



Probation in Europe

Luxembourg

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1. Introduction

1.1 Probation organisation

The Luxembourg Probation service is part of the Central Service for Social Assistance (Service Central d'Assistance Sociale - SCAS), a national public organisation covering all judicial social services. Pursuant to the law of 1977, the SCAS includes departments for social inquiries and assistance to persons under judicial control¹, the Youth Protection Service, the Probation service and departments preparing personality reports.²

It is part of the General Prosecution (Parquet Général) headed by the General Public Prosecutor (Procureur Général d'Etat) under the authority of the Ministry of Justice.

Since 1964 the General Public Prosecutor can delegate powers for sentence enforcement and probation to an Advocate General (Avocat Général) acting as General Public Prosecutor's Delegate (Délégué(e) du Procureur Général d'Etat à l'Exécution des Peines) and main authority supervising the Probation service.

Probation officers work with adult offenders. The SCAS includes two probation departments:

- a) the Probation service (Service de Probation) for offenders subject to pre-trial control measures (contrôle judiciaire) introduced in 2006, or to in-prison and on parole/probation measures; and
- b) the Department for community service (Section des travaux d'intérêt général).

Both departments are part of the Service for community related sanctions and measures (Service des sanctions et mesures appliquées dans la communauté³) with the following core tasks:

- counselling, support and assistance to detainees and to their families;
- preparing social support plans for the General Public Prosecutor's Delegate and several committees;
- reporting to various judicial authorities on the accused and convicted person's situation and on important aspects regarding sentence enforcement;
- guidance when a person is discharged from prison;
- coordinating the transition from prison to release with parole or on probation after detention;
- guiding and monitoring people subject to conditional release, conditional sentence and electronic supervision;
- liaising with public agencies accepting offenders for community service;
- following-up with specialised public or private agencies for addiction treatment and psychiatry;

¹ This excludes the victim support service, offering voluntary consultations for victims

² Loi du 25 juillet 1977 sur l'organisation judiciaire, Art. 47bis

³ This denomination has been adopted following the Council of Europe's Recommendation Rec(2000)22 of the Committee of Ministers to member states on improving the implementation of the European rules on community sanctions and measures.

- deciding on small financial aids to offenders on early release or probation and to former detainees;
- providing assistance and guidance to former prisoners at risk of re-offending;
- staying in contact with volunteer prison visitors.

Luxembourg's probation system changed significantly in 2018 with two laws reforming two main criminal justice organisations: Prison administration (Administration pénitentiaire) and the General Public Prosecutor's Office for sentence enforcement.⁴

1.2 Probation activities in a nutshell

Given the size of Luxembourg's territory (2.586 km²) and population (626.108 on 1 January 2020⁵) one probation service is enough for the country.

Probation officers mainly work at the headquarters of the Probation service located in the "Gare" area of Luxembourg City, where they can use special meeting rooms to interact with probationers. They also visit offenders in the two detention facilities of the country, one high security prison and one open ("day-release") facility, as well as at their home.

When starting a prison sentence, offenders are allocated a Probation officer. Probation officers work with all types of offenders and their tasks and interventions can be very varied and is based on the "**continuous treatment model**". Due to the limited number of Probation officers, it is not possible to distinguish between special groups of offenders.

Probation work in Luxembourg focusses on assistance and coercion (aide-contrainte). The Probation service is allocated an annual budget to support prisoners after their release. This aid is a very important tool as many offenders are released from prison without any or only small financial resources.

1.3 General remarks about the implementation of Probation Rules

The Luxembourg Ministry of Justice adopted the European Probation Rules (the "EPR"). Following their approval by the Committee of ministers in 2010, the EPR triggered a vivid discussion in the Probation service, initiating a critical internal reflection process on the Service's philosophy and intervention methodology, its policy and practice. The EPR led to questioning long-time practices as well as institutional and organisational arrangements.

After a thorough analysis of the EPR, the Probation service issued a document in 2013 summarising its philosophy and intervention methodology, thus providing Probation

⁴ 1) Loi du 20 juillet 2018 portant réforme de l'administration pénitentiaire (...)

2) Loi du 20 juillet 2018 modifiant :

1° le Code de procédure pénale en introduisant un titre IX concernant l'exécution des peines ;

2° le Code pénal ;

3° la loi modifiée du 7 mars 1980 sur l'organisation judiciaire ; et

4° la loi modifiée du 29 avril 1999 portant création d'un droit à un revenu minimum garanti.

⁵ For further information, visit the website of the national statistics office (STATEC):

<https://statistiques.public.lu/fr/index.html>

officers with a clearer description of their work. This document was meant as guidance for Probation officers but also for various other professionals of Luxembourg's criminal justice system.

While the principles and values conveyed by the EPR were already largely complied with and implemented in daily practice, the Rules as such were not formally transposed into national legislation. Most of them were already covered by existing laws or were implemented in recent reforms on victims' rights and the rights of appeal of detainees.

2. Historical Development of the Probation System

2.1 History from the origins to the year 2008

At the beginning of the 19th century, male offenders sentenced to "forced labour" (*travaux forcés*) in Luxembourg served their sentence abroad. They were sent to Vilvorde (Belgium) and then to penal colonies. Those convicted to a prison sentence were sent to Bicêtre (France). Only since the Belgian Revolution of 1830 offenders serve their prison sentence in Luxembourg.⁶

Mid of the 19th century, assistance and caretaking of prisoners was mostly the task of the clergy. Members of the Catholic church were assisting both male and female offenders during and after their sentence. In 1851, the Franciscan sisters were put in charge of the women's prison.⁷

The first regulation on post-release care in Luxembourg is a decree from 1855.⁸ In a rather innovative way, given its historic context, this regulation provides for the creation of committees for released prisoners in each of Luxembourg's twelve cantons (*Comités cantonaux pour le patronage des condamnés libérés*). The aim of these committees was to "prevent sentenced prisoners from the dangers of recidivism, to facilitate their moral improvement and their productive occupation".⁹ Members, the so-called "patrons"¹⁰, were chosen among wealthy and well-intentioned citizens.

