



Probation in Europe

The Netherlands

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¹ Official Documents from the Probation organizations, the Ministry of Justice and Security and other justice organizations have been used in this update.

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Content

1. Introduction	4
2. Historical development of the Probation Service	7
3. Legislative basis of the Probation System	11
4. The organization of the Probation Services	16
5. Different stages of the Criminal Justice Process	21
6. Probation Methodology	43
7. Finances, Accounting, Registration Systems and Evaluation Procedures	48
8. Societal Support and Clients' views	51
9. Probation Clients' rights	53
10. Future developments	54
11. Important publications	57

1. Introduction

1.1 The Dutch Probation in a nutshell

1. Probation in the Netherlands has a long history of almost two hundred years (see chapter 2).
2. The probation service comprises 3 private organizations, each having its own Supervisory Board (see 3.3). The Ministry of Justice is politically responsible for probation. The 3 probation organisations are almost 100% funded by the Ministry of Justice and Security (see chapter 7).
3. Probation is mainly aimed at adult criminal offenders (aged 18 and older). A separate service exists for offenders under 18 (see 3.2).
4. The probation service is active in all stages of the criminal justice process, from the pre-trial stage up to and including the enforcement stage and often in the stage after the end of the sentence as well (see 5.2). The probation service is therefore a continuous and stable factor in the whole criminal justice process, not only for the justice system (public prosecutors, courts, prisons etc.), but also for the offenders.
5. The key tasks of the probation service are: preparing pre-sentence and other advisory reports for the judicial authorities, providing supervision of penalties, measures or special conditions imposed by the court or the public prosecutor (including supporting the offenders in their desistance processes), executing behavioural training programmes and executing and supervising community service. Advisory reports and probation supervision are carried out in the pre-trial phase as well as in the enforcement phase (see chapter 5).
6. In 2019, the three probation organisations prepared 42,141 reports to support judicial decisions across the entire criminal justice system (see 5.2.1). In 2019, 31,562 separate offenders² were implemented under supervision by the probation service (see 5.2.2) and 25,313 community punishment orders were completed (see 5.2.6).
7. It is generally assumed that the number of prisoners is low due to the frequent use of community sanctions and measures implemented by the probation service. The prison population rate (number of inmates per 100,000 residents) is low compared to other countries (in 2019: 65). Most inmates serve short sentences: 85% serve less than 6 months (see 5.2.7.). The probation population rate is fairly high (in 2018: above 250). See 5.2.7.
8. The probation service forms part of the criminal justice system: it cooperates intensively with the police, Public Prosecution Service, prison system, Child Care and Protection Board, Victim Support and forensic psychiatry. There is cooperation over both strategy and individual cases. See for example 4.7.1.
9. The probation service works on the instructions of various actors in the justice system, including public prosecutors, judges and prison staff. Municipalities can also give assignments,

² In accordance with the European Probation Rules (2010), the term “*Offender*” is used in this chapter to refer to “any person who is alleged to have or who has committed an infringement of the criminal law. For the purpose of this recommendation and without prejudice to the presumption of innocence and the establishment of guilt by a judicial decision, the term “offender” shall be understood to include anyone facing criminal proceedings.” In the Dutch context the words “*suspect*” and “*convicted person*” are normally used to underline their different positions.

for instance in relation to domestic violence and supervision of offenders with an extremist background. See 5.2.8.

10. Cooperation with community institutions, such as social work, the municipality and volunteer organizations is also an essential part of the work of the probation service. With these organizations the probation service builds safer and more inclusive communities. See for example 5.2.7 en 10.
11. (Ex-)detainees who need support and help can turn to municipal organisations for support (ID, housing, income & social benefits, work, social support, mental health problems). The Probation Service is committed -together with municipalities and the Prison Service- to prepare prisoners to return to society. That is why the Prison Service involves both the Probation Service as soon as the offender enters the custodial institution. See for example 5.2.7 en 10.
12. There is intensive cooperation with higher education institutions (universities of applied sciences and academic universities) that prepare students for probation work. These establishments make an important contribution to the development of methodology and professionalization of research on probation. See 6.2.
13. Dutch inmates in foreign countries can receive support from Dutch nationals living in that country. These are volunteers under the supervision of International Office of the Probation Service. At the Probation Service, this office is the central point for the implementation of EU framework decisions on the transfer of probation sanctions and measures between EU member states. In addition, projects are supported from this office for the further development of probation in other countries (mainly countries in the former communist countries). See 4.4.
14. The seat of the CEP (Confederation of European Probation) is in Utrecht. The Dutch probation service has played an active role since the establishment of the CEP, the Confederation of European Probation. See 4.7.2.
15. In the last 25 years, the probation service has gained prominence and respect in the justice system and society. The concept of probation is strong and has proven its value. The Dutch probation service is widely supported by both the public and the legal professionals. See chapter 8.
16. There is growing evidence about the effectiveness of probation. Research has shown that offenders who undergo community service reoffend 47% less often than prisoners serving short sentences (Wermink, 2010). And also, the recidivism rate for offenders who were placed under probation supervision is less than that of ex-prisoners (Weijters, 2019).

1.2. Probation organisations

The probation service in The Netherlands is unique in its structure. Three organisations perform probation tasks with adults: Dutch Probation Foundation, Salvation Army Youth Protection & Probation and Addiction and Probation Service Mental Healthcare and Substance Abuse Treatment (SVG). All three organisations are supported financially by the Ministry of Justice and Safety, but act independently. See more about this in Section 4.

The Probation Service as described in this chapter mainly focuses on adult offenders. Probation activities for offenders under eighteen years of age is carried out by the Child Care and

Protection Board. In some cases, offenders between the ages of sixteen and eighteen may be referred to the adult Service. This may happen, among other things, in the case of particularly serious offences (see paragraph 3.2).

The number of unique persons with probation involvement in 2019 was 81,143. Table 1 shows the distribution of persons among the three probation organizations.

	%		
Probation Foundation	71%		
SVG	21%		
LJ&R	9%		
Total	100		
	%		

Table 1: Number of offenders with probation involvement Probation Organisations in 2019
 Source: IRIS, *Integraal Reclasserings Informatiesysteem* (Comprehensive Probation Information System)

1.3 General remarks about the implementation of European Probation Rules

While the Probation Rules are not very well known in the general probation staff and are not widely used as a point of reference, most of the rules resonate very well with the legislative and practical probation work done. The Inspectorate of Justice and Security inspects inter alia the application of sanctions in the Netherlands, making use of rules, including the European Probation Rules, as part of the assessment framework. The Inspectorate assess the performance of the probation organizations from time to time.

Besides the Probation Rules, national and international legislation also forms the point of departure for the exercise of inspection.

The Inspectorate of the Ministry of Justice and Security examines if and to what extent the organization succeeds in satisfying the aspects included in the assessment framework. The assessment framework does not only focus on the internal organization of adult probation, but also on the chain aspects: that is, how do the processes of cooperation with other agencies work out in practice? The reports by the Inspectorate are public and are presented to the Dutch Parliament. ³

Probation is also a separate area for attention within the Council for the Administration of Criminal Justice and Protection of Juveniles (RSJ). The Council advises the government on matters relating

³ The Inspectorate carries out occasional inspections (further to an incident) and thematic inspections. In 2017 the Inspectorate conducted a survey on the theme "The quality of probation supervision; a chain-oriented survey in the districts Amsterdam and Noord-Holland". The main conclusion was that probation supervision was predominantly good, but that attention was needed to bottlenecks in the cooperation with justice system partners.

to penal policy and penal legislation, including probation legislation and probation policy⁴. Meetings are held regularly between the Council and the Probation Service.

2. Historical development of the probation system

2.1 History from the origins to 2008

The probation system in the Netherlands has a long history. In 1823, the Netherlands Society for the Moral Improvements of Prisoners (*Nederlandsch Genootschap tot Zedelijke Verbetering der Gevangenen*) was established. In the beginning, this Society focused mainly on the circumstances in prisons and providing assistance when prisoners returned to society. In 1886 release on probation was introduced. Afterwards, local probation organisations were founded within the religious pillars that characterized the Dutch society of that period.

These organisations received government subsidies for the first time in 1905. The government realized that probation work was necessary in enforcing sanctions in society. This was given a legal basis in 1910 when the Probation and After-Care Order (*Reclasseringsregeling*) came into force.

With the introduction of the suspended sentence with conditions in 1915, the probation organisations were given several new additional duties: Supervising special conditions and providing information reports (recommendations).

Around 1970 there was an 'identity crisis' in the probation system. One movement wanted to separate from the justice system and focus more on welfare, another which considered strong embedding in the criminal proceedings to be logical and necessary, and a third group in between. This identity crisis was slowly resolved: the probation agencies accepted more and more that they should make a demonstrable contribution to a safer society by reducing recidivism and that this needed to be done from a secure position within the criminal justice system. This includes also a commitment to deliver well-substantiated advisory reports stressing the possibilities for the probation system to have a positive influence on the behaviour of offenders (Heinrich, 1995).

In 1974 pre-trial assistance was included in the Dutch Code of Criminal Procedure (*Wetboek van Strafvordering, WvSv*). From that time the probation system has been involved in all phases of the criminal proceedings: From the first moment, just after an arrest, as an advisor to the judicial authorities, and – in the next stage – as a supervisor until after detention.

Besides suspended sentences, fines or imprisonment, from 1989 community punishment orders have also been imposed on offenders. After a long run-up of experimentation and study, the probation service became the official enforcer of these community punishment orders.

⁴ See for example: "Advies Detentiefasering en vi" (Advice on Phased Detention and Conditional Release; not provided with an English summary), <https://www.rsj.nl/adviezen/documenten/rapporten/2018/06/12/advies-detentiefasering-en-vi>

In 1973 a process of cooperation and merger was started among a large number of district based probation organisations. Partly as a result of a substantial round of financial cutbacks at the beginning of the nineties, the Dutch Probation Foundation was established in 1994. The largest probation organisation was then organised in ten regions and its purpose was contributing to a safer society. The two other probation agencies, the Probation Service of the Salvation Army and the Addiction Probation, continued their work in separate organisations. They considered their distinctive identities were critical to their ability to work effectively with their particular target groups.

In 1995 the Probation Service was given an additional duty in criminal law. It became the implementer of electronic monitoring.

The Probation Service funds research that contributes to more knowledge of professional and effective probation work and the chance of recidivism. For instance, in 2008 the endowed chair Probation was established, funded by a Dutch Probation Charity (Nationale Reclasserings Actie), at the University of Amsterdam of Prof Dr P.H. (Peter) van der Laan. In his teaching and research activities he focuses on the effect of interventions under criminal law⁵.

With the start of two research groups, probation became strongly embedded in higher education:

- Probation and Safety at the Avans University of Applied Sciences and
- Working with Mandated Clients at Utrecht University of Applied Sciences.

Since 2007 there has been a minor 'Working in a Judicial Framework' that focuses specifically on mandated offenders⁶. At ten universities of applied sciences in the Netherlands students can get acquainted with the theory and practice of establishing a working alliance with offenders in a mandated judicial setting.

In 2004 the Ministry of Justice started a policy program that turned out to have a major impact on the probation organisations' orientation towards work with offenders. The program was named 'Reducing Recidivism'. As a consequence of this development, an evidenced based approach and the Risk Needs Responsivity Model was introduced in the Netherlands. This led to:

- The development and implementation of risk/needs assessment
- The development and implementation of behavioral interventions, accredited by an independent accreditation panel
- A better cooperation between prisons and probation organisations
- Initiatives to improve the organization and delivery of after care by municipalities

The impact this program had on the probation organisations was that the focus of the probation work become more targeted on reducing delinquent behavior instead of solving offenders' problems. The essence of probation work became the analysis of criminal behavior and how this could be diminished became the focus of probation work (Bosma, 2017).

⁵ www.nscr.nl/en/author/peter-van-der-laan/

⁶ www.internationalhu.com/research/working-with-mandated-clients

2.2 Recent history from 2008 to the present day

The Probation Foundation took Canada as an example and brought CoSA (Circles of Support and Accountability), a successful method to reduce recidivism of sex offenders, to the Netherlands in 2010. CoSA is intended to prevent perpetrators of sex crimes from reoffending. Three to five volunteers counsel the sex offender under the supervision of a circle coordinator from the Probation Foundation. Their role is to provide social support on the one hand, and, on the other, to identify and monitor risk. The initial results from 2015 give hope: investigation shows that CoSA considerably reduces the chance of recidivism by sex offenders (Höing, Bogaerts, & Vogelvang, 2013). Of all sex offenders with a medium to high risk level (according to the Static-99r) the rate of recidivism is 19.1% in five years. The recidivism rate of CoSA in The Netherlands is 8.8%. Comparable low recidivism percentages are found in other CoSA projects around the world. Since the start of CoSA in 2009 until 2019, about 139 circles have been started, 19 circles in 2019.

In 2008 a new system of forensic care was introduced. Forensic care is defined as mental health care, drug rehabilitation and care for the intellectually disabled provided within the criminal justice system. The main goals of the system are the prevention of reoffending and the provision of high-quality care. This resulted in the Forensic Care Act in 2019. The Probation Foundation is responsible for needs assessment and placement in forensic care. The probation workers advise the court if forensic care is necessary. There are three specific modalities for forensic care: out-patient, clinical or sheltered accommodation. The Ministry of Justice and Security is responsible for the entire forensic care system, including finance.

In 2012, the TER Team of the Probation Foundation was formed at the insistence of the National Coordinator for Security and Counterterrorism (*NCTV*). TER stands for terrorism, extremism and radicalization. Since its formation, 18 probation officers of the team have counselled about 200 convicts. The programme targets people who, for example attempted to join IS, who recruited others for the violent jihad or who have returned from the combat area in Syria or Iraq. In addition, about one third of them are so-called lateral entrants: they have not been convicted of terrorist crimes, but do show signs of extremism or radicalization (Leyenhorst, 2017). It emerged from research by the University of Leiden that recidivism among these offenders (N=159) is at a rate of only 4.4%. This low number is reason for the researchers to label the TER Team as effective (*Van der Heide & Schuurman, 2018*).

From 2014, enhanced attention has been paid to the victim in the whole criminal law chain. The Dutch government has committed itself to give victims of crime a stronger position in the penal process. The probation agency's underline the importance of restorative justice practices in reducing reoffending. They strive to better integrate the position of victims in every day's practice of probation work. Offenders, and also the staff working with them, are encouraged to understand the impact of the offence on the victim and to explore and if possible, to seize the opportunities for restoration. The probation agency's themselves do not contact the victims but this is attributed to the designated Victim Support services, with whom the probation agency's remain in close contact. A methodical guidance on 'working with victim-awareness' was developed (Krechtig, 2014), in which the interests of victims are included in probation work. Offenders are made aware of the

consequences of their offences for the victim, are called to account for their responsibility for their offences and urged to examine the possibilities for redress.

