b>15882</b>	<b>16229</b>	<b>16258</b>	<b>17861</b>	<b>17959</b>	<b>17850</b>	<b>15153</b>

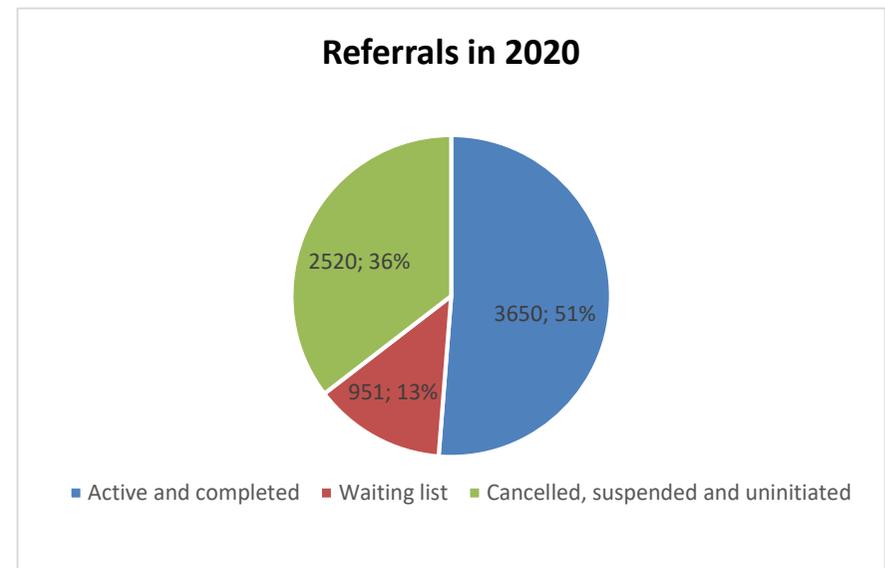
<b>Community sanctions and security measures grouped by categories</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>
Other security measures	20	18	20	13	21	33	36	24	23	21
Supervised freedom	0	0	2	3	11	39	85	128	168	199
Other obligations	289	314	289	284	246	223	209	242	247	240
Inpatient security measures	326	314	326	291	292	284	282	287	291	250
Outpatient security measures	373	388	373	306	313	299	260	281	326	292
Obligation to follow treatment	1.031	1.050	1.026	990	1.026	1.068	1.142	1.218	1.238	1.112
Training programme	2.412	2.527	2.412	2.292	2.203	2.144	2.231	2.310	2.143	2.417
Community service	15.650	12.278	11.159	11.703	12.117	12.168	13.616	13.469	13.414	10.622
<b>Total</b>	<b>20.101</b>	<b>16.889</b>	<b>15.607</b>	<b>15.882</b>	<b>16.229</b>	<b>16.258</b>	<b>17.861</b>	<b>17.959</b>	<b>17.850</b>	<b>15.153</b>





Referrals in 2020	7121
Cancelled	369
Active	2115
Completed	1535
Uninitiated due to impossibility	898
Uninitiated due to not appearance of the sentenced person	702
Waiting list*	951
Replaced by another community sanction	59
Suspended	492

\*In 2020, referrals of community sanctions remained on the waiting list 53 days on average.



## 1.2. Open regime and conditional release (prison services)

	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
Number of individuals on conditional release over the year	1.698	1.986	2.239	2.285	2.239	2.227	1.987	1.729	1.588	1.449
Rate of individuals on conditional release out of sentenced inmates	9,5%	11,2%	11,6%	11,8%	12,1%	12,2%	11,6%	10,7%	10,9%	11,1%
Number of revoked conditional release	40	59	59	66	43	64	42	38	43	31
Rate of revoked conditional release out of the number of inmates on conditional release	2,4%	3,0%	2,6%	2,9%	1,9%	2,9%	2,1%	2,2%	2,7%	2,1%
Inmates on open regime	4.015	3.998	3.802	3.730	3.544	3.369	3.448	3.520	3.731	3.435
Number of revoked open regime (to ordinary regime)	510	489	463	458	442	358	403	503	582	463
Rate of revoked open regime out of the number of inmates on open regime	12,7%	12,2%	12,2%	12,3%	12,5%	10,6%	11,7%	14,3%	15,6%	13,5%