With a decree from 1884, responsibility for the care of discharged prisoners was transferred from cantonal committees to prison administration committees in charge of supervision, control and management of prisons and beggar jailing (*dépôt de mendicité*). This important change in offender care in Luxembourg marks the transition from outside care (by cantonal committees) to intramural care (by the prison administration committee) and from partially voluntary care (cantonal committees' members mostly were lay people) to professional care by the prison administration.

⁶ Enschedé, N.A., (15 février 1934), Les prisons de la ville de Luxembourg, Notice historique, in *Les cahiers Luxembourgeois, Revue libre des lettres, des sciences et de l'art*, XI^e année, N° II, Luxembourg, p.207

⁷ Until 1851, staff of the women's prison was exclusively of male gender

⁸ Arrêté royal grand-ducal du 21 février 1855 instituant des comités cantonaux pour le patronage des condamnés libérés

⁹ Ditto Art. 2.

¹⁰ Arrêté royal grand-ducal du 22 octobre 1884 portant réorganisation du patronage des condamnés libérés

The first time the word “probation” appears in a Luxembourg law text, is in a ministerial decree from 1950 on the creation of a Social Defence Service (*Service de Défense Sociale*). In spite of its somewhat Lombrosian tendencies, it may be considered as the predecessor of today’s Probation service and as such, as a landmark in Luxembourg’s probation history.

Furthermore, the National Action Committee against Crime and Delinquency (*Comité National d’Action contre le Crime et la Délinquance*) was created on 10 April 1951. As of 1958, a social worker from the prison service - on a voluntary basis and financed by limited private funds - ran a hostel for young delinquent adults in Bertrange (1958 - 1960) and later in a private house in Contern (1960 - 1965).

A major change in Luxembourg’s criminal justice system occurred in 1964 with the General Public Prosecution in charge of the general management and control of Luxembourg’s prison facilities and sentence enforcement.¹¹ The sanction policy, also considering alternatives to incarceration, as community service and penalties, was reinforced by the various prosecutors holding this position.

The National Social Defence Committee (*Comité National de Défense Sociale - CNDS*) was implemented in 1967 as a non-profit organisation for discharged prisoners, to run hostels for juveniles and released prisoners. The Probation service as such has little experience with halfway houses as the only facility for released prisoners it ever managed directly as of 1981 had to be closed in 1989 due to staff shortage.

A decree from 1967¹² specified the composition and organisation of the Social Defence Service implemented in 1950, with a Social Defence Commission for penitentiary facilities and juvenile detention centres and a Social Defence Institute. This decree included, for the first time, a clear description of the tasks of Probation officers working with offenders.

The Central Service for Social Assistance (*Service Central d’Assistance Sociale - SCAS*) was created in 1977 under the authority of the General Public Prosecution. With the Probation service, formerly called Social Defence Institute, no longer under the authority of the prison administration but under the authority of the Ministry of Justice, this represented a major change.

Until the mid 1980, the premises of the Probation service were located inside Luxembourg’s main prison in the “Grund” area of Luxembourg-City. When the “Grund” prison was closed due of its dilapidated state, offenders (male and female) were resettled to Schrassig, outside of Luxembourg-City. In November 1984 the SCAS relocated to a more central area in the capital.

An innovating new law in 1997¹³ allowed psychologists and social workers to work inside the two national prison facilities. As a result of this, and for the first time in penological history in Luxembourg, the Probation service was now assisted by an internal social service

¹¹ Loi du 21 mai 1964 portant 1. réorganisation des établissements pénitentiaires et des maisons d’éducation ; 2. création d’un service de défense sociale

¹² Règlement grand-ducal du 28 novembre 1967 (Mém. A-82 du 15 décembre 1967, p.1311)

¹³ Loi du 27 juillet 1997 portant réorganisation de l’administration pénitentiaire

in the care of detainees. This newly created social service in both detention facilities became operational in 1999.

With the implementation of this prison-based social service, as of 2001, the Probation service was no longer in charge of pre-trial detainees, although this did not mean the complete abolition of the “**continuous treatment model**”. Currently, Probation officers are active inside prison facilities, with their interventions starting only at beginning of a sentence.

2.2 Recent history from 2008 to 2020

After the 2009 parliamentary elections, the new government proceeded to improve various aspects of the penal justice system, eventually leading to major reforms in 2018. Two bills were submitted to Parliament: the first on the reform of prison administration, based on the European Prison Rules, and the second on the reform of sentence enforcement introducing a new jurisdictional body for this purpose.

The philosophy was to change the scope of the Probation service’s intervention, i.e., the work with inmates in the two prison facilities. This would mean the end of the “**continuous treatment model**”, as a continuous assistance from pre-trial detention to conditional release or electronic monitoring until the end of a sentence. The main objective of the new model is to facilitate the transition from prison to life in liberty with a low recidivism rate.

Legal reforms were initiated as early as 2009 but only in 2018 two new laws were adopted by Luxembourg Parliament. While the Probation service started to use electronic monitoring already in 2006, the pilot phase continued until 2018, when this measure was finally included in the law.

In October 2009 the legal provisions on conditional release¹⁴ were amended in terms of protection of society and victims. In practice, offenders’ attitude towards their victim was already a decisive factor that was now legally recognised. This law led to a significant improvement of victims’ rights throughout the criminal procedure.