At the beginning of January 2017, at the request of the Probation Service, the research group 'Value of probation' was started at Saxion University of Applied Sciences. This new group focuses on the question of what the societal value is of probation and how it can be increased (See also paragraph 8.2). Saxion has taken over the baton from Avans University of Applied Sciences where the three probation organizations (3RO) had cooperated with for eight years.

Recorded crime has decreased since 2008: the police are recording increasingly fewer crimes and arresting fewer suspects. For example, in 2017 the police recorded 11 per cent fewer crimes than in the year before, and about one third fewer than in 2007. This decrease extended to virtually the entire criminal justice system. The Public Prosecution Service for instance settled 29 per cent fewer cases in 2017 than in 2007.

In contrast, the number of cases at the Probation Service increased between 2008 and 2017. This seems attributable to the emphasis placed by subsequent governments on reducing recidivism:

- Urging the use of more effective measures than prison sentences: community punishment orders on the one hand and conditional sanctions and conditional release with the emphasis on behaviour-influencing special conditions on the other.
- The community punishment order has also been viewed to an increasing extent not only as an alternative to imprisonment, but also as an adequate alternative to the fine (Tulder, 2019).

Although crime figures are dropping (De Jong, 2018) and prisons are becoming more and more empty or even being closed, the Probation Service workload remains high. Only recently growth is stagnating. There are still 70,000 to 80,000 cases each year. Apart from that the probation population is increasing in complexity:

- More cybercrime;
- More Slightly Mentally Disabled Persons (LVB-ers) and addiction problems;
- The number of cases of detention under a hospital order doubled from 2.2% to 4.4%;
- The share of very serious crimes (manslaughter, murder) rose (from 17% to 21%);
- There is an increase in very violent offenders, including persons convicted of firearms offences and drug violence;

The time that a supervisee actively remains in the caseload has increased by approximately 130 calendar days. This is an increase by about 29%.

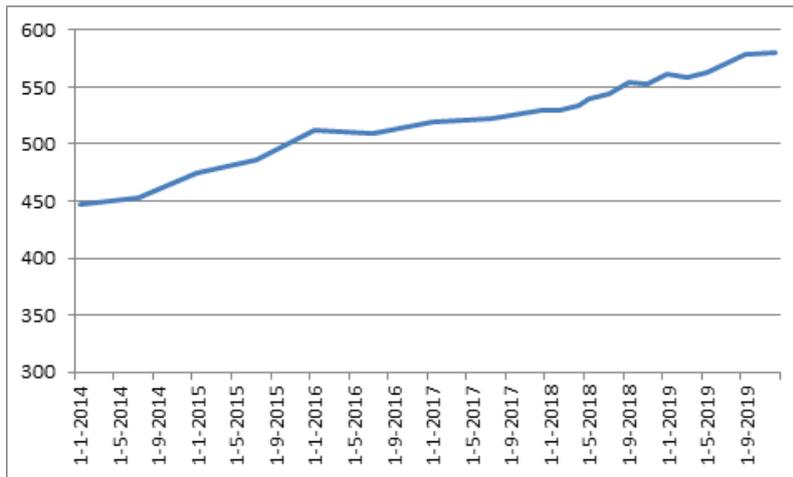


Figure 2. Development of the duration in calendar days that started supervision remains in the caseload
Source: Comprehensive Probation Information System (IRIS)

3. Legislative basis of the Probation System

3.1 Relevant European Probation Rules

As evident from the following sections, the legislative basis of the Probation Service is in accordance with the relevant European Probation Rules of the Council of Europe:

Probation agencies shall aim to reduce reoffending by establishing positive relationships with offenders in order to supervise (including control where necessary), guide and assist them and to promote their successful social inclusion. Probation thus contributes to community safety and the fair administration of justice. (Rule 1).

Probation agencies, their tasks and responsibilities, as well as their relations with the public authorities and other bodies, shall be defined by national law. (Rule 8)

Where provided by national law, the expertise and experience of probation agencies shall be used in developing crime reduction strategies. This may include making use of joint interventions and partnerships. (Rule 98)

3.2 Legislative basis

The first version of the current Dutch Criminal Code was adopted in 1881. This Code, together with the Dutch Code of Criminal Procedure forms the basis of Dutch criminal law. All legal provisions relevant to private foundations under Dutch law apply likewise to the Probation Service.

The current legislative basis for the Probation Service is laid down in the 1995 Probation and After-Care Regulation (further on in short: 'Probation Regulation'; 'Reclasseringsregeling'), as well as in a number of articles in the Criminal Code and Code of Criminal Procedure, that deal with specific sanctions and measures involving the Probation Service, such as community service, suspended sentences and conditional release.

In 2005, a separate provision was adopted, the Probation Implementation Regulations (*Uitvoeringsregeling reclassering*), containing further rules on the performance of probation activities⁷.

The Code of Criminal Procedure (in article 147) states that the Public Prosecution Service, in the interests of investigation into criminal cases, can call in the assistance of a recognized probation institution and can commission the specified tasks of this institution (producing a pre-sentence report). Other provisions about the pre-sentence report are laid down in articles 177 and 310 of the Code of Criminal Procedure, in which the same power is assigned to the examining magistrate or the judge. In the Criminal Code, for instance article 14d about the suspended sentence states that the judge can commission a probation institution to provide help and support to the convicted person in complying with the conditions. The Custodial Institutions Act (*Beginselenwet Gevangeniswezen*) and the Hospital Orders (Care) Regulations (*Beginselenwet verpleging ter beschikking gestelden*) can also be mentioned. The Labour Penalties Decree (*Besluit Tenuitvoerlegging Taakstraffen*) controls how the task penalties are performed.

The Probation Regulation specifies that the probation organisations recognized by the Ministry of Justice are responsible for the execution of sentences. It also specifies who may perform probation activities, what the statutory probation tasks are, the arrangements for funding of the Probation Service, the complaints procedure and the supervision of probation (by the Inspectorate of Justice and Security). Probation can be used with any offender, regardless of the offence they are suspected of having committed or of which they have been convicted.

The Probation Service as described in this chapter mainly focuses on adult offenders. Of the number of persons with probation involvement in 2019, 16% (13,211 out of 81,143) were under the age of 23. Probation work with offenders under eighteen years of age is carried out by the Child Care and Protection Board. In some cases, offenders at the ages of sixteen and seventeen may be referred to the adult Service. Since 2014 the Criminal Law Applicable to Young Adults Act (*Wet Adolescentenstrafrecht*) has been implemented to this effect. The so called 'Adolescentenstrafrecht' (criminal law applicable to young adults) has been in effect in the Netherlands since 1 April 2014. With the 'Adolescentenstrafrecht', the legislature intends juvenile and adult criminal law to be applied to 16 to 23-year-olds in a flexible manner. Juvenile law can be applied to young adults (18 to 23-year-olds), and adult criminal law can be applied to juveniles (16- and 17-year-olds; Section 77c of the Dutch Penal Code). The target group for the 'Adolescentenstrafrecht' has been defined according to the age when the offence was committed (16 to 23 years old). Which young adults qualify for juvenile criminal law depends on "the personality of the offender and the circumstances in which the crime was committed". The application of adult criminal law to 16- and 17-year-olds (trial in the first instance) is uncommon. It

⁷ The rules about the enforcement of probation activities and the subsidizing is specified in greater detail in the Implementation Regulations 2005 (*Uitvoeringsregeling 2005*) (a Ministerial regulation). For instance, it controls the requirements that probation officers must meet (the requirements of appointment) and the swearing-in of probation officers. It also contains more precise rules about the granting of subsidies, the assessment of subsidies and the administrative instructions.

concerns 1-3% of all criminal cases against 16- and 17-year-olds. The application of juvenile criminal law to 18 to 23-year olds has increased from less than 1% to 5% (Laan van der, 2017).

Under juvenile law and adult criminal law minors (16- and 17-year-olds) and young adults (18 to 23-year olds) can be placed under supervision of either the adult probation service or the youth probation service.

In 2012, the scope of application of the suspended sentence and conditional release was considerably extended. The Conditional Penalties Act (*Wet voorwaardelijke sancties*) that entered into effect in that year strengthens the position of the probation system. For instance, the general condition is included in that Act that the convicted person must cooperate with probation supervision and the duration of the operational period is also extended. The special conditions that can be attached to a conditional penalty or measure, as well as electronic tagging, have been embedded in law. For a more detailed description of the general and special conditions, see paragraph 5.2.1.

This Act was evaluated in 2018. With respect to recorded crime and the total number of convictions, the share of the conditional penalties with special conditions has increased. Most of the conditional penalties are based on a recommendation from the Probation Service, which is almost always accepted by the judiciary (*Smit, Kuin, Meijer, Homburg, 2018*).

On 1 January 2020, a new Act came into effect with far-reaching consequences for the Probation Service (*Wet herziening tenuitvoerlegging strafrechtelijke beslissingen, USB*). The purpose of the new Act is to improve the implementation of sentences. To foster cooperation in the chain, the management of the implementation of sentences is to be placed in the hands of the Minister of Justice instead of the Public Prosecution Service (OM). This gives the Minister a better overview of the implementation process and allows the Prosecution Service to focus on its core tasks, namely the investigation and prosecution of criminal offences. In the new set-up, the Public Prosecution Service sends all relevant sentencing decisions to be implemented to the Administration and Information Centre for the Enforcement Chain (AICE), which takes care of the administrative logistics on behalf of the Minister. For example, summoning convicted persons more quickly to serve their sentences or starting supervision by the Probation Service more quickly. One should not wait too long either to respond if, for example a convicted person is conditionally released, but does not adhere to the conditions of their release. This then comes down to good cooperation among all partners involved in the implementation of sentences. That is why, the police, prison system and probation system need to have all necessary information available in good time in order to work decisively. But municipalities and victims must also be informed correctly about the convicted person and the implementation of his sentence.

Whereas the concerted actions between the Public Prosecution Service and the Probation Service ran increasingly more intensively and informally in the past years, new relationships are now going to arise in the relationship pattern. In most cases the AICE is the contact point for the Probation Service and no longer the Public Prosecution Service. Direct contact with the local public prosecutor is only possible for complex and urgent cases. In this context, more autonomy is expected of the Probation Service in exercising supervision and issuing an advisory follow-up decision on

enforcement, changes to conditions or extension of operation periods. The Probation Service will have to get accustomed to this changing role.

3.3 Mission and Mission Statement

The Mission and Mission Statement of the three probation organisations are described below on the basis of the websites of these institutions.

3.3.1 Probation Foundation (RN)

The Probation Foundation is a private organization with about 2000 employees in five regions that are managed by five regional directors. The national office is located in Utrecht. It is the largest of the three probation organisations and receives about 60% of the budget. In total, 51 local field offices are called units. There is specialization: there is a community service unit in each region. There are also advisory units (assessment and report writing) and supervisory units and combined advisory and supervisory units. After a period in which advice and supervision were separated as much as possible, a trend is now visible towards more integration of these tasks.



The national general manager is supervised by a Supervisory Board, consisting of representatives from several sections of society, such as the judiciary, social work, legal and social science.

Its **mission**: The Probation Foundation is an independent organization that works toward a safer society. Together with the justice system, police, municipalities and prison system, every effort is made to prevent people from committing offences and reoffending. The Probation Foundation intends to do so by controlling risks as much as possible and encouraging the offender to change his behaviour.

Offenders are responsible for the offence and their own behaviour. Judicial authorities decide on the consequences. Offenders who are prevented from assuming their responsibility by a disability or by their psychological condition are usually guided to institutions that provide care.

It is often possible to have a beneficial influence on the behaviour of offenders. The Probation Foundation supports people in this regard. Boosting motivation, making responsible choices and self-reflection form part of the approach. Account is taken in this context of risks to society, and the Probation Foundation monitors where necessary.

When suspects come into contact with the Probation Foundation, it is sometimes not crystal clear whether they are guilty of having committed criminal offences. From judicial information, behaviour and the social environment, however, risks to the safety of persons or society can be distilled. In

that case, limitation of those risks prevails.⁸

3.3.2 The Addiction Probation Service (SVG)

Its **mission**: Probation with (forensic) care. The Addiction Probation Service makes efforts for the reintegration of people who have come into contact with the judicial authorities and are faced with addiction and/or psychiatric problems. Within the framework of criminal proceedings, they are monitored and guided with care aimed at recovery so that they can get their lives back in order and not reoffend.

There are three modalities for Forensic Care: out-patient, clinical or sheltered accommodation. Most forensic care is provided as part of an unconditional prison sentence. It also covers internal transfers to prison psychiatric centres, care within prison by external forensic care providers, transfers to external forensic care providers, and forensic care outside of prison provided as part of a penitentiary programme.

Offenders of the SVG usually also have problems in other areas of life, such as finances, housing and day activities. In many cases this combination of problems is the underlying cause of their delinquent behaviour⁹.

3.3.3 Salvation Army Youth Care & Probation Service

The Salvation Army Youth Care & Probation Service (*Leger des Heils jeugdhulp en reclassering, LJ&R*), is a division of the Salvation Army Welfare and Healthcare Foundation. LJ&R is a nationally operating organization with about 15 branches in the country and has about 560 employees. The central office is in Utrecht.

Its **mission**: The LJ&R plays a key role in the work of the government to reduce recidivism. In doing so, the Salvation Army uses advice, supervision and counselling and, where necessary, behavioural intervention, after-care and support in resocialization. The Salvation Army's main target group is the 'weaker members of society'. This group includes for example the homeless, worrisome care avoiders, repeat offenders and people with serious psychiatric problems. Because this target group is often difficult to reach, the Salvation uses 'assertive outreach' as its working method.¹⁰

3.4 Crime prevention

The core of the work of the Probation Service is the prevention of recidivism of known offenders. This is so-called tertiary prevention.¹¹ This is the aim of the Probation Service. The Probation Service does not take a leading role in prevention projects on the secondary and primary levels. Nevertheless, regional and local probation units participate in the local Justice Boards, aimed at developing and implementing a strategic vision and action plan for the prevention of crime and re-

⁸ www.reclassering.nl

⁹ www.svg.nl

¹⁰ <https://www.legerdesheils.nl/reclassering>

¹¹ In the context of this publication the concept of different levels of prevention is defined as follows. Primary prevention – as targeting the general public; Secondary prevention – as targeting special sub-groups such as youth dropping out school etc.; and Tertiary crime prevention – as techniques for reducing re-offending.

offending. Part of this vision is the formation of partnerships in the wider community (other statutory organizations, police, municipalities, and neighbourhoods). Targeting domestic violence and curbing nuisance caused by younger troublemakers is a main concern of the joint judicial organizations at the regional level. Where probation organisations are involved in these kinds of prevention activities, and if finances to carry out these activities are needed, they are supplied by the municipalities.

