

# The Probation Service in Romania: New challenges for a probation system

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## Abstract

The institution of probation is relatively new in Romania, with a structure and system that is still in a process of development. This paper provides an overview of development over recent years, discusses the new legislative changes that took place in the last year and describes how the probation system has implemented these changes. It looks forward to the development of probation practice and community sanctions in Romania as part of the Romanian criminal justice system and the wider European community of probation.

## Introduction

After the revolution and change of government in 1989 Romania began a long and challenging journey in the reform and restructuring of its criminal justice system.

Romania had one of the most severe bodies of criminal legislation in Europe.<sup>2</sup> Between 1994 and 1997 the imprisonment rate in Romania was one of the highest in Europe at 220 prisoners per 100.000 inhabitants<sup>3</sup> in comparison with the European average custodial rate of 85/100.000. As well as seeking a more humane and effective response to offending there was, in a period of severe economic hardship and escalating custodial costs, an increasing imperative to reduce use of imprisonment and move towards the European norm of using community sanctions where appropriate. It was a major cultural shift in what had been a severe criminal justice system highly dependent on imprisonment as a central penalty.

While in 1992 Romania had taken a first step in developing community sanctions by implementing “suspension under supervision” (Law No.104/1992 for modifying and completing the Criminal Code from 1968), new obligations were added in 1996 to “liberty under surveillance” for minors, including attendance at specific places, not to be in contact with specified persons and completion of community work, (Law No. 140/1996 for modifying and completing the Criminal Code from 1968), the lack of a probation service led to their inefficient and largely ineffective application in practice.

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<sup>2</sup> *The Penitentiary System in Romania 1995-2004* APADOR-CH (Association for the Defence of Human Rights in Romania – the Helsinki Committee) accessed at <http://www.apador.org/>

<sup>3</sup> World Prison Population 2<sup>nd</sup> edition. [www.apcca.org/uploads/2nd\\_Edition\\_2000.pdf](http://www.apcca.org/uploads/2nd_Edition_2000.pdf)

The story of the Romanian Probation Service, as we know it today, begins in 2001 when it was established as a public service body within the Ministry of Justice. That began the development of the Romanian Probation Service as a distinct department separate from the National Prison Administration where the initial pilot developments were initiated.

Following a period of trial and experiment between 1996 and 2000, the probation service in Romania was legally established in the Governmental Ordinance No. 92/2000 regarding the organising and functioning of the social reintegration services of the convicted persons and supervision of the community sanctions which was approved by Law No. 129/2002.

In 2000 Governmental Decision No. 1239/2000 was introduced providing procedural and practical details of probation activity and the work of probation in law.

## **Structure**

The central management unit of the probation system is the National Directorate of Probation. It is the dedicated department of the Ministry of Justice which administers, co-ordinates and directs the activities of the Probation Services at national level. At the end of 2014 the Director had a team of 19 staff including probation inspectors, legal advisors and administrative staff coming from a range of academic backgrounds, including law, sociology, psychology and social assistance.

At present there are 42 Probation Services, one for each administrative county in Romania, which operate independently of each other but are accountable to the National Directorate of Probation in the Ministry of Justice. Each Probation Service works with the higher and lower Courts in their county. Additional offices have been established within each of the counties which will, when they are functional, meet the expected increased demand for probation interventions arising from the new legislative changes.

Each Probation Service is managed by a Chief Probation Counsellor who is also a Probation Counsellor. The main task of the Chief is the management of the overall activities of the Probation Service and allocation of daily tasks. The number of Probation Counsellors in each Service varies, from as few as four to as many as 19 or 18 (Braşov, Iaşi) and 28 in the capital, Bucharest. The teams are multi-disciplinary. The Probation Counsellors come from a range of professional backgrounds with graduate degrees in social assistance, law, psychology, pedagogy and sociology. There are three professional levels of Probation Counsellor with promotion based on seniority, time served in the Probation system and a competitive examination.

Even though Probation Counsellors have different academic training backgrounds, they are all trained and able to provide the full range and level of services in all areas (Schiaucu and Canton, 2008).