In 2010, after the CEP adopted the statement on probation values and in the light of the European Probation Rules (EPR), the Probation service submitted its positions, leading to the publication in 2013 of the Philosophy and Methodology of the Probation service (*Philosophie et méthodologie du Service de Probation*), detailing its philosophy and standards of intervention.

With many offenders on conditional release and probationers living just across the border (France, Belgium, Germany), but working in Luxembourg, the Probation service had to intensify contacts and cooperation with probation services in the neighbouring countries. As of 2021 there is still no specific probation law defining the broader missions of the Probation service. The law of 2018¹⁵ on sentence enforcement covers the main tasks of the Probation service, but without any detailed description of specific interventions.

¹⁴ Loi du 6 octobre 2009 renforçant le droit des victimes d’infractions pénales et (...)

¹⁵ Loi du 20 juillet 2018 modifiant : 1° le Code de procédure pénale en introduisant un titre IX concernant l’exécution des peines ; 2° le Code pénal ; 3° la loi modifiée du 7 mars 1980 sur l’organisation judiciaire ; et 4° la loi modifiée du 29 avril 1999 portant création d’un droit à un revenu minimum garanti.

Also, after fundamental discussions leading to the adoption of this bill, the “**continuous treatment model**” is no longer disputed. An important issue however to be coordinated at an institutional level is the transition between prison and probation.

3. Legislative Basis of the Probation System

Help for offenders to support their social inclusion, (Rules 1 and 12 of EPR) is the main daily task of Probation officers, contributing via this to the safety of society and a fair administration of justice (Rule 1 of EPR). The objective is to avoid re-offending. Yet in absence of statistics on recidivism, it is difficult to consider the work of the Probation service as evidence based. Furthermore, systematic research on penology and probation in Luxembourg is still lacking.

Descriptions of the tasks and duties of the Probation service and Probation officers are missing in legal texts. The laws of 1977 and 1980 on the SCAS merely list its departments as well as its general assistance and reporting missions. The main legal framework implemented in 2018 specifies decisional processes, procedures and the range of penological measures available to the General Public Prosecutor. These measures, initially included in a law of 1986, were introduced in 2018 in the Code of criminal procedure (*Code de procédure pénale*¹⁶).

Within the SCAS, a Victim support service (*Service d'Aide aux Victimes*) was introduced in 1994 while an actual restorative justice process is still missing. It is also unclear whether the Probation service will remain in charge of this support service in the future.

3.1 Legislative Basis

Since 1977 the SCAS is part of the judicial organisation structure, as defined by article 77 of the law of 7 March 1980.¹⁷ Its structure includes the Child Protection Unit, the Probation service and a department for pre-sentence reports (*dossiers de la personnalité*) that is part of the Probation service.

Probation officers preparing social enquiry reports on persons under judicial supervision, are part of the judicial administration and report to the General Public Prosecutor's office. The provisions on the status of civil servants apply to all members of the Probation service.

In 2015 Luxembourg adopted a new law¹⁸ ratifying the Council Framework Decision 2008/947/JHA of 27 November 2008 on the application of the principle of mutual recognition of judgments and probation decisions with a view to the supervision of probation measures and alternative sanctions.

¹⁶ Articles 669 to 703

¹⁷ Loi du 7 mars 1980 sur l'organisation judiciaire

¹⁸ Loi du 12 avril 2015 relative à l'application du principe de reconnaissance mutuelle aux décisions de probation et aux peines de substitution (...)

As already mentioned, 2018 saw a major change, with a new law on sentence enforcement and the implementation of the Chamber for Sentence enforcement (*Chambre de l'application des peines*). This law also introduced the possibility of appealing the decisions of the General Public Prosecutor's Delegate. Luxembourg is now complying with the legal standards of the EU, with the General Public Prosecutor in charge of the enforcement of penal sentences and the delegation of the decisional powers in this field to the Advocate general (*Avocat général*).

Currently, two commissions are involved in the general decisional process. The Advisory commission on sentence enforcement (*Commission consultative à l'exécution des peines*), and for sentences of more than four years of imprisonment, the Penitentiary commission (*Commission Pénitentiaire*¹⁹), with the General Public Prosecutor or his delegate and two magistrates from the Prosecution Office (one from the district of Luxembourg and one from the district of Diekirch).

The Advisory commission on sentence enforcement is a discussion and information platform for the penological treatment of detainees. It provides Probation officers with all relevant facts about an inmate together with the opinion of the various professionals working with the offender in the penitentiary facility. This should allow the Probation officer, who is in regular contact with the inmate, to propose specific measures (as for instance home leave or parole) to the General Public Prosecutor's Delegate or the Penitentiary commission.

The situation of offenders serving long prison sentences is discussed in a special although non-statutory Advisory commission (*Commission consultative des longues peines*). Commission members submit their opinion about offenders' penological treatment to the General Public Prosecutor's Delegate or the Penitentiary commission.

Finally, it should be mentioned, that the Grand Duke of Luxembourg, as monarchical head of state, may decide by decree whether a citizen should be granted pardon.²⁰

3.2 Mission and Mission statement

Currently, various laws define the monitoring and supervisory missions of the Probation service for sanctions and community service. Probation as such, its policy and practices, are rarely criticised or generally disputed.

In January 2013 the Probation service published an official mission statement, detailing its views and objectives. It identified priority areas and implemented various internal work groups. However, due to the small number of Probation officers, there are no group sessions on specific types or forms of offences, making collaboration with agencies dealing among others with addiction treatment and domestic violence even more important.