3.5 Volunteer involvement

The deployment of volunteers in addition to or alongside tasks of professionals in all kinds of social tasks has been the subject of attention in the Netherlands for some considerable time. In the past, volunteers were active mainly in social organizations that represent a religious denomination. In recent years, successive governments have recognized the importance of developing the Netherlands into a 'participation society'. In Dutch society the deployment of volunteers has increased enormously in the last few years. This also holds for the justice domain. The Ministry call the deployment of volunteers a spearhead; volunteers can support the tasks of professionals in the justice domain.

In recent years the question has more often been asked how the deployment of volunteers can support the work of the Probation Service. The Netherlands has experience with CoSa (*Cycle of Support and Accountability*) volunteers and the visiting volunteers of the International Office. But volunteers are not yet regularly deployed in probation supervision. The Probation Foundation's ambition is that in 2023 each probation region will have a network of volunteers who can be brought in for the counselling and support of probation offenders. Those volunteers will be deployed for tasks and activities that are supplementary to regular probation work.

There are many citizens and private organizations involved in community punishment orders: they make it possible for persons on whom community punishment orders have been imposed to undergo their community services in e.g. hospitals, institutions for the elderly etc. See also section 5.2.6.

4. The Organisation of Probation Services

4.1 Relevant European Probation Rules

The following European Probation Rules characterize the organisation of probation services in the Netherlands.

Staff shall be recruited and selected in accordance with approved criteria which shall place emphasis on the need for integrity, humanity, professional capacity and personal suitability for the complex work they are required to do. (Rule 22)

All staff shall have access to education and training appropriate to their role and to their level of professional responsibilities. (Rule 23)

Staff who work or are to work with offenders who have committed some specific offences shall be given appropriate specialised training. (Rule 27)

Probation staff shall be sufficiently numerous to carry out their work effectively. Individual staff members shall have a caseload which allows them to supervise, guide and assist offenders effectively and humanely and, where appropriate, to work with their families and, where applicable, victims. Where demand is excessive, it is the responsibility of management to seek solutions and to instruct staff about which tasks are to take priority. (Rule 29)

Especially with regard to offenders who are foreign nationals and with nationals sanctioned abroad, the probation rules mention that "probation agencies shall ensure that their services are accessible to offenders of foreign nationality, especially in respect of community supervision and resettlement" (Rule 64)

Probation agencies shall aim, with the consent of the national authorities, to facilitate ongoing contact with and support to nationals sanctioned abroad, who are known to them, and to encourage them to make use of the relevant support agencies on their return. (Rule 65)

4.2 The three probation organisations

As stated above (see section 3.2) the probation services for adults are provided by three probation organisations. Youth probation services are provided by the Youth Care Office.

4.2.1 Common activities

An offender is assigned to the probation organization that can provide him or her with the most added value. In every court district the Probation Services have a shared service point, where all new clients are distributed over the three probation agencies. Allocation is based on two criteria. The first criterion concerns the characteristics of the case. Is there problematic behaviour in relation to addiction and is there a relationship between the offence and addiction? The offender is then assigned to the Addiction Probation Service (SVG). This holds for about 20% of all offenders. The Salvation Army provides assistance to homeless persons (about 10%). The Probation Foundation is the organisation designated for the other offenders.

The profile of the offender does not always clearly match the characteristics of the target groups of the organisations. This is especially the case with new offenders. In those cases the second criterion is applied. The second criterion is the agreed share of the work of each organisation within the total number of planned activities in the district. Both criteria help to make decisions without delay. In general, the allocation process runs smoothly.

In the past few years, the three probation organisations have worked more intensively together under the (Dutch) umbrella term 3RO (3 probation agencies). This cooperation focuses on matters including the primary process, training courses, quality monitoring, information management, research and ICT. An increasing form of cooperation is also visible in relation to policy advice. Partly under the influence of this cooperation, at present the distinction among the target groups of the of the individual probation organisations is adhered to less rigidly.

4.2.2 Probation officers

In 2019 the total number of fulltime probation officers at the three organizations was 2,147.

All probation officers are professionals, they have an education in social case work at a higher educational institute. The job of probation officer is at bachelor level. We most often see the following study programmes:

- Master's Degree programme in Forensic Social Professional Studies (this is at master's level)
- Social Work and Services
- Social Legal Services
- Criminology

The probation organisations have elaborate programmes for in-service training of their officers. The probation system has three stages of development for probation officers. The starting professional practitioner (stage 1), the fully professionally competent probation officer (stage 2), and the fully professionally competent probation officer with specific tasks (stage 3). Stage 3 officers are expected to contribute to improve organisational learning.

4.3 Other organisations involved in probation work

Besides the three probation organisations, there are several smaller, private organisations that play a role in the rehabilitation of offenders, in the form of shelters or half-way houses. In those institutions, offenders can stay for a certain time (around 9 months). Offenders can be placed in these facilities if pre-trial detention is suspended or for the last part of their prison sentence (in a so-called Penitentiary Programme or in the phase of conditional release). These facilities concentrate on offering temporary accommodation, instilling a daily routine, supervising the offender in work or training, working on relationships and thinking about a meaningful place in society. The participants follow a day programme, tailored to their needs. Referrers can be the prison system or the Probation Service. The most well-known of these facilities are called Exodus. In 2017, 127 persons were placed in these facilities. The subsidy from the Ministry of Justice was €6 million.

4.4 The international Office of the probation service

In 1975 the International Office¹² was established, an office that makes efforts for Dutch nationals incarcerated in a foreign prison. The primary task is to prepare prisoners during their detention for returning to the Netherlands. They do this with the assistance of about 280 Dutch volunteers who reside outside the Netherlands. These volunteers are active in more than 30 countries. The work of the International Office is subsidised by the Ministries of Foreign Affairs and of Justice and Security.

More and more Dutch citizens are being imprisoned abroad. Whereas there were about 1,000 Dutch detainees in foreign countries in 1992, by the end of 2019, this number had grown to more than 1,700¹³. The vast majority of these people were arrested for the possession or smuggling of

¹² Dutch Probation Service (Reclassering Nederland), *International Office Probation doesn't stop at the border*, 2019, https://www.reclassering.nl/media/1193/algemene-brochure_eng_web.pdf

¹³ <http://www.prisonwatch.org/foreign-national-prisoners.html>

drugs. These people experience particular difficulties; far away from family and friends, they are often forced to survive in a foreign culture, in a foreign area, facing an unknown legal system. The primary task is to prepare Dutch nationals detained in a foreign country for their return to the Netherlands. Volunteers play a special role in this. A volunteer holds interviews with the detainee about his or her choices and plans for the future. The volunteer also motivates the detainee to take up studies or maintain contact with the home front. Probation officers support the volunteers from the office in Utrecht.

In the past years the Probation Service has made its contribution to international developments in probation, as well as developing probation abroad. The Probation Foundation strives to support countries in and outside Europe in strengthening their probation services. This is in keeping with the policy of the Ministry of Justice and Security and the Ministry of Foreign Affairs and with international legal standards. The Probation Foundation pursues an active policy in this context with respect to countries that are Member States of the European Union and countries that strive to become Member States or that have or strive for an association treaty with the EU. This is also the case for countries that have important historical or migration ties with the Netherlands.

The International Office encourages cooperation in probation services in other countries. The Office is particularly active in projects in the area of probation capacity building. At present, specialists from the probation service are deployed in countries such as Serbia, Montenegro and Ukraine.

On Bonaire, Sint-Eustatius and Saba (part of the Kingdom of the Netherlands in the Dutch Caribbean) probation services are provided by the Caribbean Netherlands Probation Service (SRCN). There is great pressure on the judicial authorities in the Caribbean Netherlands and therefore also a great demand for probation work. The international Office of the Probation Foundation supports the work of the SRCN¹⁴.

4.5 EU Framework Decisions

The International Desk, as part of the international office, was established as a result of the EU Framework Decisions on the transfer of sanctions. EU Framework Decisions 947 and 829 make it possible to transfer alternative sanctions and probation measures to another EU Member State. To allow the work processes to run smoothly and thoroughly, and in order to streamline the communication between the services in the Netherlands and those in other countries, two Central Authorities have been established. For Framework Decision 909 (Transfer of criminal judgments) this is the Ministry of Justice and Security, (Custodial Institutions Agency (*DJI*))¹⁵. For Framework Decisions 947 (transfer of alternative sanctions or measures) and 829 (Supervision Order) the Central Authority has been placed with the Public Prosecution Service (Central Authority for the transfer of probation measures and the European Supervision Order).

With the entry into effect of Dutch legislation implementing the European Framework Decisions, the International Desk was established at the Probation Foundation whose International Desk operates

¹⁴ <http://www.reclassering-cn.com>

¹⁵ https://www.dji.nl/binaries/procedure-for-international-transfer-of-sentences-to-the_tcm41-120871.pdf

on behalf of the three Probation Organizations. It supports the Central Authority for the transfer of probation measures and the supervision order. When cases come in, the Central Authority can ask the International Desk for advice on the enforceability in the Netherlands of foreign conditions and behavioural interventions: Does the special condition also exist in the Netherlands and, if so, how is it enforced in the Netherlands?

The International Desk has developed a database. It contains information for each European country on probation practice, special conditions, whether or not there are community punishment orders, behavioural interventions and important assistance agencies. If a probation officer in the Netherlands has an EU national in his/her caseload who is eligible for the transfer of the sanction or measure to a certain country, the International Desk can then give advice on the probation practice in that country.

A difficulty faced by the Dutch Central Authority is that many countries do not have a Central Authority, which makes it difficult to perform the work effectively to prepare and carry out a transfer.¹⁶

Although the numbers of transfers made from and to the Netherlands are still limited, it is to be expected that these numbers will grow.

The International Desk also supports the Central Authority to a limited extent with Framework Decision 909 (transfer of prison sentences).¹⁷

Table 4: Transfers of probation sanctions and measures

	Incoming 947	Outgoing 947	Incoming Supervision Order 829	Outgoing Supervision Order 829
Total 2012 -2015	26	45		5
Total 2016	16	138	2	8
Total 2017	27	128	17	7
Total 2018	39	103	11	6
Total mid 2019	27	109	5	1

Source: Data provided by the Central Authority Framework Decisions 909/829. Public Prosecutor’s Office, Haarlem

¹⁶ The Dutch Central Authority has, together with the Probation Service Desk, organized working conferences twice with representatives with which the Netherlands has frequently dealt in relation to the transfer of measures: Germany, Belgium, Italy and Spain. These conferences were for the purpose of getting to know one another's work practices better, which would enable the work process to run more efficiently.

¹⁷ In the event that a convicted Dutch person is transferred from the Netherlands to an EU country with a return guarantee (the Central Authority for Framework Decision 909 applies for this guarantee during a transfer procedure for prosecution in another country), and the convicted person returns, the Appeals Court of Arnhem-Leeuwarden, pursuant to Section 2:11 subsection 5 of the Act (Measures Involving Deprivation of Liberty and Conditional Penalties Mutual Recognition and Enforcement Act) can adjust the sentence. In doing so, the Court of Appeal can take account of the personal circumstances of the convicted person. Should there be doubts about the bond of a convicted person with the Netherlands, the International Desk of the Probation Service is asked to make a social report on the convicted person in which the personal circumstances of the convicted person are discussed.

4.6 Other partnerships

4.6.1 National

The Probation Service participates in various partnerships such as Safety Forums (*Veiligheidshuis*, literally translated as *Safety House*).¹⁸ A Safety Forum is a local or regional network partnership of criminal justice, care and other municipal partners, in which, under clear management, they arrive at a coordinated approach to complex personal, system- and area-oriented problems to combat serious nuisance and crime (Dijk, De Waard, 2008).

The Probation Service also participates in the partnership As Soon As Possible (*Zo Spoedig, Selectief, Slim, Samen en Simpel mogelijk*) (henceforth: ASAP).¹⁹ The purpose of ASAP is a meaningful and quicker settlement of arrests (while caught in the act) for frequently occurring crimes. The chain partners Public Prosecution Service, police, victim support, Child Care and Protection Board and the Probation Service work together in this in order to settle (minor) cases as soon as possible, sometimes even within 6 hours (see also 5.2).

4.6.2. International

The Probation Foundation is one of the initiators of the establishment of the **CEP** (Confederation of European Probation), the overarching European organisation for the probation sector. The CEP was established in 1981 and is still strongly supported by the Dutch Probation Service and the government. The CEP office is located in one of the buildings of the national office of the Probation Foundation in Utrecht. The Secretary General is currently Dutch (as was the case with several previous secretary generals).

5. Different Stages of the Criminal Justice Process

5.1 Relevant European Probation Rules

As evident from the further description of probation activities in the different stages of the criminal trial, legislation and practice comply to a high degree with the relevant provisions of the European Probation Rules.

Any intervention before guilt has been finally established shall require the offenders' informed consent and shall be without prejudice to the presumption of innocence. (Rule 7)

Probation agencies shall work in partnership with other public or private organisations and local communities to promote the social inclusion of offenders. Co-ordinated and complementary inter-agency and inter-disciplinary work is necessary to meet the often complex needs of offenders and to enhance community safety. (Rule 12)

Where probation agencies are responsible for supervising offenders after release, they shall work in

¹⁸ <https://www.om.nl/algemeen/english/about-the-public/what-does-the-public/>

¹⁹ <https://www.om.nl/algemeen/english/about-the-public/what-does-the-public/>

co-operation with the prison authorities, the offenders, their family and the community in order to prepare their release and reintegration into society. They shall establish contacts with the competent services in prison in order to support their social and occupational integration after release. (Rule 59)

Supervision following early release shall aim to meet the offenders' resettlement needs such as employment, housing, education and to ensure compliance with the release conditions in order to reduce the risks of reoffending and of causing serious harm. (Rule 61)

Once all post-release obligations have been discharged, probation agencies may continue, where this is allowed by national law, to offer aftercare services to ex-offenders on a voluntary basis to help them continue their law-abiding lives. (Rule 62)

5.2 The role of the Probation Service from pre-trial up to and including to the enforcement stage

The arrangements which make up the Dutch Probation Service provide for a continuous involvement across the whole of the criminal/correctional system. The Probation Service advises the courts and the Public Prosecution Service on suspected and convicted offenders. The Probation Service may give advice to the justice authorities at different stages of the trial procedure. This may occur immediately after arrest, in the context of early assistance, for the pre-trial hearing of the examining magistrate, but also before conditional dismissal or penalty order issued by the Public Prosecution Service.

Prior to and during a criminal hearing, the advice is provided to the court, e.g. in relation to imposing a suspended sentence, special conditions, a community punishment order or a hospital order, either conditional or not, in the cases of defendants who have psychological/psychiatric disorders. Advice is also obtained in cases of conditional release, the granting of a pardon and when the possible revocation of a community punishment order or other suspended sentence or order is being considered.