The services and activities include:

- Supervising how the convicted person (adult and minors<sup>4</sup>) complies with the measures and obligations imposed by the court;

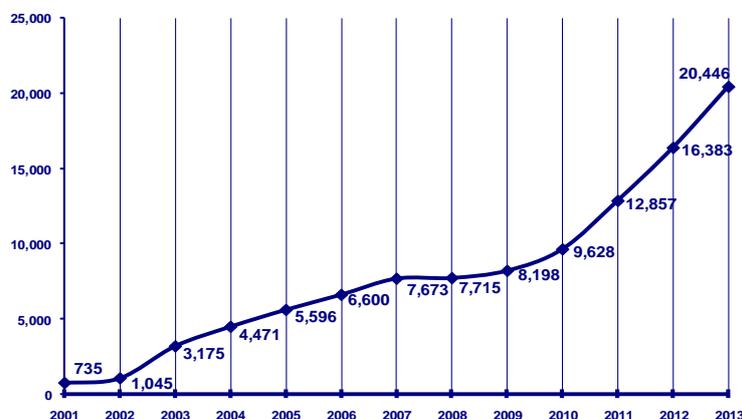
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<sup>4</sup> Minors are young offenders between the ages of 14 and 18 years. Between 14 and 16 years of age it is necessary to establish their understanding of responsibility (*mens rea*) for the crime committed. For this category of offenders educational measures are used by the court and can be custodial or non-custodial.

- Writing assessment reports, at the court or Prosecutor’s office request, on offenders before sentencing (for minors as well as for adults), during supervision for child offenders who are completing an educational measure under supervision or on adult offenders who are already under the supervision of the probation service;
- Supporting the court in the process of decision on sentences following conviction in case of adults as well as for minors (educational measures);
- Providing assistance and counselling for convicted persons who have been referred to the Probation Services;
- Participating on parole commissions in the penitentiary;
- Offering psychological counselling to the victims of offending;
- Co-operating and collaborating with public and private organisations to address the social needs and obligations of the supervised persons regarding education, employment, accommodation and other conditions imposed by the court (e.g. unpaid work in the community).

### The framework of changes – increase in Probation Services’ work

In comparing the work and standing of the Probation Service now with the time of its initiation in 2002 there has been remarkable progress made in a relatively short time. Figure 1 shows the significant increase in the number of offenders subject to supervision particularly in recent years.

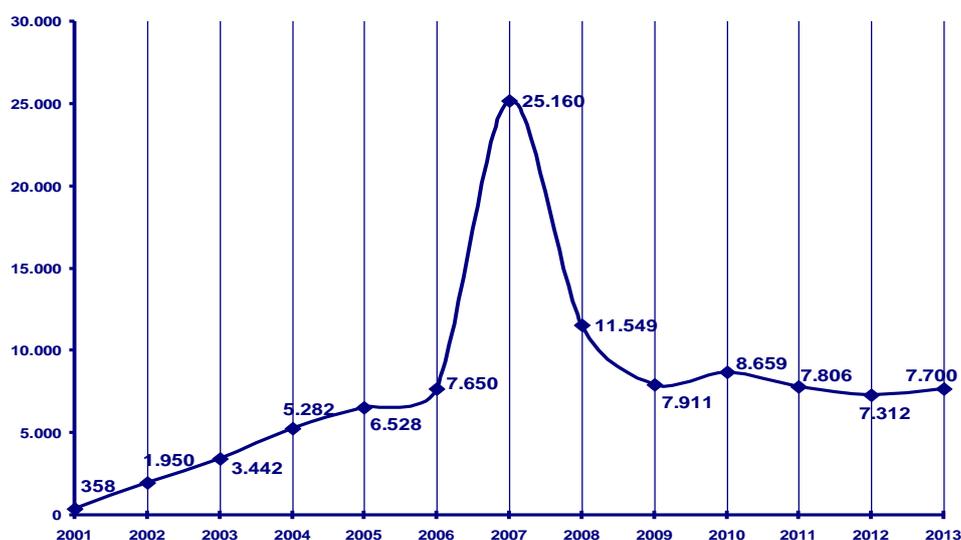


**Figure 1:** Convicted persons under probation supervision (National Directorate of Probation 2014)

In the period 2002-2006, the new Romanian probation system appeared to make relatively insignificant impact in the criminal justice statistics in comparison with the prison system. However, the Probation Service worked effectively during that time in developing new approaches and skills and gradually becoming more visible in Courts and, increasingly, being acknowledged for its work and contribution. From 2006, data shows a visible growth in the use of reports, number on supervision and probation service interventions. Figure 2 illustrates the increase in volume in assessment reports between 2001 and 2013.