¹⁹ Article 678 of the « Code de procédure pénale »

²⁰ Article 38 of the Constitution of the Grand-Duchy of Luxembourg

Currently, the Probation officer submits an opinion on individual pardon requests (*grâces*) to the Pardon Commission (Commission des grâces) if required

Regarding sexual abuse cases, the Probation service participated in a training in June 2018 and a conference on this subject in February 2020. Special training for Probation officers and an internal work group in this field are planned.

Probation work, be it in prison or during community service, focuses on two inextricably connected objectives: first, to protect society by avoiding recidivism and second, to assist offenders to return to a law-abiding life.

Another important task of Probation officers is to monitor the payment of financial compensation of victims and court fines by detainees and probationers. The general financial situation and low wages in prison can make it difficult for probationers to regularly pay compensations, fines, prosecution fees, as well as any personal debts.

An area still open for discussion is the use of pre-sentence reports in court in order to contribute to a higher level of penological individualisation.

3.3 Crime prevention

The Probation service is not involved in crime reduction strategies (Rule 98 of EPR) and has no mandate for primary crime prevention activities. Probation works as a secondary prevention mechanism, i.e., avoiding re-offending. Hence, there is no specific cooperation in the field of crime prevention. Occasional intervention in schools, the media and the national Police Academy allow the Probation service to present its work.

3.4 Victim assistance

Victim assistance as such is not part of the mission of the Probation service. In 1994 however, the law implemented a Victim Support Service (*Service d'Aide aux Victimes - SAV*) within the SCAS²¹. This Service became operational in 1998 and assists victims in preparing for the court case, accompanies them to court, provides assistance on filing claims for financial compensation with the Ministry of Justice²², together with psychological support. The Victim Support Service is located in the premises of the SCAS but with a different entrance to avoid contact between victims and offenders.

The Probation service is not involved in restorative justice processes, nor in victim offender mediation. Nevertheless, in some cases, informal meetings are organised between the Victim Support Service and the Probation service.

3.5 Volunteers involvement

Although since 2005 the law on judicial organisation allows volunteers to be active within the SCAS, this was never actually implemented. There are however regular contacts between the Probation service and the Association of prison visitors (*Association*

²¹ Loi du 7 mars 1980 sur l'organisation judiciaire (modification of article 77)

²² For further information, please refer to the Ministry of Justice's webpage:

<http://www.mj.public.lu/functions/faq/indemnisation/index.html>

*Luxembourgeoise des Visiteurs de Prison - ALVP*²³), a non-profit association founded in 2007.

In 2020 about thirty members of this association were active as “volunteer prison visitors” (agents bénévoles). The objective is to provide social contacts for prisoners who otherwise would not have outside visitors at all. Volunteers receive basic training and supervision from the association. After they were granted the status of volunteer visitor, they may regularly visit detainees in prison and, at their request, they may also stay in contact with the offender’s Probation officer.

In April 2018 the Probation service and the Association of prison visitors signed a partnership agreement defining the rights and duties of the three parties involved: the volunteer, the probationer and the Probation officer.

4. The Organisation of Probation services

The Central Service for Social Assistance - SCAS created in 1977 led to the grouping of all social services dealing with people under judicial supervision. In September 2020 a total of one hundred and nineteen people, both civil servants and state employees, were working with the SCAS. All Probation officers are civil servants and as such are subject to the law on the status of civil servants as amended in 2015²⁴ regarding their professional career evolution.

This reform introduced annual staff assessment in 2016, with the arrival of a new head of the SCAS. Assessment is based on individual meetings with all social workers to monitor the achievement of their professional goals and their level of personal satisfaction.

Given the limited number of Probation officers, they work with all types of offenders. Constant efforts aim at improving networking in the fields of housing, employment and drug addiction. Probation offices also work with foreign offenders. As there are hardly any Luxembourgish offenders abroad, these are dealt with on a case-by-case basis.

In addition to mandatory training, required for career advancement and organised by the National Institute of Public Administration (*Institut National d'Administration Publique - INAP*²⁵), probation staff can attend in-house training.

4.1 Main characteristics

As appears from the organisation chart below, two different departments of the SCAS are involved in probation work:

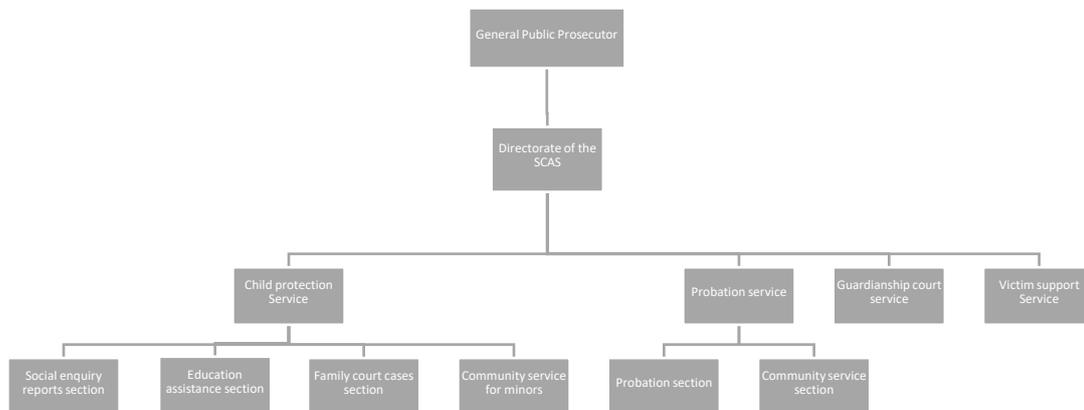
²³ www.alvp.lu

²⁴ Loi du 25 mars 2015 fixant le régime des traitements et les conditions et modalités d'avancement des fonctionnaires de l'Etat.