Advice often leads to imposing a sentence or measure to which supervision by the Probation Service is attached. In the **pre-trial stage** this involves supervision of the conditions attached to the suspension of pre-trial detention or supervision of the conditions attached to the decisions of the Public Prosecution Service to prevent criminal prosecution in court. Except for custodial sentences and measures, almost all sentences or measures that the court can impose under the Dutch Criminal Code can also be applied by the Public Prosecutor in the pre-trial stage. In the Netherlands, the expediency or opportunity principle applies to criminal prosecution, which means that the Public Prosecution Service can settle of a case itself. This can be in the form of (conditional) dismissal, a transaction or by way of a punishment order. In case of a punishment order the defendant can bring an appeal at the court if he/she does not agree with this order. Many criminal cases are settled in this way out of court in the pre-trial stage, with a fine, a behavioural condition or community service.

When a criminal case is nevertheless brought before the court, in most cases an advisory report by the Probation Service results in the imposition of a sentence or measure to which supervision and counselling by the Probation Services is attached.

In the **enforcement stage** mainly persons sentenced to a suspended sentence, community service or conditional hospital order are under the supervision and counselling of the Probation Service. Supervision also takes place in the enforcement stage in the context of a Penitentiary Programme or during conditional release. The Penitentiary Programme is part of detention aimed at a gradual transition from detention to a successful return to society.

After serving two thirds of a sentence, an offender is eligible for conditional release. The Probation Service advises the justice authorities on conditional release (*voorwaardelijke invrijheidstelling*) and can supervise the conditions under which a person is released.

If the court has imposed a hospital order on a convicted person on the basis of a mental disorder (*TBS*), the offender must comply with certain conditions, such as a location order and/or ban. After returning to society, an offender is usually still under supervision by the Probation Service for some time.

Table 5. Sanctioning system and probation involvement in the pre-trial/trial stage

Sanctions/Measures/ Penalties/Conditions attached to a conditional decision or sentence	Provided in legislation?	Probation service involvement	In Which Stage? Pre-Trial (1) or Enforcement stage (2)	Main characteristics
Unconditional waiver by the public prosecutor	x	-		
Conditional waiver by the public prosecutor		x	1	Supervision, reporting
Conditional suspension of the pre-trial/remand detention	x	x	1	Supervision, reporting
Pre-trial/remand detention	x	x	1	Supervision, reporting in case of suspension of remand
Police custody	x	x	1	Pre-trial assistance, reporting
Bail	x	-	1	Probation not involved
Caution		-	1	Probation not involved

Surety	x	-	1	Probation not involved
House arrest	x	x	1/2	Supervision, reporting
Electronic monitoring	x	x	1/2	Supervision, reporting
Community service	x	x	1/2	Supervision, organisation, reporting
Treatment order	x	x	1/2	Supervision, reporting
In/out patient order	x	x	2	Supervision, reporting
Training/learning order	x	x	1/2	Supervision, reporting
Drug/alcohol treatment programme	x	x	1/2	Supervision, reporting
Compensation to the victim	x	-	1/2	Probation not involved
Mediation	x	-	1	Probation not involved
Semi-detention	-	-	=	Probation not involved
Attending a day centre	-	-	=	Probation not involved
Liberty under judicial control	-	-	=	Probation not involved
Interdiction to leave the country	x	x	1/2	Supervision, reporting
Interdiction to enter different cities/places	x	x	1/2	Supervision, reporting
Interdiction to carry out different activities	x	x	1/2	Supervision, reporting
Interdiction to contact certain persons	x	x	1/2	Supervision, reporting
Psychiatric treatment	x	x	1/2	Supervision, reporting
Deferment of sentence	-	-	=	Probation not involved

Fine	x	-	1/2	Probation not involved
Other financial sanctions	x	-	1/2	Probation not involved
Penitentiary programme outside prison	x	x	2	Supervision, reporting
Preparing offenders for conditional release /parole	x	x	2	Preparatory interviews with prisoners, planning actions for period after release, advising about conditional release
Other special conditions, attached to a suspended or conditional sanction or measure imposed by a Public Prosecutor/ judge	x	x	1/2	ADVISING

5.2.1 General and special conditions

The public prosecutor and the court always impose the general condition that the offender should refrain from committing crimes. On top of that special conditions can be imposed. If so, the probation service focusses on the compliance with these special conditions.

There are two types of special conditions: conditions restricting freedom and conditions influencing behaviour. Almost all conditions can be imposed in the pre-trial, trial and enforcement stage.

The freedom-restricting conditions (restrictive conditions - 28% of all supervision) include:

1. location order or ban;
2. contact ban (obligation to avoid contact with specific persons);
3. duty to report;
4. drugs and/ or alcohol ban.

The behaviour-influencing conditions (72% of all supervision) are:

1. admitting the convicted person to a care institution;
2. an obligation to place him/herself under treatment by an expert or care institution;
3. staying in an assisted living institution or emergency accommodation;
4. participation in a behavioural intervention;
5. other conditions relating to the convicted person's behaviour, for example:
 - a. undertaking education
 - b. participation in debt counselling
 - c. prohibition of certain work
 - d. prohibition on keeping animals
 - e. no other housing without permission
 - f. participation in substance checks

The conditions can be imposed separately or in combination. The Probation Service has the task of supporting the offender in complying with these conditions and monitoring whether the conditions are indeed complied with. In probation supervision support and control always go hand in hand.

As soon as the court imposes one of the freedom-restricting or behaviour-influencing conditions, the general condition 'probation supervision' always applies as well. This entails that the offender must cooperate with the supervision, including home visits.

A special condition is viewed as a stimulus for successful supervision, because it provides clarity about the contents of the supervision. Both the convicted person and the Probation Service therefore know more clearly what the sentence entails and which obligations arise from it. Moreover, the Probation Service may rely on the decision of the Public Prosecutor or court with respect to the convicted person and is therefore strengthened further in exercising its supervision.

5.2.2 Advice and reports

5.2.2.1 Probation Rules

The following Probation Rules are relevant to the description of the practice of advising and reporting:

Alleged offenders shall be given the opportunity to be involved in the preparation of the report, and their opinion, where available, shall be reflected in the report and its contents shall be communicated to them and/or to their legal representative. (Rule 44)

Depending on the national legal system, probation agencies may produce the reports required for decisions to be taken by the competent authorities. They shall include advice on:

- the feasibility of the offender's release in the community;
- any special conditions that might be included in the decision regarding the offender's release;
- any intervention required to prepare the offender for release. (Rule 45)

Offenders shall be given the opportunity, where appropriate, to be involved in the preparation of the report, and their opinion, if available, must be reflected in the report and its contents must be communicated to them and/or to their legal representative. (Rule 46)

5.2.2.2 General

The role of the Probation Service in the pre-trial and trial stages consists mainly of making advisory reports to the Public Prosecutor and the court. In 2018, the probation service prepared 42,141 reports for the purposes of supporting decisions in the entire criminal justice chain. Such reports can be issued in writing or orally. There were 6,188 visits as well after arrest (pre-trial assistance).

Modality	Number of Reports
Suspension of pre-trial detention (Examining Magistrate and Court in Chambers)	6,998 (17%)
Advice to the court	22,607 (54%)
Advice to the prison system	3,433 (8%)
Conditional Release (VI)	1,636 (4%)
Other ²⁰	7,467 (18%)
Total	42,141

Table 6: Number of times advice given in 2019
Source: Comprehensive Probation Information System (IRIS)

5.2.2.3 Main issues of Probation Service Advice

In 20-25% of all criminal cases a probation advice is involved in the criminal proceedings. The function of probation advice is to contribute to a good substantive criminal decision; to allow the justice system to select the right measure for the right offender, ensuring efficient use of justice system resources.

In general, the probation recommendation revolves around three questions:

1. Is there a risk of repetition of the delinquent behaviour, and if so, which interventions in the area of influencing behaviour and risk management can reduce this risk? The advice focusses on how the risks can be diminished and the process of desistance can be supported.
2. What does this mean for the interpretation and enforceability of the pre-trial detention or sanction?
3. Are there particular personal characteristics or circumstances that should be taken into consideration when the penalty is imposed, in the sense of enforceability or undesired effects?

Formulating a punishment requirement in relation to the offence committed is a task of the Public Prosecution Service. The Probation will formulate a recommendation:

- The Probation Service advises on the details of special conditions if the Probation Service recommends a conditional sanction on the basis of necessary interventions, or in case the judicial authority is considering a conditional sanction;
- If the Probation Service is to be responsible in the implementation stage for the implementation of a sanction, it advises on its practicability. This applies to community

²⁰ 'Others' consists of specialised reports such as EM reports (3,012), ZSM advise (2,238) and TBS reports (404)

service and the suspended prison sentence, and to the extramural enforcement of a prison sentence or measure (Penitentiary Programme, trial leave for persons under hospital orders and early release).

- And finally, the Probation Service weighs up the degree to which a sanction has possible negative consequences for an accused person/offender.

A probation report will be issued even if the offender does not reside in the Netherlands. The execution of a criminal decision can often be transferred to the 'home country' (see section 4.5.).

Probation report is also issued if the offender does not cooperate with this. This however is on condition that the Probation Service has sufficient relevant information on the offender to issue such report. Probation report can prevent impracticable supervision or impracticable community service from being imposed. Advice aimed at interventions to limit risks can be given as well. A diagnostic instrument can also be used without speaking to the offender.

In the investigation stage, the accused person/offender is an important source of information, both through answers to questions and through non-verbal behaviour. During the entire advisory stage, obtaining the cooperation of an offender is important for the recommendation, but also for the subsequent procedure. Representatives of the formal and informal network of the offender are also important sources of information. The offender's motivation is crucial in order for an intervention to succeed. A draft recommendation is discussed with the offender, if possible before it is delivered. Many recommendations are delivered in the stage during which a person is suspected of an offence. A considerable proportion (20 to 25%) of the accused persons deny having committed the offence. As long as the accused person has not been found guilty, the Probation Service assumes his/her innocence.

A single integrated risk assessment and advisory instrument is used: The RISC (*Ricidive Inschattings Schalen*). This instrument helps the probation officer to make a structured analysis. The RISC also serves to integrate scientific knowledge into the analysis and to critically challenge the probation officer's professional judgement. Finally, the probation officer decides what will be the advice to the magistrate. From the RISC an advisory report is compiled that can be sent or printed immediately.

The RISC contains instruments enabling in-depth study which support the probation officer in making a risk analysis for specific target groups (see section 6.3.1). The probation service can also use in-depth studies provided by third parties to gain a better view of the problems. The Probation Service does not have in-house behavioural specialists like psychologists or psychiatrists, but can put in a request for third parties to do in-depth study on:

- personality,
- psychiatric problems,
- intelligence (IQ test),
- the influence of addiction on criminal behaviour.

This expert will provide the results to the probation officer who will include the results in the probation report. In 2019, 588 applications were made for in-depth diagnostics. A study also gives a view of possibilities for treatment.

The Central Government has adopted a reporting code for “Domestic violence and child abuse” which is laid down by law for organizations in education and healthcare and some organizations in the justice sector, such as the probation organizations. The reporting code includes an action plan, guiding professionals through all the steps in the process, from identifying the signs of violence or abuse to deciding whether to file a report. The steps make it clear to professionals what is expected of them when they identify signs of domestic violence or child abuse. The purpose of the code is to enable professional workers to recognize signs better and take action where necessary. Moreover, in each case for which the Probation Service is engaged, the Probation Service examines whether children are at risk.

5.2.2.4 Types of probation recommendation

Depending on the stage of the criminal proceedings, the Probation Service can issue different types of report:

A. Probation recommendation in the pre-trial and trial stage:

1. Probation advice shortly after arrest and on being brought before the examining magistrate (Early Intervention)

The stage of arrest and detention in police custody is an important time for advice from the Probation Service. It offers the opportunity to intervene quickly in the group of accused persons with a high likelihood of recidivism and for whom interventions (training or treatment) and supervision can help to reduce that likelihood. Early intervention entails paying a visit to an offender who has been arrested/detained in custody at a police station or before a he/she is brought before the Examining Magistrate. The early intervention offers the possibility to make contact with an offender in the earliest possible stage and to give advice on suspension and whether a probation proposal is appropriate.

Different advisory routes are conceivable:

- Advice to the Public Prosecution Service (OM) on further handling of the criminal case ASAP.
An arrest of a suspect in the 6-hour stage (the first 6 hours after arrest) can lead to a request by the OM to contact the offender (via video conference or face-to-face). The OM then states what the area of investigation is. Such requests are responded to quickly because the OM needs the advice (oral or written) to be able to decide in a timely manner.
- Advice to the Examining Magistrate (*Rechter-Commissaris*) on possible conditions for suspension of pre-trial detention or contraindications for suspension. The Probation Service is informed of all detentions in police custody. Police custody can

last a maximum of 3 days and 15 hours. The Probation Service advises the Examining Magistrate on the special conditions under which suspension is possible. The Probation Service then examines which risks are involved in a possible release and what is necessary and possible in order to await the court hearing in freedom (for instance behavioural training, location ban or an ankle bracelet). In the case of suspension, the offender can be placed under supervision by the Probation Service until the court hearing. The Examining Magistrate decides on suspension.

2. Probation advice for the court and the Public Prosecutor on Sentencing/Disposal

The Probation Service advises the Public Prosecutor and/or court on what is necessary and what possibilities there are to prevent recidivism. The offender may be in pre-trial detention. In that case a probation officer visits him in detention. In the event of an out-of-court settlement the Probation Service advises the Public Prosecutor. Regarding the possibilities of such a settlement (conditional dismissal, transaction or penalty order) see 5.2.2.1. If the Public Prosecutor brings the case before the court, the advice concerns the possible sentences or measures that the court can impose (suspended or non-suspended custodial sentence and the conditions to be imposed with them, community service and a conditional or unconditional hospital order). And, just as important is the advice about the possible interventions to limit risks.

Blankestijn (2013) notes that magistrates find the probation advice very useful to make further decisions (see also chapter 8). The pre-sentence reports have the status of an expert report. The probation officer is requested by the public prosecutor or judge to make a report. If necessary, he can be asked to clarify this report during the court proceeding. The report can never be used or classified as evidence.

B. Probation advice in the enforcement stage

In the context of the enforcement stage, the Probation Service gives advice in two different situations.

1. Probation advice in the prison

The Custodial Institutions Agency (*Dienst Justitiële Inrichtingen*, in short DJI) may ask the Probation Service to draw up an action plan. This plan deals with which steps the offender can take in prison towards a successful return to society. For example, undergoing a training course in the prison. The Probation Service also gives advice on whether the person concerned is eligible for a phased exit from prison (gradual expansion of leave possibilities and/or a Penitentiary Programme).

2. Probation advice in the event of conditional release

After serving two thirds of the sentence, an offender sentenced to a non-suspended prison sentence of more than a year can be eligible for conditional release. The Probation Service and the prison system issue advice to (a specialized national section of) the Public Prosecution Service (OM) on this conditional release. The Probation Service advises the OM as to whether and under what conditions (if any) the person concerned can be eligible for

conditional release.

Since 1 January 2018 the court has been able to extend the probationary period of conditional release. In that case as well, the Probation Service has an advisory role.