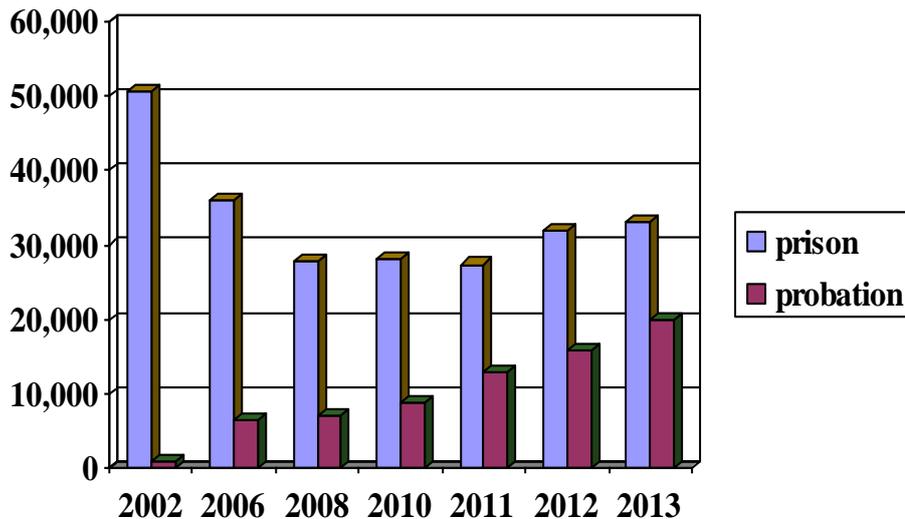
The period 2006-2008 shows a very large increase in assessment reports which can be attributed to a legislative amendment (Law 356/2006) requiring assessment reports in the cases of all minors (under 18 years of age) in the pre-trial and trial stage. The change created an unmanageable burden for the still small Probation Services and highlights the importance of resource planning and coordination in legislative change and service development. The requirement was changed by Government Ordinance No. 31/2008 which made the assessment reports mandatory only at the trial stage. This legislative change has reduced the number of assessment requests considerably and made the probation activity manageable for all probation services.

The increase in assessment reports from less than 2,000 in 2002 to 7,700 in 2013, just over a decade later, illustrates the pace of change and development.



**Figure 2:** Assessment reports 2001-2013 (National Directorate of Probation 2014)

This development in the steady growth in the probation caseload since 2002 is further highlighted in the Figure 3. Even with a recent renewed growth in prison numbers there has been a 50% growth in Probation Service activities in 2013 in comparison with the custodial system in the same period (National Directorate of Probation, 2014).



**Figure 3:** Increase of the probation caseload in comparison with prisons population 2002-2013 (National Directorate of Probation 2014).

While it is clear that the prison population has generally been reducing and the use of probation and community sanctions is increasing it is not possible to adduce a direct relationship between them at this time though the trends can be interpreted as encouraging. Research on this data would be important for the future of the prisons and probation systems. The development of research and evaluation studies in Romania on probation and prison issues and trends is still at a very early stage. There is increasing co-operation between the Probation Services and the National Prison Administration in working with prisoners in custody and on release. The need for a structured link between work and preparation for release while still in prison and post-release supervision by probation services led to the development in 2009 of the *Reducing the Risk of Re-offending after Imprisonment* programme<sup>5</sup>. This programme is described in more detail later in this article.

### The framework of changes – the new legislative reform

The landmark development in the evolution of the Romanian Probation system took place at the beginning of 2014, when new fundamental legislative changes were implemented. On 1<sup>st</sup> February 2014 a New Penal Code, a New Criminal Procedural Code, laws for probation (Law No. 252/2013 and Law No. 253/2013) and a new law that regulates the custodial penalties (Law No. 254/2013) came into force in Romania.

For the first time in the history of Romanian probation a special law is now in place to regulate the work of probation services. Law No. 253/2013 provides a series of education, supervision and other non-custodial measures and sanctions, their enforcement and how they are to be used by courts in criminal trials and sentencing.

Law No. 252/2013 provides the legal basis for how the probation system is organised and functions and creates the conditions of a better visibility of the probation system in the legislative and social context. From the legislative point of view this law strengthens and supports the important role and

<sup>5</sup> Durnescu, I., Lewis, S., Raynor, P. and Vanstone, M. (2009) *Reducing the Risk of Re-offending after Prison*, Bucharest: Lumina Lex

position of non-custodial sanctions in sentencing and makes clear that custody is to be used only as a last resort.