²⁵ <https://fonction-publique.public.lu/>

- 1) The Probation service working with offenders subject to pre-trial control, prison detainees, offenders on early release (suspended execution of sentence or conditional release), on probation (suspension of sentence pronouncement and regular probation) and offenders subject to electronic monitoring (since 2006).
- 2) The department in charge of community service for adults

ORGANISATION CHART of the SCAS



4.2 Internal organisation

The hierarchical structure of the Probation service is determined by the law on the status of civil servants, differentiating between the careers of psychologist, criminologist and social worker. Career advancements are governed by the same law.

4.2.1 Probation officers

Members of the staff of the Probation service work full-time (40 hours/week) or part-time (30 or 20 hours/week).

On 1 September 2020 the Probation service counted 24 people, including 3 secretaries (17.25 ETP).

Two social workers and two workmen²⁶, assisting organisations accepting offenders on community service and supervising specific workshops, form the service for sanctions and community service.

Of the remaining 17 persons, 3 are criminologists, 1 is a psychologist and 13 are social workers. As it appears on the organisation chart, the Probation department includes two

²⁶ cf. Explanatory memorandum of the Law of 13th June 1994 on the penalty regime.

different groups: the “classic” Probation service, intervening in detention facilities and a second group of Probation officers in charge of probation cases without prior detention.

Even if all Probation officers provide the same type of service to users, or “clients”, experienced officers tend to work with people on life sentences. Mostly due to the lack of staff and appropriate premises, the Probation service does not organise group or training sessions for probationers.

In 2009 a Probation officer introduced animal-assisted therapy in Luxembourg’s main prison based on individual interventions with a dog. Currently, this possibility also includes therapeutic dog-walks outside of prison. In some cases, dogs (all other animals are excluded) of inmates can access the detention facility so their owner can see their pet.

Within the SCAS, staff can be transferred to another department as child protection, victim support, community service or guardianships. Transfers to other Ministries are also possible. Probation officers leaving their job for non-statutory organisations may however lose their civil servant status.

In 2019 a Probation officer was dealing in average with 108 cases per year. This number includes offenders in prison, those who were granted early release, and those doing community service.

On 31 December 2019 the daily caseload per officer reached 71²⁷. The **average daily caseload** of a Probation officer in 2019 was 0,48.

This calculation is based on:

- the total annual number of cases (1.869) divided
- by the number of work days (225); and
- by the full-time positions (17,25) of the Probation service.

The result is the best approximate of the average daily caseload, considering that some other parameters were left outside, such as the actual working days per Probation officer, the fact that some cases are covered by two Probation officers, staff turn-over during a year, etc.

Table 1. *The staff structure*

Total number of staff	24
Management staff	1
Executive staff (Probation officers)	17,25 full-time positions
Administrative support staff	3

²⁷ Ministère de la Justice, Rapport d’activité 2019, page 315

4.2.2 Education, training requirements and opportunities

Prior to the creation of the Bachelor in Social and Educational Sciences (BSSE)²⁸ at the University of Luxembourg in 2006, Luxembourg students had to complete their social studies abroad, mainly in the neighbouring countries Belgium, Germany or France.

Until 2012 social studies and access to the profession of social worker in Luxembourg was governed by a decree of 1979,²⁹ amended in 2013 and then replaced by a new regulation.³⁰

In addition to the formal requirements specified below, Luxembourg citizenship and a sound knowledge of the national language, Luxembourgish (*Lëtzebuergesch*), together with German and French (the two administrative languages), is a pre-requisite for all state employees or civil servants.

In Luxembourg, civil service candidates have to pass an exam (*examen-concours*)³¹ followed by twenty-four months of mandatory in-house training (*stage de fonctionnaire d'Etat*) as provided for in the law on the status of civil servants. During this training period, candidates for the position of Probation officers are supervised by an experienced senior staff member. After completing the two training years, candidates take two final tests:

- a general exam (*examen de fin de formation générale*)
- a specialty exam (*examen de fin de formation spéciale*)

Candidates successfully passing these two final tests, are sworn in as Probation officers.

The National Institute of Public Administration (INAP) provides mandatory training for civil servants on a variety of subjects. In addition, Probation officers can attend seminars and workshops on topics relevant to their professional field and practice, the costs of which are refunded. Members of the Probation service also attended training sessions organised by the “DBH” (www.dbh-online.de), the main German probation association.

The SCAS receives an annual budget for workshops, training courses and internal supervision, which in general, is sufficient to cover the needs of the various departments of the SCAS and a growing number of staff.

Recently, a more formal hierarchical control of staff performance was introduced even though members of the Probation service still enjoy a high degree of autonomy in their work. They are personally responsible for the content of their reports and the organisation of their weekly schedule as prison visits, office duties, home visits. An internal board provides a daily overview of the number of offenders per Probation officer, the number of reports written for the judicial authorities and the different probation measures.

²⁸ https://wwwfr.uni.lu/formations/fhse/bachelor_en_sciences_sociales_et_educatives

²⁹ Règlement grand-ducal du 29 août 1979 portant réglementation des études et des attributions de la profession d'assistant social

³⁰ Règlement grand-ducal du 18 juillet 2013 réglementant l'exercice et les attributions de la profession d'assistant social

³¹ <https://govjobs.public.lu/>

Challenging issues are dealt with in weekly staff meetings (internal supervision). However, informal contacts and discussions between staff members on specific cases undoubtedly contribute to the overall efficiency of the Probation service. Even if so far no guidelines for good practice or good conduct were published, they are orally transmitted from experienced to less experienced Probation officers.

In a December 2011 SWOT³² analysis conducted within and by Probation staff, several strengths and weaknesses were identified, while short, mid and long-term priorities were defined. A major issue was that the mission of Probation officers is a mixture of social work and risk management, while their professional approach can be more general or evolve to become much more specialized.