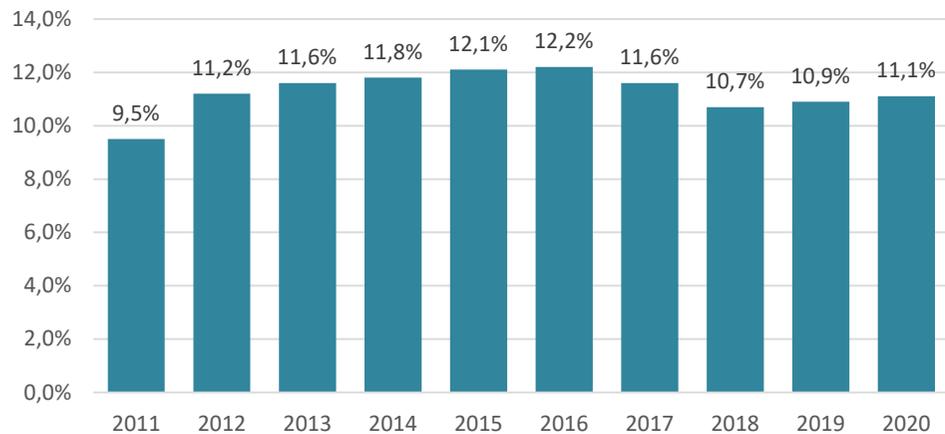
### Individuals on conditional release



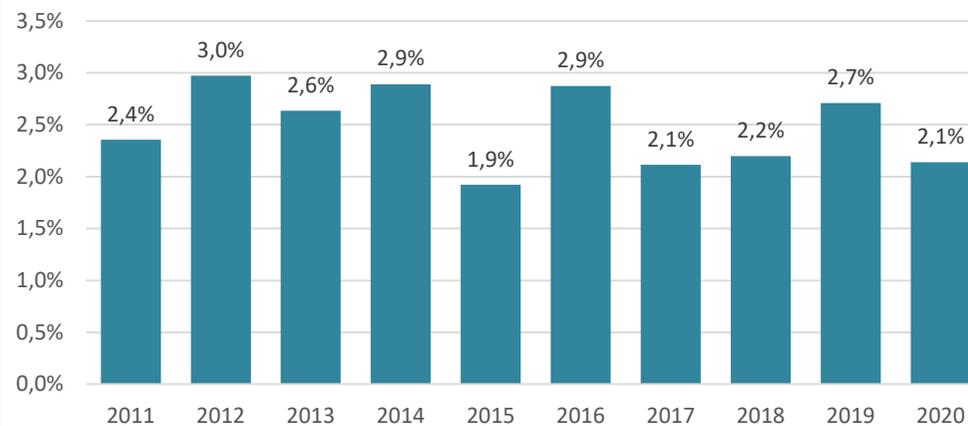
### Inmates on open regime



### Rate of individuals on conditional release out of sentenced individuals at the end of the year

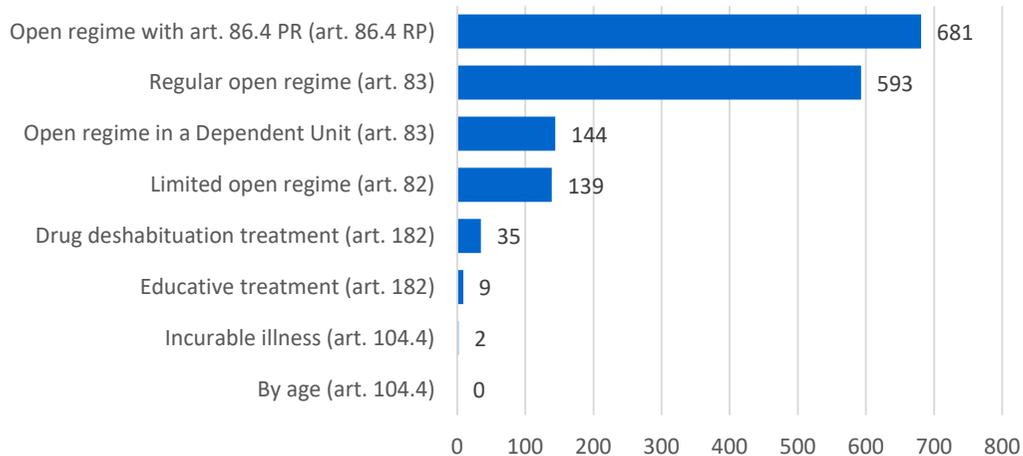


### Rate of revoked conditional release out of the number of inmates on conditional release

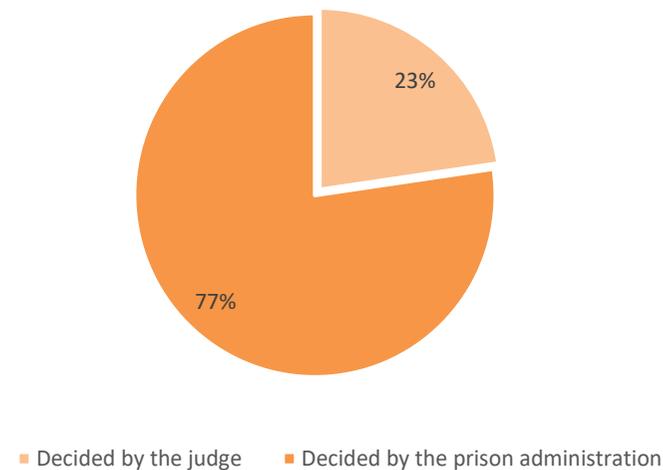


Forms of open regime	31.12.2011	31.12.2020
By age (art. 104.4)	0	0
Incurable illness (art. 104.4)	10	2
Educative treatment (art. 182)	9	9
Drug dishabituaton treatment (art. 182)	28	35
Limited open regime (art. 82)	308	139
Open regime in a Dependent Unit (art. 83)	99	144
Regular open regime (art. 83)	1416	593
Open regime with art. 86.4 PR (art. 86.4 RP)	2	681