The OM can impose special conditions on conditional release, such as a location ban, training and/or treatment. The Probation Service monitors whether the person concerned adheres to the special conditions. If special conditions are breached, the remaining part of the prison sentence can still be executed. The court decides on postponement, not granting and (full or partial) revocation of conditional release.

5.2.3 Supervision

The following Probation Rules apply in this section:

Supervision shall not be seen as a purely controlling task, but also as a means of advising, assisting and motivating offenders. It shall be combined, where relevant, with other interventions which may be delivered by probation or other agencies, such as training, skills development, employment opportunities and treatment. (Rule 55)

Probation agencies shall work to ensure the active compliance of offenders with their supervision and with any conditions imposed. In gaining the offenders' co-operation, they shall not rely solely on the prospect of sanctions for non-compliance. (Rule 85)

Offenders shall be made fully aware of what is required of them, of the duties and responsibilities of probation staff and of the consequences of non-compliance. (Rule 86)

5.2.3.1 Types of Supervision

What is supervision understood to mean in this section? In the Netherlands the performance of community service is viewed as a different form of work from probation supervision in the context of a suspended penalty. In community service, first and foremost, the offender completes the unpaid community service work. The Probation Service enables him to do so and counsels him in doing so. This probation activity is dealt with in section 5.2.6. However, in supervision in the context of a suspended penalty or conditional release the influence on behaviour is first and foremost.

Probation supervision can be imposed in relation to different criminal modalities and distinguished according to stages of the criminal proceedings:

A. Probation Supervision in the pre-trial and trial stage

1. Suspension of pre-trial detention

If the pre-trial detention of an accused is suspended, the Probation Service can supervise the conditions set. The pre-trial detention will not be lifted, but the offender will be released under conditions.

2. Conditional dismissal

Conditional dismissal is regulated in Section 167 subsection 2 of the Dutch Code of Criminal Procedure. If a case is conditionally dismissed, the offender is expected not to commit any criminal offences for a certain period and to comply with the conditions set. A general condition is that the accused may not commit any criminal offence again within the

probationary period. One or more special conditions may be imposed in addition which are supervised by the Probation Service.

3. Punishment order by the Public Prosecution Service (*OM*)

Since 1 February 2008 it has been possible for the OM to impose sentences itself, therefore without intervention by the court. This is called a punishment order (*'Strafbeschikking'*).

The limit for settling a criminal offence by way of a punishment order is offences carrying a maximum sentence of six years. Five sentences can be imposed with an OM order (Section 257a subsection 2 of the Dutch Code of Criminal Procedure): The Probation Service is charged only with enforcement of the first - community service;

1. community service up to 180 hours (60 hours for minors);
2. removal from circulation;
3. disqualification from driving for six months at most;
4. fines;
5. the obligation to pay a sum of money for the benefit of the victim.

The OM order may also contain other instructions relating to the accused's behaviour with which the accused must comply. The operational period is for a maximum of one year.. In that case the Probation Service may be charged with exercising supervision.

4. Transaction by the OM (transaction with conditions):

The transaction is regulated in Sections 74 to 74b inclusive of the Dutch Criminal Code.

This is a kind of settlement or agreement between the Public Prosecutor and the accused.

If the offender complies with the conditions set by the Public Prosecutor, there will be no prosecution. A transaction is possible for offences carrying a prison sentence of six years or less, and for minor offences. If the defendant does not accept the offer of a transaction, the Public Prosecutor can bring the case before the court. Appeal or objection is not possible.

Section 74 subsection 2 of the Dutch Criminal Code prescribes the conditions that can be set in the context of a transaction. The most important of these for the Probation Service is community service for 120 hours at most. The Probation Service is commissioned to enable the performance of this community service.

B. Probation Supervision in the enforcement stage

Within the framework of the implementation stage there are various judicial modalities within which probation supervision can take place:

1. Suspended sentence

Supervision imposed by the court on the basis of a fully or partially suspended prison sentence occurs most frequently. The court judgment specifies how long supervision by the Probation Service will last and what the special conditions are. Probation as a sanction in its own right is technically not available in the Netherlands but is similar to the Dutch "Mandatory supervision by the Probation Service" as a condition attached to a sanction or measure imposed by the public prosecutor or the judge, such as suspended sentence and conditional release. Generally speaking, the court can sentence an offender to suspended imprisonment, which means that the enforcement of a sanction or measure (imprisonment, community service, fine, treatment order) will be suspended under certain conditions with which the sentenced person has to

comply. This suspended sentence can also be combined with a period of non-suspended imprisonment or other sanction or measure such as community service. To give an example: In a case where the suspended sentence is a prison sentence, the general condition is that the offender is liable to serve the imposed prison sentence if they are caught re-offending, in addition to any punishment which is imposed for the new offence. The general condition applies for a specific period of time, generally known as the probationary period. As part of the suspended sentence, there can be any number of additional special conditions, breach of which can lead to imprisonment for the relevant period of time.

2. Hospital order (*Terbeschikking Stelling (TBS)*) and conditional hospital order

TBS stands for 'placement at the discretion of the state'. It is an order that a court can impose (potentially in addition to a prison sentence) if an offender has a serious psychiatric disorder. The purpose of a hospital order is to protect society and treat the psychological disorder (De Keijser, 2011). Hospital orders have two variations: Hospital orders with compulsory treatment and conditional hospital orders. The court decides periodically on extension of the hospital order. In the event of a hospital order with compulsory treatment, the Probation Service gives advice on the contents of trial leave and during the trial leave the Probation Services monitors compliance with the conditions set and helps the offender to integrate back into society.

3. *Measure to placement in an Institution for Habitual Offenders (ISD maatregel)*

This order provides the possibility to place active adult habitual offenders for a maximum period of two years in an institution for habitual offenders. It deals with high frequency offenders, who often have addiction or psychiatric problems. This sanction combines incapacitation and treatment using targeted interventions.

High frequency offenders are responsible for a substantial share of the overall crime. These crimes mostly pertain to theft, burglary, vandalism and public order crimes. The order is an alternative for repeated short prison sanctions. Compared to a normal prison sentence, the ISD measure offers more opportunities with which the frequent offender's behaviour can be changed, and to reduce recidivism, because the frequent offender can be held and treated for a maximum of two years. A study on the effectiveness of the ISD measure indicates that the measure is far more effective than a normal prison sentence (Tollenaar, 2014) .

The judge can only impose the ISD if there is a recent probation recommendation on the necessity of the ISD. The ISD usually contains an out of prison stage. In this stage of the sanction, there is probation supervision.

4. Penitentiary Programme

At the end of a prison sentence prisoners are eligible for what is called a Penitentiary Programme. This programme is a form of imprisonment, aimed at a good return to society. In a Penitentiary Programme the prisoner spends the last part of his/her custodial sentence outside the prison, during which he/she is under supervision by the Probation Service. The Penitentiary Programme always starts with electronic tagging. At least 26 hours a week must be spent on daytime activities in order to participate in the Penitentiary Programme. Another condition is that the prisoner must have suitable housing.

5. Conditional release (*parole*) (*voorwaardelijke invrijheidstelling (v.i.)*)

It is possible for convicted persons sentenced to imprisonment for more than one year to be

released earlier under conditions after serving two thirds of the sentence. The Public Prosecutor sets the conditions. The Probation Service advises the justices authorities on conditional release and supervises the conditions.

Type of supervision	Offenders 2019
Conditional dismissal and punishment order (public prosecutor)	1,790
Suspension of pre-trial detention	6,662
Suspended sentence	21,561
Hospital Order (TBS)	1,044
ISD	714
Penitentiary Programme	1,357
Conditional release	1,803
Other	1,139
Total	36,070

Table 7: Total number of cases and types of supervision in 2019

Source: Comprehensive Probation Information System (IRIS)

In case of suspended sentences the imposed supervision period is usually two years and can never exceed the operational/probationary period stated in the sentence. The actual length of the supervision period is 22 months on average.

In the event of a suspended sentence, the Conditional Penalties Act (*Wet voorwaardelijke sancties, 2012*) makes the accompanying conditions and corresponding supervision by the Probation Service immediately enforceable. Immediately enforceable conditions apply immediately from the court judgment, even if the offender files an appeal against them.

Such immediate enforceability is at odds with the presumption of innocence; a suspect must be considered innocent until a court has finally and conclusively established otherwise. Consequently, immediate enforceability is only possible in cases where there is a high risk that the offender will commit a further serious, violent offence in the short term.

The law on Prolonged Supervision (*Wet Langdurig Toezicht, 2018*) creates the possibility of imposing longer supervision periods, even lifelong if necessary. Under this law offenders under hospital orders (*TBS*), sexual and serious violence offenders can be placed under supervision as long as is necessary. The background of this law is that much criminality is caused by offenders

who reoffend after their release. The return to society of TBS-patients and sexual and serious violent offenders leads regularly to unrest and feelings of a lack of safety within the community.

The Probation Service has had little experience with this new possibility. The numbers of cases in which this option is used is so far limited.

Of all offenders of the Probation Service on whom a community punishment order or supervision was imposed, the vast majority had committed an aggression-related offence against persons (32%) or a property offence (27%), followed by traffic offences (11%) and drug-related offences (7%).

Aggression against persons	32%
Property offences	27%
Traffic offences	11%
Other offences	11%
Drugs related offences	7%
Economic offences	5%
Sexual offences	4%
Firearms offences	2%
Property offences with violence	1%

Table 8: Nature of primary offences of which clients of the Probation Service were convicted in 2019 and for which they had probation supervision or a community punishment order imposed on them.

Source: Comprehensive Probation Information System (IRIS)

5.2.4 Electronic monitoring

Rule 57 van de European Probation Rules should be mentioned here:

When electronic monitoring is used as part of probation supervision, it shall be combined with interventions designed to bring about rehabilitation and to support desistance. (Rule 57)

Unlike in many other countries, electronic monitoring in the Netherlands does not exist as an independent sanction. Electronic monitoring can be used as a means of monitoring compliance with special conditions (location ban or location order). Different types of electronic monitoring can be used for this. The RFID ankle bracelet uses radio waves (radio frequency identification; RFID). This ankle bracelet identifies whether the offender is at the agreed place in time. This ankle bracelet is used in the case of a location order. The person must be at a certain location at a certain time. This is usually at home.

With the GPS ankle bracelet, the Probation Service monitors 24 hours a day where the offender is located. The GPS ankle bracelet is used mainly in case of a location ban. Positioning runs via satellites.

Except for leave from detention, in which cases the prison at which the offender is registered is responsible for monitoring, electronic monitoring is rarely a stand-alone provision. It almost

always contributes to the monitoring component of a broader action plan, arrived at through a thorough assessment (RISC) which includes supervisory discussions.

Table 9 shows a breakdown on use of Electronic Monitoring by sentence modality. The table shows that most of the use of electronic monitoring arise from progressive stages of detention with several degrees of freedom (phased detention, leave and conditional release). Another striking aspect is the relatively high use in the context of suspension of pre-trial detention.

Suspension of pre-trial detention	558 (16%)
Suspended sentence	116 (3%)
Penitentiary program and leave from detention	2,034 (60%)
Conditional release	174 (5%)
Other	492 (16%)
Total connections	3,374

Table 9: Electronic monitoring commissions in 2019

Source: Comprehensive Probation Information System (IRIS)

The Alcohol Meter is an innovative tool to monitor whether an offender has drunk any alcohol. It measures 24 hours a day by way of a perspiration monitor whether the offender has drunk any alcohol. When the offender drinks alcohol, a central notification centre receives a notification and the offender is contacted immediately. The alcohol meter is not yet in use nation wide.

5.2.5 Behavioural training programmes

A behavioural training programme can be imposed as a special condition with the judgement or the order. In case of a suspended sentence or conditional release, only the court or the Public Prosecutor can impose a behavioural intervention on someone.

Under a Probation Officer's general authority to give instructions he/she may instruct the offender to participate in a behavioural training course, even if the prosecutor or court has not specifically included such a condition in the sentence. If the sentence does not vest sufficient authority in the Probation Officer, such participation can only be on a voluntary basis.

The Probation Service itself provides the following in-house training programmes. These behavioural training programmes are scientifically based. An independent Accreditation Committee assesses and evaluates the methods used and results achieved.

Type	Total started
BORG - Partner violence	190
Alcohol and violence	139
Lifestyle training (drugs and alcohol)	609
Aggression training (ART Wiltshire-NL)	91
Cognitive Skills	599

Cognitive Skills plus (offenders with mild intellectual handicap)	275
Job Skills	50
Insight motivation	45
Total	1,998

Table 10: Breakdown of Behavioural Programmes Deployed – 2019

Source: Comprehensive Probation Information System (IRIS)

In supervising sex offenders who are under supervision, the Probation Service can use CoSa (Circles of Support and Accountability) (see section 2.2). Specific approaches are in use inter alia for adolescents, domestic violence and terrorism.

5.2.6 Community service (*labour penalty*) (*werkstraf*)

The following Probation Rules apply to community service:

- Community service is a community sanction or measure which involves organising and supervising by the probation agencies of unpaid labour for the benefit of the community as real or symbolic reparation for the harm caused by an offender. Community service shall not be of a stigmatising nature and probation agencies shall seek to identify and use working tasks which support the development of skills and the social inclusion of offenders. (Rule 47) to Community Service
- Community service shall not be undertaken for the profit of probation agencies, their staff or for commercial profit. (Rule 48)
- Offenders shall be consulted about the type of work they could undertake (Rule 52) Probation agencies shall develop community service schemes that encompass a range of tasks suitable to the different skills and diverse needs of offenders. In particular, there must be appropriate work available for women offenders, offenders with disabilities, young adult offenders and elderly offenders. (Rule 51)

Community service is an independent sanction by which the court or the Public Prosecution Service (*OM*) requires someone to do a number of hours of meaningful and unpaid work that serves a public purpose. If community service is imposed by the *OM* as a punishment order the maximum number of hours is 180. The maximum is 240 hours if this punishment is imposed by the court. Community service offers the justice authorities an alternative to a higher fine as well as a short custodial sentence. Research has shown that offenders who undergo community service reoffend 47% less often than prisoners serving short sentences (Wermink, 2010).

Community Service cannot be imposed as the **only** sanction on persons convicted of serious sexual and violent offences and in the case of similar recidivism within five years. Community service can be imposed in combination with, for example, a non-suspended prison sentence not exceeding six months.

The Probation Service determines where and when the community service is performed. The probation officer monitors whether the person performing community service is keeping the

agreements and will intervene if necessary. After completion of the community service, the Probation Service sends a notice to the OM.

The average duration of community service in 2019 was 65 hours. After the fine, community service is the most frequently applied principal sentence; in 2019 29.642 people had community service imposed and 2,224,669 hours were involved²¹.