In 2016 an audit by the consulting company “Resultance” covered all departments of the SCAS focussing on overall work conditions, the views social workers had of their role, the workflow and the caseload situation. This interesting process was also an opportunity for the Probation service to thoroughly analyse both its organisation and operating methods.

Based on the results of this audit, some changes were made together with a slight increase in staff. In general, however, the Probation service mainly continued to work as before. As a main and fundamental principle of social work in penal justice, every case is treated individually. This meant that in practice most of the audit recommendations could not be implemented.

With regard to the organisational framework of the SCAS and of the Probation service, the law on the status of civil servants³³ provides for staff representation in the public sector. Aim and mission of this representation is to defend the professional interest of civil servants. There is no professional organisation of Probation officers, but in February 1996, members of the SCAS founded the SCAS’ Staff Association (*Délégation du Personnel du S.C.A.S. a.s.b.l.*).

4.2.3 Other organisations involved in probation work

Inside the SCAS, probation staff works closely with the Child Protection Unit and the Victim Support Unit.

Probation officers monitoring community service orders liaise with a large number of organisations accepting offenders subject to this measure. The majority of these institutions are charities, institutions for people with disabilities, youth hostels and animal shelters.

Regular contact with treatment facilities for substance abuse i.e., drugs and alcohol, and with the CHNP, the country’s psychiatric hospital, is also required. For offenders allowed to serve part of their sentence in one of these institutions, regular meetings between the Probation officer and specialist staff are organised.

Probation officers also cooperate with other organisations assisting former offenders and probationers. Even if they frequently operate with a broader client-base, they are familiar

³² Strengths-Weaknesses-Opportunities-Threats

³³ Loi du 16 avril 1979 fixant le statut des fonctionnaires de l’Etat, Chapitre 11, Art. 36

with the behavioural patterns of ex-offenders as well as drug related assistance, labour market integration initiatives and housing solutions.

These organisations also run shelters and hostels and are frequently the only offering housing solutions to former offenders. Renting a flat on the Luxembourg real estate market is hardly affordable for former prisoners or probationers due to a constant price increase since 2000.

The National Social Defence Committee (CNDS), as referred to under point 2.1, covers all three areas, currently running six hostels, two job centres, a facility for drug users, called “*Abrigado*”, operating on the principles of damage reduction, as well as a “soup kitchen” called “*Vollekskichen*”. While historically, most of the clients were discharged prisoners, these facilities are open to all persons in need.

In violence-related cases, cooperation is sought with one of the few counselling and assistance services against domestic violence in Luxembourg, “*Riicht eraus*”³⁴. Another important organism for people with psychiatric issues is the Centre for Mental Health (*Centre de Santé Mentale*)³⁵.

The fact that the Probation service is part of the General Prosecution Department largely determines the nature of its interventions. Many agencies, organisations and hostels are unfamiliar with the supervisory aspects of probation work. Therefore, some hostels are reluctant to accommodate clients who are still under some form of supervision. Organisms may find it difficult to implement judicial control measures or community service and refrain from reporting to Probation officers if offenders don’t comply with the conditions.

4.3 Probation and offenders abroad

The maximum capacity of Luxembourg’s main prison in Schrassig is 597 inmates. On 1 January 2020, the demographic situation of a total of 608 inmates was as follows:

- 45 % non-residents,
- 55 % residents, of which only 46 % had Luxembourgish nationality.

In 2019, 58 % of the detainees assisted by the Probation service were of foreign nationality.³⁶

In 2011 Luxembourg Parliament adopted a law implementing the Framework Decision 2008/909 on the transfer of custodial sentences.³⁷ Given the high number of non-resident inmates, this new possibility was expected to be widely used. However, the 2019 annual report of the Ministry of Justice only mentions two relocation cases during detention.³⁸

³⁴ <https://www.croix-rouge.lu/fr/service/riicht-eraus/>

³⁵ www.llhm.lu

³⁶ Ministère de la Justice, Rapport d’activité 2019, page 332

³⁷ Loi du 28 février 2011 relative à la reconnaissance de jugements en matière pénale ayant prononcé des peines ou des mesures privatives de liberté aux fins de leur exécution dans un autre Etat membre de l’Union européenne.

³⁸ Ministère de la Justice, Rapport d’activité 2019, page 437

The Probation service is not directly involved in the transfer processes under the Framework Decisions 2008/909 and 2008/947. It is only competent for detainees with an official address in Luxembourg or solid ties in the Grand-Duchy. It also supervises sentenced commuters, working in Luxembourg but living across the border, if they are on conditional release and probation. Collaboration with probation services in neighbouring countries is sought primarily on a non-institutionalised and informal level. In specific cases however a more formal exchange may be required.

5. Different Stages of the Criminal Justice Process

This chapter covers the different stages the Probation service's intervention:

- at the pre-trial, remand or trial stage,
- at the sentence enforcement stage,
- at the level of assistance and follow-up outside the criminal justice system.

Any intervention of the Probation service depends on the measures decided by court. For instance, article 22 §2 of the Criminal Code provides that the offenders' consent is required before sentencing them to community service (Rule 7 of EPR).

The Probation service is in regular contact with various public services or organisms that have signed a framework agreement with the Luxembourg state. These can be entities working in the field of employment, housing, vocational training, social supervision or else medical and therapeutic (residential or ambulant) centres, hospitals or therapy centres. Independent professionals (psychologists, psychiatrists, psychotherapists) may also be involved. In addition to individual contacts among professionals, bilateral meetings between these entities define a joint approach to monitor probationers. (Rule 12 of EPR)

Daily work of the Probation service is a combination of help, support and control in close cooperation with other specialised entities assisting probationers. In 2018 the Probation service and the ALVP (*Association Luxembourgeoise des Visiteurs de Prison*) signed an agreement for accompanying offenders to specific appointments or providing social contacts to those who have no relatives.