The administrative autonomy of the Probation Service in relation to the courts is stated clearly. Previously Probation Services were part of and under the direction and administrative control of their local court. Law No. 252/2013 provides for the National Directorate of Probation to take responsibility for the logistics, staffing, governance and resourcing of the Probation system in all of Romania instead of the previous dependence on local courts as happened in the past. This innovation strengthens the authority and decision-making of the National Directorate of Probation ensuring consistency of practice, standards, training and governance.

The new legislation has brought other significant changes in the Romanian probation system. There is an increased range of probation interventions and activities, increased innovation, sharing of good practice as well as consistency in probation practice across Romania.

The Probation Service and the work of probation officers are becoming more prominent and adding value and expertise in the process of court sentencing. Quality and effective practice in supervision of probation measures are strengthened and the obligations of court orders are being fulfilled by the adult and minor offenders.

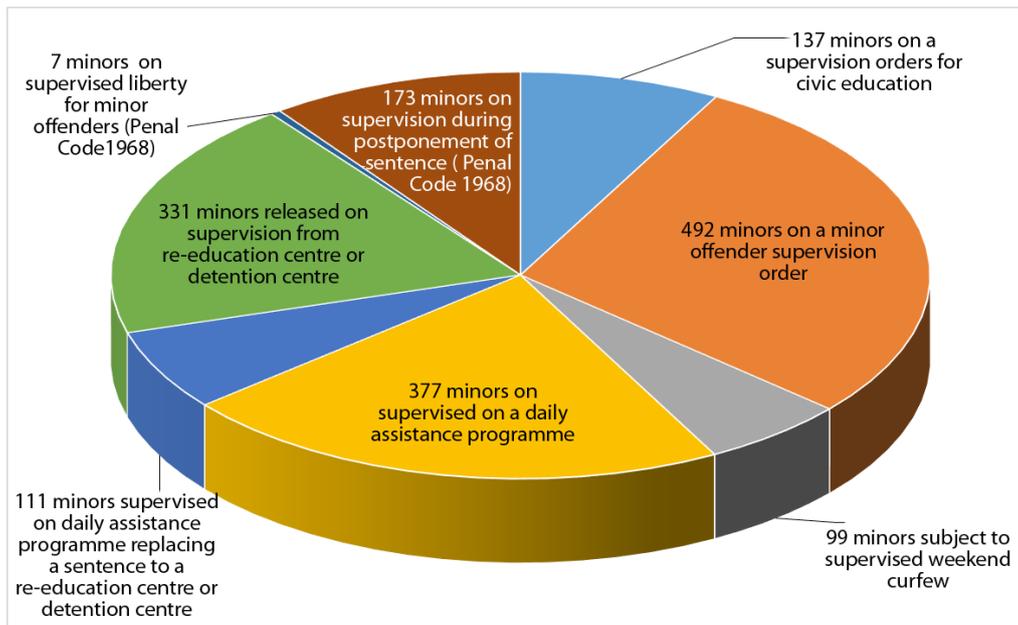
The new legislation, structures and governance have provided leadership, new confidence and authority in the Probation Service in Romania. The development is still in an early stage but already the growth, stronger position and value of the work of Probation in the criminal justice system is visible.

## **Changes for the probation counsellor - new probation supervision orders and practices**

In the new legislation one of the main activities of the probation counsellor, writing assessment reports for minor/adult offenders continues to be an important task during the trial following conviction and during the supervision period.

During supervision, an assessment report is now completed by the probation counsellor for court in cases where an offender has broken the probation measures or obligations or in order to amplify or diminish the probation conditions.

Supervision as a probation counsellor task has been developed in the new legislation. For offenders who are minors there is a new system for probation sanctions. Where previously there was only one type of probation supervision sanction that could be applied to the minor offender, the court can now choose from four forms of non-custodial sanctions for offenders who are minors. These include non-custodial educational measures, an order for civic education, supervision, weekend curfew and daily assistance (Law No. 253/2013). To these another category is added, minors released from the re-educational centres or detention centres.



**Figure 4:** New cases in 2014 for non-custodial sanctions for minors supervised by probation services (1727 cases). (National Directorate of Probation 2015)

The variety of sanctions for the minor offenders outlined in Figure 4 brings a new dynamic apart from the increase in number. The sanctions demand an immediate intervention from the probation counsellor, especially as the maximum term for the educational measures is six months.

Regarding supervised non-custodial sanctions for adult offenders there are also significant changes. The range of sanctions has been expanded and diversified, there is potentially more complexity and challenges in orders and the duration of the term on supervision is reduced.