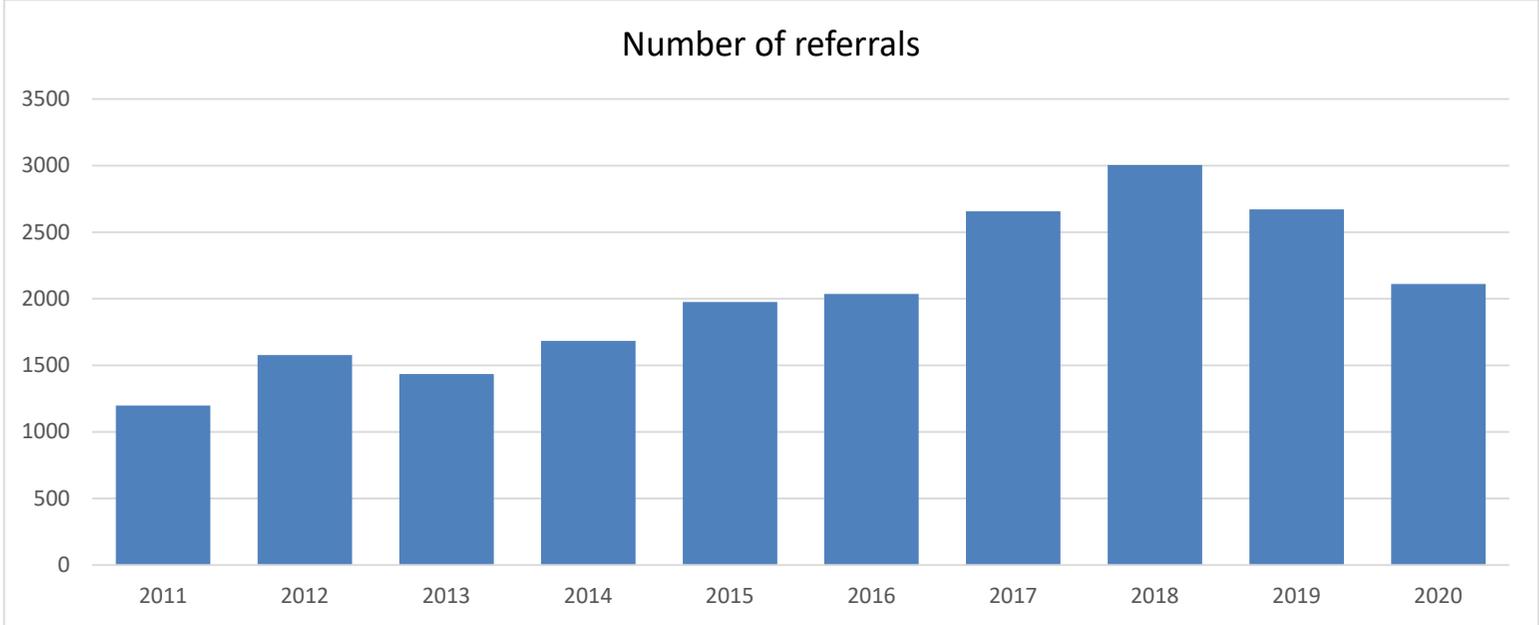
Forms of open regime



Number of revoked open regime in 2020



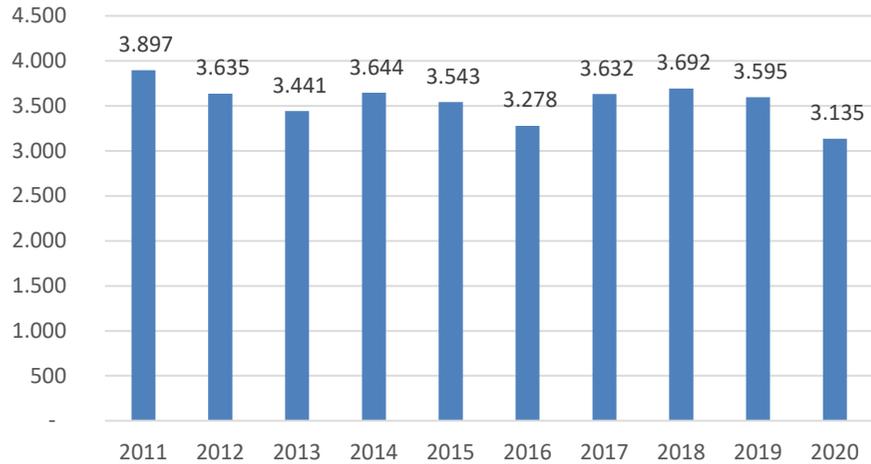
### 1.3. Restorative justice programme



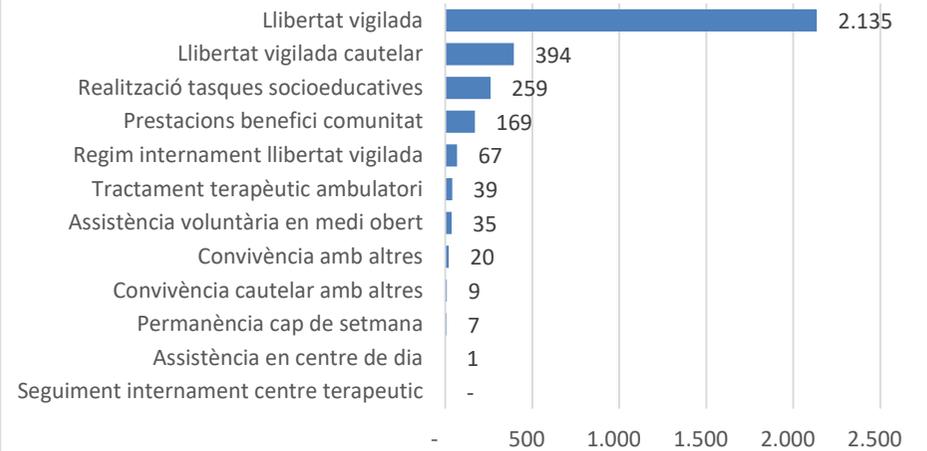
## 2. Juvenile justice

Community measures	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
Attendance at a day centre	8	6	4	7	6	2	2	1	1	1
Voluntary attendance in the community	12	21	27	30	34	33	24	33	28	35
Placement in a different group household	10	15	15	12	10	13	22	26	29	20
Cautionary coexistence with others	8	7	14	8	12	18	19	17	13	9
Supervised freedom	2.326	2.171	2.096	2.327	2.287	2.162	2.412	2.480	2.403	2.135
Cautionary supervised freedom	274	305	342	300	301	338	356	341	409	394
Weekend home arrest	104	104	66	88	97	42	25	20	21	7
Community work	584	545	492	470	418	284	337	330	263	169
Socio-educational tasks	419	339	277	289	266	253	258	265	288	259
Supervised freedom related to a centre placement	69	50	47	61	62	76	105	110	87	67
Follow-up Inpatient therapeutic treatment	16	11	2	-	-	2	2	1	-	-
Outpatient therapeutic treatment	67	61	59	52	50	55	70	68	53	39
Community measures	3.897	3.635	3.441	3.644	3.543	3.278	3.632	3.692	3.595	3.135