In the context of supervision, positive or negative reports prepared by the Probation officer also include the offenders' view based on their verbal input. It is therefore important for Probation officers to always clarify and explain their rights and duties to probationers. (Rule 44 & 46 of EPR)

Data on probationers' evolution is currently one of the cornerstones of the work of the Probation service. Probation officers meet with the convicted persons once the sentence has become final and supervise them until their release.

This monitoring process is based on several aspects:

- behaviour during detention,
- requirements of society,
- protection of society,
- general and specific conditions for reintegration into society. (Rule 45 of EPR)

Conditions to be granted for sentence enforcement are discussed with the offender prior to any report, including information on the legal and judicial mandate as well as the consequences of non-compliance and breach. The probationers' views on the conditions and their expectations are further elements of this discussion. (Rule 86 of EPR)

The Criminal Code defines community service as manual or intellectual work to be provided for free to a public or private organism. In practice probationers will be integrated in the teams of the institution. The Probation service considers the diversity of individuals and tries to match their needs with those of the institution. This is a difficult challenge as the outcome depends primarily on the probationer's personality and on the possibilities of the institution.

Prior to community service, the Probation officer assesses the attitude, motivation and needs of probationers and tries to identify tasks matching their physical and intellectual skills. Since 2001 the Probation service is supervising a training workshop, allowing people with specific issues (i.e., drug or alcohol abuse) to do community service with appropriate support and supervision.

The Probation officer will stay in regular contact with the offender and the institution to monitor the process and identify any issues on both sides as institutions should also show some understanding for possible personal matters of the probationer. (Rule 47, 51 & 52 of EPR)

The Probation officer may also contact the offender's family members and involve them, with the offender's consent, in the probation process. This commonly used approach gives the Probation officer a better understanding of the probationer's environment, how the family copes with the situation, their questions about prison life and expectations. It also allows the Probation officer to explain the different steps of penological treatment. (Rule 56 and 59 of EPR)

When introduced in 2006, the objective of electronic monitoring was to avoid incarceration and maintain social, professional and family ties of offenders. Three components seen as stabilising factors promoting a positive rehabilitation while providing a solid basis for the Probation service's intervention. (Rule 57 of EPR)

Aspects of secondary and tertiary prevention were included in the law of 1964 on the creation of the Institute of Social Defence (which later became the Probation service). Although this law was repealed, the philosophy of intervention was maintained, and numerous former offenders and probationers could benefit from this type of aid, assistance and guidance. (Rule 61, 62 & 85 of EPR)

5.1 Pre-trial/remand/trial stage

Since 2001 pre-trial detainees are no longer included in the scope of the Probation service's mission. During judicial control, the Probation officer supervises compliance with the conditions determined by the investigating judge and Chamber of Council (*Chambre du*

Conseil). The Probation officer regularly reports to the judicial authority on the evolution of the person under judicial control.

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

Sanctions/Measures/ Penalties/Conditions attached to a conditional decision or sentence	Provision in legislation	Probation service involvement	Main characteristics of the probation activity
Unconditional waiver by the public prosecutor			
Conditional waiver by the public prosecutor			
Conditional suspension of the pre- trial/remand detention (suspension probatoire du prononcé)	x	x	Monitoring of the conditions defined by the investigating judge and Chamber of Council (Chambre du Conseil) and reporting to the judicial authority
Pre-trial/remand detention (détention préventive)	x		
Police custody			
Bail (cautionnement)	x		
Caution			
Surety			
House arrest			
Electronic monitoring (surveillance électronique)	x	x	The current law on the reform of sentence enforcement specifies that electronic monitoring is a prerequisite for judicial control.
Community service			
Treatment order ³⁹	x	x	For bail or judicial control, a condition may be for the offender to comply with a treatment order. The Probation service can be asked to supervise this measure.
Training/learning order	x	x	For bail or judicial control, a condition for the offender can include to actively seek employment or training or to register with a job agency. The Probation service can be asked to supervise this measure.

³⁹ Measure introduced by the law of 15 March 2006 and the article 107 of the Code d'instruction criminelle.

Drug/alcohol treatment programme	x	x	Persons under judicial control can be asked to report monthly to the Probation service and provide evidence certifying their conduct and treatment.
Compensation to the victim			
Mediation (médiation pénale)	x		
Semi-detention			
Attending a day centre			
Liberty under judicial control (contrôle judiciaire)	x	x	Judicial control was introduced in 2006. It is monitored by the police or the Probation service based on the mandate given by the investigating magistrate.
Interdiction to leave the country	x		This type of interdiction can be part of the judicial control, although it is difficult to monitor by the Probation service. The investigating magistrate can issue an order to not leave national territory. In cases of drug use, violent crime or assault, a condition can be to stay away from specific private and public places. Contacts with accomplices and/or the victim are strictly forbidden.
Interdiction to enter different cities/places	x	x	
Interdiction to carry out different activities	x	x	
Interdiction to contact certain persons	x	x	
Psychiatric treatment	x		Offenders must report monthly to the Probation service and provide a certificate of their treatment. The Probation officer is in regular contact with the psychiatrist or public health institution.
Deferment of sentence			
Fine			

5.1.1 Pre-trial/pre-sentence reports

Pursuant to article 620 of the Code of criminal procedure the Probation service can be involved in the trial phase. Probation officers may be asked to submit pre-sentence reports to the judicial authority. Pre-sentence report may also be requested by defendants. They cover the defendants' behaviour, their views on the committed crime or offence and their social background.