New orders are now available to a court as sanctions for adult offenders such as the postponement of applying the sentence and conditional release. An obligation of unpaid community work as a condition is an option in almost all the probation sanctions that can be made by a court for adult offenders. In the case of offenders who are minors, the obligation to complete unpaid community work is not applicable as a condition of supervision or non-custodial sanction.

Even though unpaid community service activity in a public institution as a non-custodial sanction was available under the previous legislation as an obligation added to the supervision measures, it was used only in a limited number of cases. Among the innovations in the new legislation, use of unpaid community service as a sanction has been extended. Community Service can be added as an obligation or condition of any supervised non-custodial sanction.

In the new legislation community service is a direct replacement for a prison sentence. The duration of unpaid Community Service is between 30 to 60 days (a day of prison work is equivalent to two hours Community Service) in cases where a court postpones the application of a prison sentence and between 60 and maximum 120 days equivalent where community service is a condition of a supervision order.

Where penal fines are not paid, these can, in certain circumstances, be transformed into a community service obligation as a substitute for the non-payment instead of sending the person to

prison. In common with other jurisdictions where Community Service has been used in this way, the probation services anticipate a significant increase in the number of offenders completing community service work in lieu of an unpaid fine.

Another significant change is the duration of the supervision period. Before February 2014, the period of probation supervision varied between a minimum of two years and 15 days to a maximum of nine years for adults and half that for offenders who were minors.

Under the new legislation the duration of the probation supervision term is shorter; two years in the case of postponement of sentence and a maximum of four years for supervision orders. The shorter period brings advantages in the supervision activity; a more focused intervention by the probation counsellor and more efficient timely and focused actions by the offender in behavioural change. This makes more efficient use of probation counsellor time, promotes briefer, structured and time limited interventions and avoids poor use of Probation Service skills and resources. International experience and research has shown that shorter, focused and better structured interventions are more effective in achieving and supporting reduced re-offending.

The number of probation measures imposed by a court order has risen from four to five, and the Court has increased discretion in adding conditions and obligations, which may be added to the five standard measures.

## **Individual and Group programmes**

An obligation can be added in a probation measure to provide for participation in counselling programmes during the supervision term to address criminal or anti-social behaviour. These are individual or group programmes completed with offenders within the probation service by trained probation counsellors, either as a condition of a court order or if the offender makes a written request to participate. The programmes available include:

***One-to-One Programme:*** This is the most widely used offending behaviour programme due to the fact that since 2008 many probation counsellors have been trained to use this programme. It is an individual programme of five modules comprising twelve weekly sessions in total. The programme aims to help the offender to reduce his offending behaviour, establish his own goals and make plans, take control over his life and to think before acting, in order to avoid re-offending.

***Stop! Think and Change:*** This is a group programme of twelve sessions for offenders with an established criminal history and repeated offending. The group programme aims to help participants change behaviour and reduce re-offending. A Cognitive-Behavioural approach and exercises are used during the sessions to identify dysfunctional thoughts and feelings, help participants to understand the necessity of changing that kind of behaviour and to provide skills to do that in their everyday activities.

***Developing Social Abilities Programme:*** This is also a group programme in two forms, one developed for working with minors involved in offending and one for adults. It consists of ten core sessions plus an initial session and the final one which focuses on the implementation of learning. The Developing Social Abilities Programme aims to develop the social skills of participants, to strengthen their personal internal self-management resources and they learn how to identify and to have access to the positive support and resources of others.

***Reducing the Risk of Re-offending after Imprisonment:***<sup>6</sup> This is a group programme and is delivered in the penitentiary by a Probation Counsellor and a specialist from the penitentiary in preparation for release. The participants are detainees preparing for release, who are motivated to participate and have at least three months available before a possible parole release. This programme seeks to support the prisoner in developing pro-social thoughts and attitudes, self-management, practice positive social skills and competences and learn how to access social agencies and social resources to more successfully resettle in their communities after release and establish a law abiding lifestyle.

**I-MAP Anger Management:** The I-MAP programme was developed jointly by the Probation Services in Romania, Ireland and Italy as part of the international project for the implementation of the Framework Decision 2008/947/JHA which provides for mutual recognition of judgments in Probation decisions and transfer of supervision in jurisdictions across the European Union.

*I-MAP Anger Management* is a one-to-one counselling programme for adult male offenders over the age of 16 years, with identified anger management problems. Using Motivational Interviewing, the Good Lives Model, and pro-social modelling techniques the I-MAP programme has nine weekly sessions and after four weeks an assessment of the programme takes place.