Of the persons sentenced to community service, 74% (27,034) completed their community service, 15% (5.593) persons sentenced to community service stopped early during performance of the community service and 11% (3,913) of the community service sentences could not be started. If community service is not started or completed, the person is sent back to the justice authorities.

There are external individual community service projects and internal group projects. In an internal group project, the offender performs his or her community service together with other offenders. This is done under supervision by a probation supervisor. It often concerns outdoor work on greenery or indoor work in a workplace. Some offenders are not suitable for individual projects. This depends on the capacities and characteristics of the offender (e.g. persons lacking structure in life, persons with a dirty or an unattended appearance, persons who tend to become aggressive when confronted with authority) and the crime committed (e.g. sex offenders are not placed in schools). But group projects are also used to manage a large influx of offenders at the same time. In an external project the offender performs his community service at a different organization, such as a hospital or thrift shop. A member of staff at the host organisation acts as the offender's supervisor for the duration of the work placement. To make a good match the Probation Service not only needs to know the offender, but also the community service projects.

Status	Number
Completed	27,034 (74%)
Not completed	9,506 (26%)

Table 11a: Number of community service sentences (Comprehensive Probation Information System (IRIS))

	Internal project	External project
%	32,3	67,6

Table 11b: Percentage-wise distribution of the outflow of community service sentences in 2019 by project.
Source: Comprehensive Probation Information System (IRIS)

5.2.7 Probation Service in the prison

To gain an idea of the involvement of the Probation Service in the enforcement of detention, it is informative to provide some facts first about the *characteristics of the detainees*:

1. On average, there are 10,887 prisoners (2018)

²¹ Source: The Statistical Information and Policy Analysis Department (afdeling Statistische Informatievoorziening en BeleidsAnalyse) of the Probation Service

2. Every year, 36.278 new detainees are admitted (including juvenile prisoners and illegal aliens).
3. The number of prisoners per 100,000 inhabitants is 63 (2018), one of the lowest in Europe.
22
4. Around 30% of the detainees are in pre-trial detention; this is fairly high, but partly explained by the high number of relatively short prison sentences.²³
5. Adult inmates are detained for an average of 110 days. In 2017, 85% of the detainees had a sentence not exceeding six months (Ministry of Justice and Security, 2018).
6. According to a recent survey (WODC, 2018), the characteristics of the detainees are:
 - 75% display (serious) antisocial behaviour
 - 49% show a serious criminal career
 - 61% have problems facing housing and shelter at the end of the sentence
 - 75% have financial problems
 - 50% face problems using alcohol and drugs
 - 80% have social problems concerning relations and social network
 - 45% show indications of intellectual disabilities/learning difficulties²⁴

Until about 2016, the ***involvement of the Probation Service in penal institutions*** was limited. In the cases in which, owing to the length of the sentence, "phased detention" would be possible (transfer to an institution or regime with more freedom, possibly with leave, a penitentiary programme and conditional release), the Probation Service was engaged to give advice on these modalities and, together with him or her, to prepare the detainee for these steps into society. At present however the Probation Service has been given a more significant role, based on the realization that a detention period should be viewed as an integral part of someone's 'journey' through the criminal justice process, rather than an experience which is separate from it. There is time before and time after detention and probation will in most cases be part of that. Also: for many detainees the period of detention is very short so they miss out on phased detention, but they can indeed experience serious problems. The Probation Service takes an increasingly critical view of the use of and need for (short) custodial sentences. "Can we not help some of the people who are now locked up better with a supervision order and/or other assistance? And do all people now under supervision need the compulsion and coercion of a criminal law framework?" (Poort & Bac, 2019).

In the Sentences and Protection Bill (*Wet Straffen en Beschermen*, to be adopted by parliament in 2021) the Probation Service will be positioned more strongly in the enforcement of sentences and measures by use of the specific expertise of the Probation Service in the prison system. Since 2016 the Probation Service's cooperation with and presence in the Penitentiary Institutions (*PIs*) has

²² See: World Prison Brief, <https://www.prisonstudies.org/map/europe>

²³ See: World Prison Brief, <https://www.prisonstudies.org/map/europe>

²⁴ The findings were summarised in: <https://www.cep-probation.org/wp-content/uploads/2019/11/Netherlands.pdf>

intensified. From that year, workstations for the Probation Service have been organised in the PIs for the issue of regular probation recommendations. The Probation Service now issues probation advice from all 24 penal institutions to the Public Prosecution Service and the judiciary. This forms an important basis for closer cooperation. The next step is broader use of the expertise of the Probation Service in the detention process. The Probation Service has unique knowledge of and expertise in the building up and phasing out of criminal careers. This prevents detention from interrupting 'what works' and prolongs necessary care and counselling after detention. The Detention & Reintegration Plan is aimed at risk and protective factors and will be drawn up with the detainee and his or her environment. This enables the Probation Service to make a major contribution to a responsible return of offenders to society.

A new development is that on 1 July 2019 an **administrative agreement** was concluded between the Ministry of Justice & Security, the Custodial Institutions Agency (DJI), the probation organizations and the municipalities to jointly structure a more effective reintegration together with the detainees²⁵. Active preparation for returning to society from day one and better information exchange are important aspects of the administrative agreement. The idea behind this is that if offenders have a number of basic conditions in order on returning to society, there will be less chance of reoffending. That is why work is already done during detention on shelter, work/income, healthcare, a valid proof of identity and getting a grip on debts. Building up or expanding a well-supported social network again is an important condition to avoid repetition. To ensure that a detainee continues to make progress in these matters after detention as well, municipalities and the Probation Service are involved from the beginning of the detention.

The Probation Service and municipalities now work in prison to draw up a *personal reintegration plan* together with a case manager from the prison and the prisoner. In that way they have a better idea of the course of the prison sentence, and agreements can already be made from day one on the return to society.

5.2.7.1 Penitentiary Programme

At the end of a longer prison sentence (a sentence of more than six months with less than 12 months left to serve) prisoners become eligible for a *Penitentiary Programme*. The detainees then reside outside the prison. A Penitentiary Programme focuses on a successful return to society. During this programme, the offender can work, but also undergo training or treatment. The Probation Service gives advice on participation in the Penitentiary Programme, and the prison decides whether the offender is eligible for this. The conditions attached to the programme include that the offender must have daytime activities for at least 26 hours a week and must have suitable housing. The Probation Services supervises the offender during the Penitentiary Programme. During the first stage of the Penitentiary Programme, electronic monitoring almost always takes place as well.

²⁵ For the English version of the Agreement see <https://www.dji.nl/justitiabelen/volwassenen-in-detentie/re-integratie/bestuurlijke-afspraken.aspx>

The Sentences and Protection Bill, expected to be adopted in 2020, will cause the Penitentiary Programme to lapse. This will remove the overlap existing between the Penitentiary Programme and conditional release.

5.2.7.2 Conditional release

Toward the end of the prison sentence, detainees can be conditionally released. An offender will be eligible for conditional release after at least one year of detention. Broadly speaking, after two third of the prison sentence the offender can be conditionally released.

Conditions are attached to conditional release (*v.i.*). Those conditions can be geared to the circumstances of the convicted person and of the offence for which he was convicted. This makes it possible, for example, to set freedom-restricting conditions (such as a location ban and alcohol ban or an order to report) or behaviour-influencing conditions (such as undergoing a behavioural intervention or training). In addition, the general condition applies to each offender that he may not commit any criminal offence in the period of conditional release. In order to be conditionally released, the offender must state that he is willing to comply with the conditions. He cannot appeal against the setting of conditions. There is also an operational/probationary period. If detainees breach the conditions imposed, they could be placed back in the prison where they must then serve the rest of their sentence or part of it.

The Probation Service and the prison system advise the Central Authority for Conditional Release (CVvi) that takes the decision in principle on conditional release.²⁶ If special conditions are imposed, the Probation Service is charged with monitoring compliance with those conditions.

Only a small proportion of detainees ended the detention period with conditional release; in 2010 2.7% of all 'outflow' from detention, 1,096 of the 39,702 detainees. Only 7% of the 'outflow' were detainees with prison sentences of more than one year.

The Ministry of Justice had an evaluation made in 2011 of the Conditional Release Act (*Wet voorwaardelijke invrijheidstelling*). Approximately half of all persons released (53%) were subject only to the general condition that no criminal offence could be committed during the 'operational/probationary period'. The rest had one or more Special Conditions imposed. The most frequently imposed special condition is an order to report to the Probation Service: 46% of all conditionally released persons had this condition imposed. In the group that had one or more special conditions imposed, 98% also had an order to report to the Probation Service imposed. Considerably less often, a behavioural intervention, outpatient treatment or an alcohol or drugs ban was imposed as a special condition. Offenders who are more highly convicted are more likely to have special conditions imposed. Prisoners who are convicted for the first time had a special condition imposed in only 7% of the cases. By contrast, 61% of offenders who were convicted of ten or more previous criminal offences had one or more special conditions imposed. It was evident as well that sex offenders and perpetrators of property offences most often had special conditions

²⁶ The Central Authority is based in the Public Prosecution Service. It decides about refraining from, suspending and revoking early release and about the special conditions to be combined with the conditional release. The courts decide about the appeal not to grant conditional release and about cases in which conditions were not fulfilled or infringed.

imposed. Perpetrators of fraud, arson or drug offences had fewer special conditions imposed. The vast majority of people whose risk of recidivism was estimated as high by the Probation Service also had one or more special conditions imposed (Flight, Nauta, Terpstra, 2011).

If the Sentences and Protection Bill is adopted, substantial changes will be made, also to probation practice. The maximum period of conditional release will be 2 years. For further information see section 10.

5.2.8 Care and aftercare outside the criminal justice system

In the European Probation Rules (2010), Aftercare is defined as the process of reintegrating an offender, on a voluntary basis and after final release from detention, back into the community in a constructive, planned and supervised manner.

Opinions about whether the probation agencies in the Netherlands have a responsibility for aftercare have changed over time. Before 2004 it was quite accepted that the probation agencies provided services to ex-offenders after the sentence had been served. In 2004 the Ministry decided no longer to subsidize after-care activities. Aftercare became the responsibility of the municipalities

In the past decade the insight grew that a closer cooperation between the prisons, the probation agencies and the municipalities needed to be realized (see the Administrative Agreement in 5.2.7.). Through closer cooperation between the prison, the municipalities and the probation agencies, there is an endeavor to solve the obstacles identified in the critical areas for aftercare. Together they decided to help all detainees on six critical areas: Income, housing, healthcare, debts, identity document (an ID is necessary when applying for welfare benefits or obtaining accommodation) and social network. Although each organization in the field has its own responsibility, it became accepted that a strict division is not effective, as the offenders regularly cross the line between being in and out of the justice system. That is why, nowadays, the Probation Agencies can provide care and aftercare before as well as after the judgment. Sometimes before the criminal decision is the right time to start a probation intervention. But also after the release from prison sometimes the probation service cannot wait till the case is referred to another agency. That is why the probation service is allowed to do whatever is necessary: unorthodox custom work, short, intensive case management and sometimes brief counselling processes. For example, additional contact can be maintained with the client in order to obtain regular care. This is possible because the financing is increasingly less output driven. By no longer being funded merely by the number of products delivered, the Probation Service is better able to do what is necessary to ensure that cases can be settled quickly and in a meaningful manner. Lump-sum financing already applies to the reporting task (pre-sentence reports and other reports). This is still being worked on for probation supervision.

In addition, the Probation Service also performs work in an administrative law context, on commission by municipalities. The temporary domestic exclusion order (*Tijdelijk Huisverbod*) is an administrative measure. In the case of domestic violence or a suspicion of domestic violence and/or child abuse, the mayor can order a custodial placement. Custodial placement is for 10 days and can be extended by 18 days at most. The intention is that everyone involved is offered

assistance in those days. In many municipalities counselling of the offender is done by the Probation Service.

6. Probation methodology

6.1 Relevant European Probation Rules

As far as possible, the probation agencies shall seek the offenders' informed consent and co-operation regarding interventions that affect them. (Rule 6)

When required before and during supervision, an assessment of offenders shall be made involving a systematic and thorough consideration of the individual case, including risks, positive factors and needs, the interventions required to address these needs and the offenders' responsiveness to these interventions. (Rule 66)

The work plan shall be negotiated and, as far as possible, agreed with the offender. (Rule 73)

Probation agencies should be able to use a variety of methods based on an interdisciplinary approach and sound knowledge derived from relevant research. (Rule 77)

Probation agencies shall be accountable to the competent authorities and subject to regular government inspection and/or independent monitoring and shall co-operate fully with all such scrutiny. The findings of independent monitoring bodies shall be made public. (Rule 103)

Probation policy and practice shall be as far as possible evidence based. The authorities shall provide the resources necessary for rigorous research and evaluation. (Rule 104)

Revision of existing laws, policy and practice shall be based on sound scientific knowledge and research that meets internationally recognised standards. (Rule 105)

6.2 Mandatory Social Work

The expertise of the Probation Service in understanding and working with criminal/delinquent behaviour and desistance is supported by a scientific approach. The probation organizations, together with some chain partners, fund the research group '*Werken in een gedwongen kader*' (Mandatory Social Work) at Utrecht University of Applied Sciences and the research group '*Waarde van reclasseren*' (The Value of Probation) of Saxion University. The charity National Probation Action funds the Endowed Chair at the University of Amsterdam.

The studies by these scholars (and other national and international research) contribute to more knowledge of professional and effective probation work. Moreover, the professor of probation at Amsterdam University is often asked to explain the work of the Probation Service to the media.

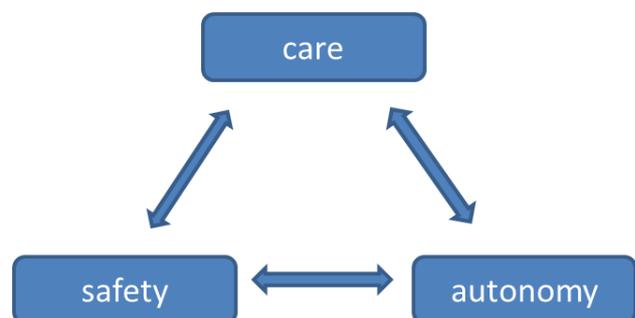
Drawn from national and international research, the principles and leading theories of probation work are described in the influential book *Working with Mandated Clients* (Menger, Krechtig & Bosker, 2013). The book acts as a guide for the methods and actions of probation officers in The Netherlands. It describes the main theoretical models, the different operational movements in the development of modern probation work, and the basic principles of working with risk and problematic behaviour arising from each. It puts state-of-the-art knowledge in the hands of

probation officers and provides insight into how to apply it in a professional manner to bring about change in offenders.