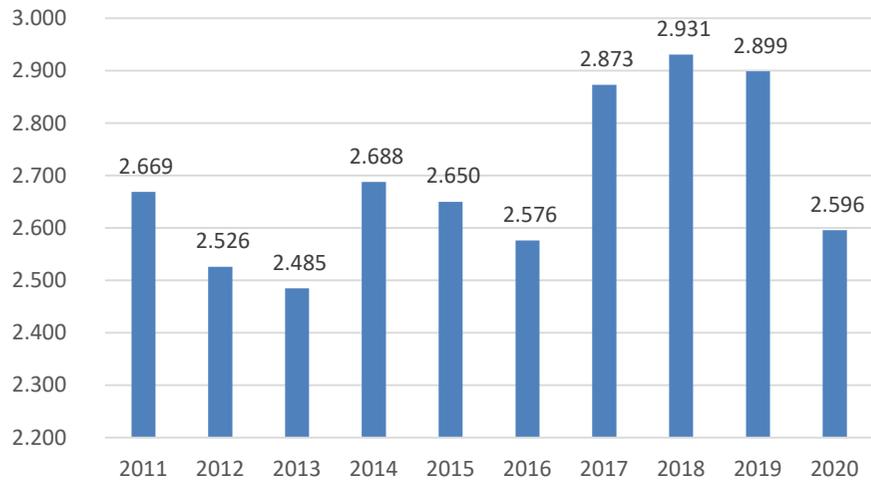
### Community measures



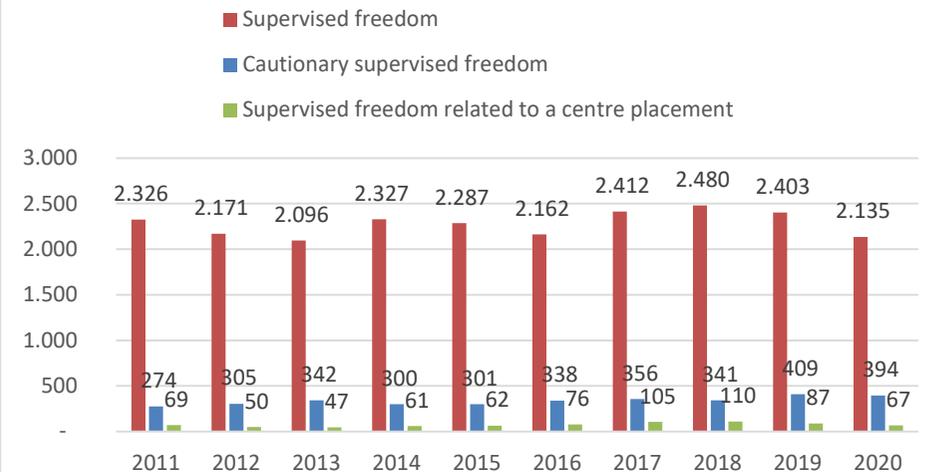
### Community measures in 2020



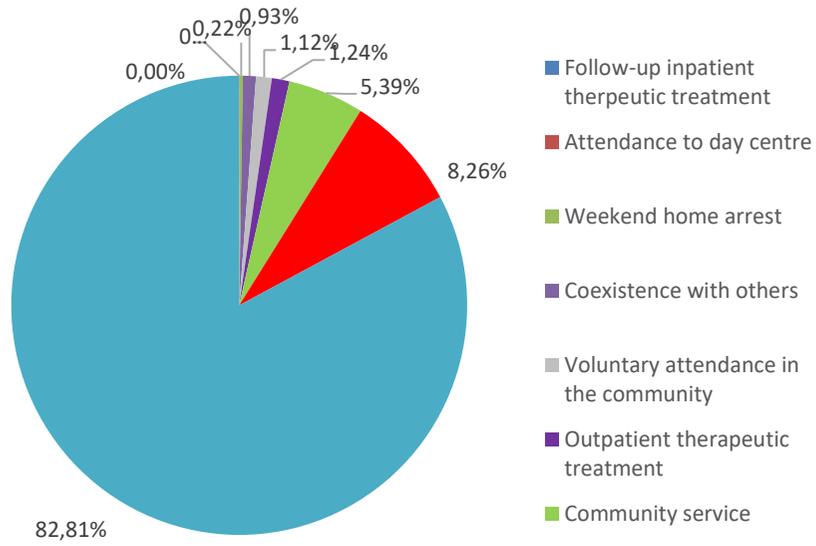
### Supervised freedom



### Trends in the supervised freedom types



Educative measures in 2020



Trend of restorative justice cases