***Drink and Drive:*** This is a group programme for offenders before courts for offences related to drinking alcohol and driving. The programme seeks to reduce drinking and driving re-offending by developing knowledge and understanding as well as cognitive and behavioural changes among offenders thereby increasing the road safety and reducing the number of victims of drunken driving crime.

***SEED programme:*** A pilot SEED project is currently being developed in Braşov Probation Service and in Probation Services in Dolj and Bucharest, supported by the United Kingdom, National Offender Management Service, the Romanian Ministry of Justice and the National Probation Directorate. The pilot project is working to implement, in Romania, a programme designed and used in the Probation Service in the United Kingdom called SEED: *Skills for Effective Engagement and Development* (Sorsby et al 2013). The SEED programme focuses on enhancing the effectiveness of the relationship between the Probation Counsellor and the offender as the essential and most influential factor in changing behaviour, reducing the risk of re-offending and increasing public safety through probation supervision. This programme has shown considerable potential for improving practice and achieving better results in probation practice in Romania.

Many programmes being implemented have emerged as a result of policy and practice transfer from other jurisdictions and have necessitated considerable investment in localisation and staff training. The value of learning and sharing experiences with other jurisdictions has been a major asset in skills development. National Probation Directorate and local services are also conscious, at the same time, of the necessity that interventions are appropriate, culturally sensitive and appropriate for purpose.

While it is a challenge to localise and implement interventions developed elsewhere there are many shared problems and solutions that can be addressed together. As an active and developing member of the EU, Council of Europe, the Confederation of European Probation (CEP) and other international partnership and bodies, Romania and the National Probation Directorate will benefit from and contribute to this growing body of knowledge and experience.

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<sup>6</sup> Durnescu, I., Lewis, S., Raynor, P. and Vanstone, M. (2009) *Reducing the Risk of Re-offending after Prison*, Bucharest: Lumina Lex

## Challenges and new perspectives

The new legislative changes seek to protect the public by reducing offending through more balanced and effective processes in the supervision of offenders in their communities. They promote social reparation by offenders for the harm done. The effect of the supervision and programmes implemented by the probation counsellors will be measured by positive and pro-social change in the behaviour of offenders after supervision, better public safety, safer communities and reduced offending.

For the probation system that has meant re-organisation, new work practices and a new approach in how we work in courts. The changes have contributed to an on-going increase in workload, new work plans and additional resources and recruitment for the new National Directorate. The financial and economic realities in Romania dictate that not everything can happen immediately. New staff are expected to be in post by the end of 2017 and in the meantime, the Probation Service has to develop its supervision interventions and management within existing resources.

At the same time the National Probation Directorate is working to implement and adapt to the Romanian probation context the learning and *What works* practices developed in research and in other probation systems with longer tradition and experience. This continued improvement of professional practice is an important priority and key action in expanding the use of community sanctions and activities in their own right and as an alternative to imprisonment.

As the profile of offenders changes, the Probation Service and probation counsellors need additional specialised skills, assessment instruments and intervention programmes to work effectively with higher risk offenders, prisoners on supervised release from prisons, offenders on supervised conditional release, offenders who are minors, female offenders and many others requiring focused interventions to reduce their offending behaviour and establish themselves as law-abiding citizens. The new probation priorities and procedures introduced by the National Probation Directorate following the new legislation have been implemented by each probation service as part of their local activity. In some services new ways of working will be introduced enabling specialised focus on the main activities of probation (e.g. assessment reports, supervision, educational measures, counselling programmes). However, this kind of specialisation will only be possible in services with larger probation counsellor numbers (e.g. Braşov Probation Service has 18 probation counsellors and one manager, other services are much smaller). In due course it will be possible to evaluate whether such specialisation in work tasks provides better results, added value or greater efficiency in probation work such as assessment, supervision and intervention programmes.

At the operational level, the daily probation practice of probation counsellors is already changing and developing. Probation counsellors are now supervising more higher risk offenders who might previously have been sent to prison and are working to resettle released prisoners after prison. The criminal justice system in Romania is changing rapidly. It is learning from the experience and knowledge in other countries and it is developing a probation service and supervision systems matched to the priorities and needs of Romania and its people. The evolution and development of the Romanian probation system over the next few years will benefit from participation in the wider European community of probation organisations and partners and their support.

It will be important that the continued development will be a positive support not only to the criminal justice system and the probation services but also to the individual probation counsellor who, at a practical level, is the one who works with offenders to achieve the positive change leading to reduced offending, safer communities and ex-offenders as good citizens.

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