Based upon the insights in the book, the Probation Service has adopted the following principles to underpin its work:

1. the offender is responsible for his/her own acts; he/she can change his/her behaviour, and he/she can decide to stop perpetrating offences. The Probation Service is oriented towards the future: together with the offender, the Probation Service looks for conditions for positive new behaviour of the offender. The past of the offender is important, but from the viewpoint of which risks are likely to be present in the future;
2. the offender can and must be motivated to change his/her behaviour. The probation officer tries to tap into that motivation for behavioural change, and to support it;
3. the judicial deterrent is used methodologically as a motivating factor: it is made clear to the offender that non-cooperation with the Probation Service can have negative consequences for him/her. If the imposed obligation is not performed properly, the Probation Service will report to the Public Prosecutor, who can decide that the offender must serve the original sentence after all. If the special conditions of a suspended sentence or conditional release are not met, the judicial authorities can decide, on the basis of the recommendation from the Probation Service, to enforce the conditional part of the prison sentence for the offender after all.

The probation organizations work predominantly with offenders on the instructions of the justice authorities. The offender is therefore required under a court ruling to maintain contact with the Probation Service: the mandatory context. But prior to a ruling on any form of mandatory contact with the Probation Service, the offender must state to the deciding authority that he is willing to do so. This makes the offender formally co-responsible. The probation officer supports offenders in learning to assume such responsibility and being able to bear it. This is an important key in the probation methodology. The difference between formal co-responsibility and actual personal involvement of the offender is a central theme in the probation methodology. The Probation Service therefore works in a triumvirate of safety, care and autonomy: an adequate distribution among these three values is always sought, with the ultimate aim of increasing the offender's independence as much as possible.



6.3 Methodological probation models

Two leading models for the Probation Service are the Risk-Need-Responsivity (RNR) model, also known as What Works (*Andrews & Bonta, 2010*) and Desistance Focused Practice Model (McNeill 2002). The RNR-model consists of a number of principles that have been published mainly by Anglo-Saxon behavioural experts and criminologists and based on 'evidence-based practice'. In brief, these are the main four principles:

- Risk principle: the greater the risk of recidivism, the more intensive should be the intervention;
- Needs principle: interventions should be based on the criminogenic deficiencies and needs of an offender;
- Responsivity principle: interventions must be based on a cognitive behavioural approach, and be in line with the learning style, possibilities and motivation of the offender;
- Programme Integrity principle: interventions should be evidence-based, carried out as originally planned, by trained staff who are adequately supported.

Research on the interaction of offenders with the social environment (including dealing with judicial professionals), and his/her social circumstances and opportunities are important themes in research on desistance. This research school and the 'What Works' research school were very important for the support of effective probation work in the Netherlands.

The Good Lives Model of Offender Rehabilitation is an addition to the RNR model. The Good Lives Model has been systematically developed by Tony Ward and colleagues and has been adopted by many different jurisdictions in western countries. This model is based on positive psychology and starts from the assumption that delinquents pursue certain necessities of life or goals.

The second school of research in criminology that has become influential for the work of the Probation Service is the descriptive research and practice-oriented advice based on the Desistance Focused Practice Model (McNeill, 2006). Desistance theories focus specifically on factors that help to foster the natural processes in offenders of stopping a criminal career. Development and life course are central themes in this paradigm.

In addition, there is increasingly more attention on '*Who Works*' (Menger, 2018). This means that the professional him/herself is an important part of the work. Menger investigated the relationship between professionals and offenders. She posed the question "which characteristics and which kind of behaviour contributes to the desired changes of offenders?". In this study the concept of 'working alliance' was used and not 'working relationship'. The last concept refers to the mutual feelings and attitude between offender and professional. The concept of working alliance draws attention to the quality of cooperation between offender and professional. According to Menger three characteristics emerge in the search towards a good working alliance:

- Goal and boundaries: the relationship is more effective if it is aimed at realising clearly spelled out goals. Professional and offender have mutual clarity about the judicial framework, and they agree on the obligations, goals and tasks that follow from the framework.
- Bond: this refers to the degree in which both offender and professional feel connected and bound to their common cause. The bond becomes stronger as both of them are working together on the jointly defined goals and when the offender feels respected, supported and valued by the professional, and experiences encouragement in succeeding the goals.
- Trust: Mutual confidence in each other's effort and intention. The offender feels free to express himself and the professional experiences openness on the part of the offender on what drives him.

A fourth characteristic has negative impact on the quality of the working alliance:

- Stagnation/resistance: both the offender and the professional evaluate their cooperation as negative. On the part of the offender his feelings of resistance towards the contact are prominent and the professional perceives this as well, with regard to the relationship and to him/herself (counter-reactance). In the case of a high level of stagnation/resistance the chances of breaches and premature drop-out increase.

Finally, according to Menger, an important characteristic of effective professionals is conscious monitoring of the work alliance and his/her own behaviour. Those who carefully organise their own feedback are more effective than professionals who do not do so. This concerns both structured feedback (monitoring the alliance with offenders and recidivism of one's own offenders) and feedback from colleagues.

6.3.1 Methodology and Advice

In report writing, the Probation Service provides an assessment of the risk of recidivism, the risk of harm, what the criminogenic and protective factors are, and what the offender's level of motivation for behavioural change and responsiveness is. This forms the basis for the Probation Service to give a recommendation on whether further probation activities are necessary (behavioural interventions, guidance and supervision), and whether treatment is indicated. If further activities are recommended, which special conditions should be imposed on the offender? If a suspended sentence or conditional release is under consideration, the Probation Service also makes clear how the supervision will be arranged, what the contact frequency will be, and how monitoring be implemented (possibly with electronic equipment). If the Public Prosecutor or the judge is considering a community service order the Probation Service gives a recommendation about the possible contra-indications for the labour penalty (Is this offender expected to complete the penalty? Can a suitable workplace be found for him/her – given the structure of his/her personality and the possible risk to others?).

Each report by the Probation Service is based on a risk assessment using RISC. The RISC is a risk assessment and advisory instrument with which, in a structured manner, the probation officer identifies the risk and protective factors, estimates the risk of recidivism and formulates a recommendation on special conditions. The RISC forms the basis of the professional judgement of the probation worker and his/her recommendations in all stages of the criminal proceedings. It can be applied when a person is brought before the examining magistrate, to a court hearing, penitentiary programme, hospital order or conditional release.

- depending on the gravity of the case and the stage of the criminal proceedings, the RISC can be filled in concisely or comprehensively.
- the RISC also contains a specific assessment framework in order, if applicable, to give good advice on whether juvenile or adult criminal law should be applied. To estimate the risk of future sexual and violent delinquent behaviour in sex offenders, the Static, Stable and Acute (SSA) tool has been integrated. The SSA is a combination of static and dynamic instruments and is the most frequently used instrument worldwide for estimating the risk of recidivism in sex offenders.

- the RISC also includes B-SAFER, an instrument for assessment of the risk of domestic violence. In it the vulnerability characteristics of the victim and the risk of relational violence are analysed in a structured manner.
- if a mild cognitive impairment is suspected, the Probation Service can use the SCIL. The SCIL is a short screening list with which it can be determined quickly and simply whether there might be a mild cognitive impairment.
- to identify the risk of violent extremism, the VERA-2R (*Violent Extremism Risk Assessment, Revised*) has been integrated in the new RISC. The VERA-2R is now considered the leading risk analysis instrument for violent extremism.
- the OxRec is part of the RISC. It was developed by Oxford University and has been scientifically validated for Dutch data and is suitable for general recidivism and violent recidivism.

A fulltime probation officer (with no other tasks than making reports) is expected to make 10 reports a month.

6.3.2 Methodology and supervision

During supervision the probation officer works on risk management, behavioural change and reintegration. It is important to do this together with the offender and his network. It is also important that the probation officer keeps the agreements that the Probation Service and the criminal justice chain have made. The methodology in supervision is called 'goal oriented supervision'. An action plan for supervision is drawn up as soon as possible. In this supervision plan the goals and the actions are determined together with the offender: Which goal must be reached and in what time limit?

In order to work according to plan, the probation officer uses the regulative cycle. This is a cyclical method of working that regulates the main stages and aspects of the process. The model is simple and contains the following stages: framing of the problem, diagnosis, making a plan, executing the plan and finally evaluating the plan. It is for the purpose of planning the process, maintaining an overview and adjusting it from the viewpoint of the probation officer.

For various target groups, such as adolescents, sex offenders and offenders of domestic violence, additional methodologies have been developed and implemented.

The probation officer monitors and provides guidance during the supervision. Interviews usually take place at the office of the Probation Service, but in the past few years the Probation Service has been outreaching more and more into the environment of the offender, like his family and friends and his neighbourhood. How often an interview takes place varies per case. This depends on the gravity of the offences, the risks to society and possible victims and the targets set in the action plan. On the basis of his professional judgement the probation officer determines how often an interview takes place.

A fulltime probation officer (with no other tasks than supervision) has 15-20 offenders in caseload.

6.3.3 Methodology and community service

The Probation Service has been implementing labour penalties since the early 1980's. Labour penalties were initially considered to be a good way to get offenders back to work. This rehabilitative element has progressively diminished. Currently, only so-called "bare" labour penalties are implemented; that is, it is a stand-alone provision; it is not made in combination with other sentences and measures. In the opinion of the Ministry of Justice, the labour penalty must be regarded as a real punishment, as an alternative to the prison sentence.

Insofar as the Probation Service offers guidance, it is aimed exclusively at stimulating, motivating and steering the offender such that he completes the labour penalty and subsequently does not have to undergo his prison sentence after all. Discussion is being raised again – and in a wider circle – about whether the labour penalty, alongside the element of punishment, should also be made use of for tackling problems that a convicted person has caused. Insofar as necessary, it should also be possible to offer supervision and guidance, and possibly behavioural interventions. Research has proven that labour penalties of offenders with a high risk of recidivism (as a consequence of problems in criminogenic areas) quite often are not successfully completed, and conversely, it is particularly labour penalties of offenders with no problems that are completed successfully (*Lunneman, Beijers and Wentink, 2005*).

The labour penalty can be performed "externally" as an individual placement, and "internally" as a group placement with the Probation Service. The individual placements are handled by organisations other than the Probation Service, for example in hospitals and care homes where the offender works in the kitchen or does jobs in the garden. Daily management is the responsibility of the staff of those organizations. The Probation Service has resorted increasingly to creating and managing workshops itself where offenders can be placed who would not be able to work for individual work providers. It has emerged that the persons subject to a labour penalty have an increasingly serious profile: more serious offences, greater problems, mental and physical deficiencies.

A fulltime probation officer (with no other tasks than community service) has 100-110 offenders in caseload.

7. Finances, Accounting, Registration Systems and Evaluation Procedures

7.1 The relevant Probation Rules

The structure, status and resources of probation agencies shall correspond to the volume of the tasks and responsibilities they are entrusted with and shall reflect the importance of the public service they implement. (Rule 18)

Probation agencies shall act in a manner that earns the respect of other justice agencies and of civil society for the status and work of probation staff. The competent authorities shall endeavour to facilitate the achievement of this aim by providing appropriate resources, focused selection and recruitment, adequate remuneration of staff and good management. (Rule 21)

7.2 Planning & control cycle

The funding of probation and the salaries of probation officers is generally viewed as adequate. The three probation organizations have traditionally been overseen by the Ministry of Justice and Security on the basis of a subsidy relationship. Section 48e of the Judicial Subsidies Act (*Wjs*), Chapter 4 of the Probation and After-Care Order 1995 and Chapter 3 of the Probation Implementing Regulations 2005 apply to the subsidy application. On the basis of this legal framework, the Minister of Justice grants an annual subsidy. In 2019 this was €238,000,000.

The fiscal year runs from January to December. The funding cycle starts with the issue of a 'framework letter' in the middle of the year. In this letter, the Minister invites the Probation Service to draw up an annual plan and budget. In this framework letter, the Minister explains which policy developments and spearheads he/she considers relevant for the next year and which contributions to this are requested from the Probation Service. This results in a subsidy application that has to be submitted in the autumn. This application is based on the contents of the framework letter and puts the Probation Service's own priorities and projects on the agenda. The award of subsidy follows hereupon at the end of the year. During the subsidy year, account is rendered in three quarterly reports of the progress of the target agreements. The Probation Service must submit the application for the final calculation of the grant amount before 1 June, annual report and audit certificate (regulated in the Probation and After-Care Order 1995).

The funding of supervision and community service is based on a production budget. This means that a production framework is used per probation task (e.g. report, supervision, community service). The budget available within this framework is calculated by multiplying the number of products to be delivered by an hourly standard and an hourly rate. In the product funding system, the tendency was primarily to think about numbers of reports, numbers of supervision orders and so forth. The Probation Service is making the transition to a more nuanced accountability, which is more clearly aimed at the outcomes of probation work. With this funding method the Probation Service will have to account more on the basis of quality than purely on the basis of quantity. The Probation Service and the Ministry are working together towards a new manner of accounting for all tasks of the Probation Service.

Table showing probation unit funding compared to costs of residential intervention:

Detention Cost per day	Probation Cost per day
(Pre-trial) Detention €245	Supervision 1y €11-46
Forensic Psychiatric Care €566	Electronic Monitoring surplus 1y €10
Medium psych Care in prison €484	Community service €3.5
Ditto in psychiatric institution €318	Varies per activity

Detention of illegal aliens €257	Advisory report (pre- trial/ detention) €1379
Youth prisons €622	Behavioural training €167
Total budget: € 2 billion	Total budget €236 million

Table 12: Detention and probation costs in the Netherlands
Source: SPACE I + II survey in Europe (Council of Europe)

7.3 Quality system

In 2016 the Probation Foundation (RN) was certified under the quality management system HKZ-r. This stands for Harmonization of Quality Assessment in the Care Sector (*Harmonisatie Kwaliteitsbeoordeling in de Zorgsector*), a sector-specific standard; the 'r' refers to probation (*reclassering*). This means that the services of the Probation Foundation are assessed by an independent party and meet the quality standards.

7.4 Primary process systems

The Probation Service uses the following **systems**:

- ROBIN, Reclasserings Organisaties Business Intelligence (Probation Organizations Business Intelligence), is the application for management and accountability information from 3RO level to probation officer level.
- IRIS, Integraal Reclassering Informatiesysteem (Comprehensive Probation Information System), is the central application that supports the registration of all offender data of the 3 probation agencies.
- IFZO, Informatievoorziening Forensische Zorg (Information System Forensic Care), an application that supports needs assessment, matching & placement in forensic care.
- The IRIS app and Community Service app to gain access to part of IRIS with a mobile device (smartphone and iPad/tablet).
- Portals have been used since 2019 for digital communication with the Probation Service from external target groups. The volunteers of the International Office were the first and they work via BEP (*Buitenland Extern Portaal*). The offenders also have access now to information relevant to them from their IRIS file via the Client portal. Besides that, there is the COSA portal and the Community Service Projects portal.
- The Knowledge Base is the place where a probation officer can find all the information (s)he needs to implement the primary processes. This contains need-to-know information on the implementation of reports, supervision and community service, but also information on specific target groups such as domestic violence or addiction.

8. Societal Support and Clients' Views

8.1 Relevant Probation Rules

The competent authorities and the probation agencies shall inform the media and the general public about the work of probation agencies in order to encourage a better understanding of their role and value in society. (Rule 17)

The media and the public shall be provided regularly with factual information about the work carried out by probation agencies. They shall be informed about the purposes and results of the work in order to encourage a better understanding of their role and value in society. (Rule 106)

8.2 Societal support

Societal support for the work of the Probation Service is very important. The Probation Service is in the centre of society and is not always supported by the political climate. That is why the Probation Service invests a lot in ties with other agencies, science and politics. The Managing Director of the Probation Foundation regularly places news items in national media to draw attention to his views on the work of the Probation Service.

A website exists with news and information about the work of probation. People can ask the Probation Service questions via the website. Relevant developments and activities are publicized via social media like LinkedIn and YouTube. An annual social report is drafted and published.

Since 2015 the Probation Foundation has carried out a customer satisfaction survey: how do chain partners (public prosecutors, judges, prisons) value the work? There is a general customer satisfaction survey in which questions are asked of as many chain partners as possible. In addition, by way of in-depth telephone interviews, feedback on the quality of the three main products (Reports, Supervision and Community Service) is gathered and examined. The results were presented in an internal report. Main points were:

- The respondents were satisfied with the probation reports (score 7.0); these reports contributed to the respondents' decision making (score 7.8)
- The probation service is in general perceived as flexible and customer oriented. In some cases, the probation service might more clearly and faster communicate to the customer when the report could not be delivered in the required time frame
- Although the reports were in general seen as clear, wishes were expressed of paying more attention to the implications of an advice (for instance, if the offender might benefit from a placement in a treatment institution, in which one are now vacant places?) and, in some instances, to the legal relevance of recommendations

In every district the results are being discussed with the customers, including how identified improvement items could be realised.

The research group “Value of Probation (*Lectoraat Waarde van Reclasseren*)” at Saxion University of Applied Sciences conducts research on the social benefits resulting from the work of the Dutch Probation Service²⁷. They use the framework of a social cost-benefit analysis (see figure below) for their analysis. The annual costs of crime in the Netherlands amount to about 13 billion euros. The costs of the work of the Probation Service constituted less than 2% per year of these annual safety assurance costs. The research group examines which social benefits society gains from these costs. Examples of these benefits are the added value of work by offenders guided by the Probation Service towards employment, or how the Probation Service contributes to the trust of society in the criminal justice chain, and the added value of work during community service. The first results indicate that the social benefits directly related to crime reduction (such as prevented police, legal and private security costs) are likely to be larger than the sum of the costs of the three probation organisations in the Netherlands. On top of these benefits, benefits such as the added value of employment, the reduction in health care costs and the reduction in debt costs related to offenders, (prevented) victim(s) and their immediate surroundings are expected. This indicates a positive cost-benefit ratio for the work of the Probation Service.

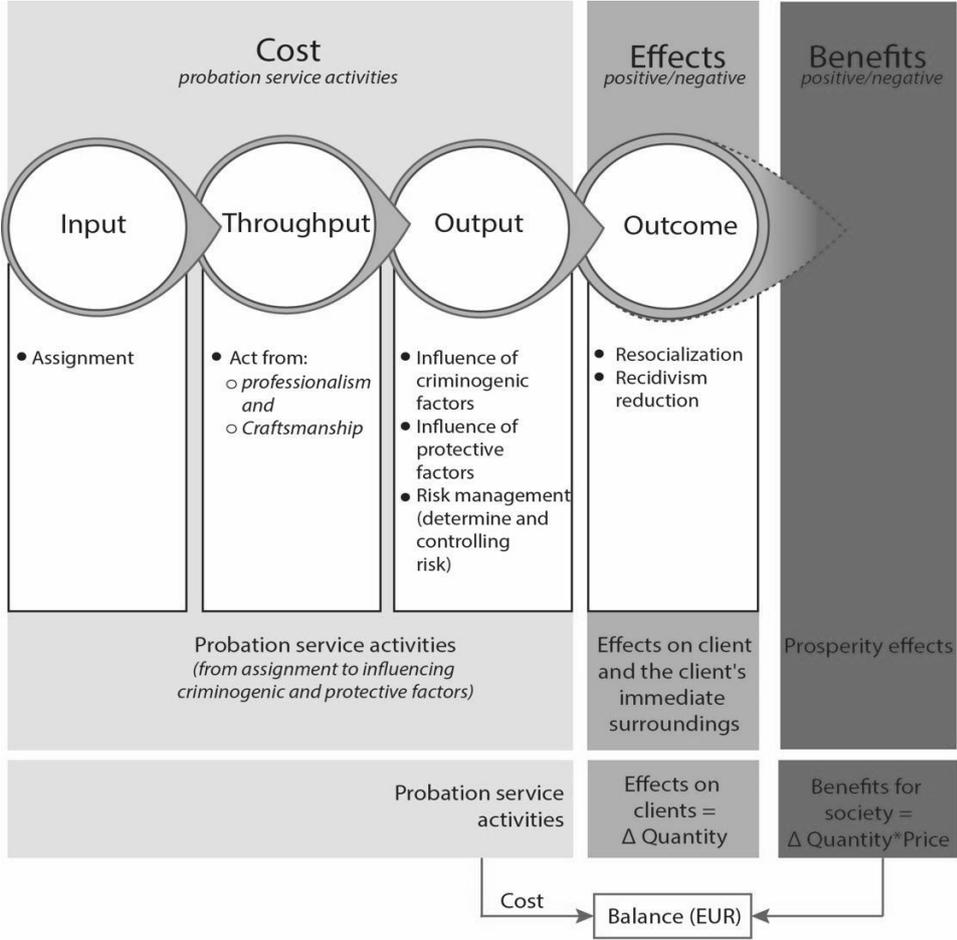


Figure 3: The framework of a social cost-benefit analysis projected on the work of the Probation Service (Saxion, 2020)

²⁷ <https://www.saxion.nl/onderzoek/areas-and-living/waarde-van-reclasseren>

8.3 Clients' Views

Assessing the opinion among offenders of the services of the Probation Service supports the organisation in the professionalization of probation work. The organisations wish to know what offenders think of the services they provide. It ultimately helps to increase the offenders' commitment to the probation process. Recommendations by offenders can result in adjustments to processes and implementation.

The offender consultation instrument (*Cliëntraadpleging*) measures the opinions of offenders of the services of the Probation Service. It was built in the period from September 2014 to July 2016 by offenders, probation officers, community service officers of the 3RO, researchers of Avans University of Applied Sciences and research coordinators of the 3RO. The instrument comprises 13 statements subdivided into three clusters: reliability, treatment and safety.

Offender consultation comprises two sections: a questionnaire and an interview. The regions are asked to collect at least 100 correctly filled in questionnaires and at least 30 detailed offender interviews.

The findings indicate a great general satisfaction among offenders. They are most positive about the reliability of the Probation Service, closely followed by treatment and lastly safety.

Offenders seem to base their opinions on the services of the Probation Service largely on their contact with their individual probation officer. Offenders are more critical about the way in which they are treated at community service locations. Feelings of lack of safety seem to occur most frequently among this group.

9. Probation Clients' rights

9.1 Relevant Probation Rules

National law shall provide for clear, accessible and effective procedures to investigate and respond to complaints regarding probation practice. (Rule 99)

9.2 Probation clients' rights

Offenders can present a complaint about a probation organization to the independent Probation Complaints Committee. Under Section 30 of the Probation Order 1995 offenders of the Dutch Probation Organisations can submit a complaint to the Probation Complaints Committee about the performance of or failure to perform probation work. The Complaints Committee is composed of members appointed by the Minister of Justice and Security.

Prior to each initial contact with the Probation Service, the probation officer is required to draw the offender's attention to the Complaints Procedure and the possible steps to be taken. If an offender is dissatisfied with his treatment by the Probation Service, a discussion will first be held with his own contact person and the latter's supervisor. Such a discussion usually solves the problem immediately. But if this is not the case, the offender or accused can submit a complaint by writing

a letter to the Complaints Committee. After this, the Complaints Committee may hold a hearing in which the parties can explain their viewpoints orally. The Complaints Committee then gives a written decision that is sent to both parties. The Complaints Committee can consider a complaint well-founded or unfounded. The Complaints Committee can also make a recommendation further to a complaint.

On average 69 complaints were received annually in the past five years by the Complaints Committee. Most complaints were resolved in a mediation meeting between the complainant, the probation officer concerned and the latter's supervisor. In 14 of them the Complaints Committee had to give a decision.

10. Future developments

Bridging the gap between the Justice System, Forensic Care and municipal institutions

Under the direction of the Ministry of Justice and Security, the future of crime and prevention has been analysed. In this project three lines of change have been formulated for the implementation of sanctions: **Safety Nearby** (organise the enforcement of the sanction in the surroundings of the offender), **Focus on Life Course** (sanction in line with the stage of the delinquent's life and consider past and future of the offenders life) and **Professional Competence** (professionals should have the chance on the basis of their expertise to bring the different perspectives of society, the offender and the victim together and work on individual solutions in order to ensure the safe enforcement of the sanction and a safe society).

The developments in the Probation Service are consistent with these lines of change. The playing field is becoming wider than the judicial domain alone, and the social domain is also coming more and more into the picture. Modern application of sanctions is more varied than before. In addition to criminal law, also administrative law/ civil law and noncustodial arrangements are emerging. It is becoming increasingly clear that the decentralization of money, tasks, responsibilities and powers in relation to care and safety from central government to the municipalities also affects the Probation Service. It gives municipalities more possibilities to take charge and to intervene decisively, such as, for example, by imposing location bans. Better cooperation with municipalities, local mental health institutions and for instance schools will enable more coherence and coordination of probation interventions. What such cooperation will look like will be sought out and tested in the next few years.

The Probation Service aims to bring about thinking and working in continuous, integrated and lasting trajectories (offender takes a central place, focus on course of life) and less in the separate tasks of report writing, supervision and community service. From the time an offender enters the picture, the complete trajectory that is necessary to limit recidivism and foster resocialisation is considered. The Probation Service presents itself as an expert in risk management, thinking in terms of safety, behavioural change and dealing with difficult target groups, with attention for the offender's own responsibility.

In the prisons, just as in the community, the Probation Service sees possibilities to focus more on the offender's course of life. Continuity and connection are then the key words. In the next few years, how cooperation with the prisons in the Netherlands can be organised effectively and efficiently so that optimum use can be made of the strengths of all parties surrounding a detainee will be examined.

Conditional release

It was set out in section 5.2.4 that the government has submitted a legislative proposal that sets restrictions on the application of conditional release. If enacted, this will eliminate a detainee's statutory right to conditional release after having served two-thirds of the sentence. Under the new proposal, after a personal assessment, conditional release will be granted for a period of 2 years at most. In addition, the personal approach during detention will be provided with a legal basis. Experience has been gained with the personal approach for a considerable time. In it there is more emphasis on the detainee's own responsibility and his or her behaviour. The existing overlap will also be removed between the penitentiary programme and conditional release.

The Probation Service sees a risk in allowing the penitentiary programme to lapse for those detainees who are eligible for conditional release. For long-term prisoners and perpetrators of High Impact Crimes²⁸, the nature of the problems and the gravity of the crimes, these groups often need a longer period of supervision than the proposed 2 years. The risk is that a detainee will return to society not (fully) prepared. If conditional release is maximized at 2 years, the Probation Service fears as well that the group of 'refusers' will increase. This means that because of their refusal to cooperate, these prisoners will no longer be eligible for conditional release and will not be prepared in any way whatsoever for return, which increases the risk of recidivism.

Technological innovation

In the next few years, the Probation Service aims to organise its work even more smartly by better digital facilitation of staff, fewer rules and less recording, which will leave more time for face-to-face probation work. But smarter probation is also in line with the offenders' needs: the ability to consult information (such as hours of community service and advisory reports) quickly and easily, and the ability to use apps to identify risk or networks.

A lot of attention will be paid to technological innovation. Four probation apps have already been developed for the offenders: *Mijn Leven*, *Mijn Risico's*, *Mijn Contacten en Stap voor Stap* (My Life, My Risks, My Contacts and Step by Step)²⁹. There is also a client portal by which each offender has

²⁸ High Impact Crime is a collective name for crimes such as home burglary, robberies, mugging and violent crimes. These crimes have many similarities with respect to nature, groups of perpetrators and approach. These crimes have a major impact on the victim, the immediate surroundings and on the feeling of safety in society.

²⁹ Step by Step is a short intervention to increase insight into substance use and criminal behaviour in order to motivate the client to change his or her behaviour.

The app My Contacts maps out the offender's network. The offender fills in a simple questionnaire and is guided within the App to fill in the desired information. It can ultimately be seen on one screen what the offender's social network looks like. This App shows which changes the offender would be able to/have to make in order to obtain more support or to get into trouble less often. So attention is not only paid to risks and negative influences, but also at least to supportive factors.

The app My Risks is a combination of the methodology of the crime scenario and the crime prevention plan. The offender uses the app to make his/her own plan not to come in contact again with the police and justice

access to his/her own file and can make his/her own agreements with its probation officer. Future developments are aimed at virtual reality and artificial intelligence. At present virtual reality applications are developed for use in cases of mental impairment and domestic violence and for cognitive skills. There is a current project to use Artificial Intelligence for probation recommendations.

Volunteers

The ambition of the Probation Service is that in 2023 each probation region will have a network of volunteers at its disposal who can be deployed to guide and support offenders. The volunteers will be brought in for tasks and activities that are supplementary to the regular probation work.

Hardened offenders

The Probation Service is dealing with increasingly more hardened offenders. They do not tend to change their behaviour, often display open or passive resistance to the special conditions imposed and pose unacceptable safety risks to staff and organisation. Moreover, these cases require the staff to invest a disproportionate amount of effort. It is considered disproportionate, because it concerns offenders on which much attention, energy and time are spent, but upon whom the Probation Service has but limited influence. The Probation Foundation has developed a model by which threat levels are linked to safety regulations and methodical instructions. Safety of the staff and efficient deployment of resources take a central place in this context. Experts have been assigned in each region (on community service, advice and supervision). These experts act as 'sparring partners' or consultants for other colleagues and take on the most difficult cases themselves. They get together in a national expert group, charged with the accumulation of expertise and continued development of the methodology. In addition, the Probation Service works on chain cooperation at national and regional level. It is very important for chain partners that have information on risks and threats to share this with the Probation Service as soon as possible.

Closing remark

*If the reader has any remark of question, please send them to ProbationinEurope@reclassering.nl
When updating this chapter in the future, those remarks and question will be taken into account.*

authorities.

The app My Life is used to map out important events in the offender's life in chronological order. The events filled in are automatically placed on a timeline, so that it will become clear which ups and downs there were in the offender's life. It is visible on the timeline whether there is a connection between the delinquent behaviour and the events in the offender's life. Wishes and goals for the future can also be placed on the timeline.

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