5.2 Enforcement stage

During the enforcement stage decisions for conditional release, day leave, semi-liberty, transfer from the closed to the semi-open prison facility, suspension of sentence, anticipated release are taken by the General Public Prosecutor or his delegate for prison sentences not exceeding 4 years. For sentences of more than 4 years of imprisonment, the General Public Prosecutor or his delegate will decide after consulting with a public prosecutor from each of the 2 judicial districts.

Criteria for the decision are:

- the personality of the convicted,
- their medical situation,
- their evolution,
- the danger of recidivism, and
- their attitude towards the victim.⁴⁰

Both bodies (hereafter “the General Public Prosecutor’s Office”) base their decision on reports prepared by the Advisory commission (CCEP) including the Probation officer, a representative from the prison’s social service (*Service Psycho-Socio-Éducatif - SPSE*), the prison director, the prison doctor (general practitioner), a representative of the prison staff, a representative of ‘*Suchthëllef*’⁴¹ (ad hoc and only at the CPL) and a secretary from the prison administration.

Prior to submitting an opinion, Commission members assess the prisoner’s evolution based on behaviour, strengths, deficits, progress, collaboration with the SCAS and the SPSE as well as disciplinary sanctions while in detention. The Commission’s task is to support the decision-making process regarding offenders’ requests to be granted day leave, semi-liberty, conditional release, etc.

In the commission’s meetings information exchanged on prisoners is focussing on their behaviour and personality. The Advisory commission meets on a weekly basis at the CPL and the CPG. Although detainees are not present at such meetings, it is common practice to inform them about the outcome and the position of their Probation officer.

In general, Probation officers don’t attend court hearings unless when called as witness in cases of non-compliance with a conditional sentence or community service.

General amnesties are very rare in Luxembourg. They were introduced by a law in January 1955⁴² and can be granted by the Grand Duke to offenders on request of the latter.

Amnesties, compared to pardons, remove all offences from the person’s criminal record.

⁴⁰ Art 673 (2) of the law of the 20 July 2018

⁴¹ Drug support programme run by the only national psychiatric clinic, *Centre Hospitalier Neuro-Psychiatrique* (www.chnp.lu)

⁴² Loi du 12 janvier 1955 portant amnistie de certains faits punissables et commutation de certaines peines en matière d’attentat contre la sûreté extérieure de l’Etat ou de concours à des mesures de dépossession prises par l’ennemi et instituant des mesures de clémence en matière d’épuration administrative.

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

The following table includes the main elements of the involvement of Probation officers at the enforcement stage, some of which will be covered more in detail under a separate heading.

Sanctions/Measures/ Penalties/Conditions attached to a conditional sentence	Provision in legislation	Probation service involvement	Main characteristics of the probation activity
Imprisonment (peine d'emprisonnement)	X	X	Referral, help and support; reporting only when requests are on the agenda of the Advisory commission.
Conditional sentence (suspension probatoire)	X	X	Assistance and supervision of court-imposed conditions; regular reporting to the General Public Prosecutor's Delegate.
Suspended sentence (sursis probatoire)	X	X	Supervision of the conditions determined by court, reporting and support.
Affidimento in prova	⁴³	-	-
House arrest	-	-	-
Electronic monitoring (surveillance électronique)	X	X	Probation officers assess potential candidates for electronic monitoring (EM) and report to the General Public Prosecutor's Office that will decide on the application of EM. Supervision of the conditions decided by the General Public Prosecutor's Delegate; reporting in case of breach of EM conditions.
Community service as sanction (imposed by judicial or admin authority) (Travaux d'Intérêt Général)	X	X	Probation officers assist and supervise the person on community service, maintain close contact with the institution and report to the authority.
Semi-liberty (semi-liberté)	X	X	Supervision, reporting and support. Probation officers can maintain close contact with the probationer and the employer.
Semi-detention	-	-	-

⁴³ Not available

Treatment order	X	X	Can be one of several conditions of various sanctions and measures.
Training/learning order	X	X	Can be one of several conditions for instance of a conditional sentence, suspended sentence, conditional release,...
Drug/alcohol treatment programme	X	X	During judicial control, Probation officers maintain close contact with the offender undergoing treatment in a drug and/or alcohol treatment facility in Luxembourg or abroad.
Educational measures	X	X	Probation officers dealing with minors supervise children subject to educational assistance (assistance éducative) and work closely with the family and the primary social network.
Compensation to the victim (partie civile)	X	X	Monitoring the payment of victim compensation.
Mediation (médiation pénale)	X	-	-
Attending a day centre	X	X	Can be one of several conditions, of a conditional release order or a suspended sentence.
Interdiction to leave the country	X	-	-
Interdiction to enter different cities/places	-	X	Although not mentioned as such in the penal law, this interdiction can be part of a sentence or part of a conditional release order.
Interdiction to carry out different activities	X	-	If convicted to a criminal sentence, interdiction to hold public offices can be one of several conditions of the sentence.
Interdiction to contact certain persons	X	-	Can be one of several conditions, of a conditional release order.
Fine (amende)	X	X	Probation officers monitor whether offenders in or outside of prison pay their fine, as part of a general supervisory programme (conditional release, conditional sentence ...)
Day fine	-	-	-
Other financial penalties (frais de justice)	X	X	The payment of civil damages or court/prosecution fees can be one of several conditions of a conditional release order.

In/out patient order (psychiatric treatment)	X	-	-
Security measures	-	-	-
Combined order	-	-	-
Community service (Travaux d'Intérêt Général)	X	X	Probation officers assist and supervise persons on community service and maintain close contact with the institution.
Conditional release / Parole (libération conditionnelle)	X	X	Probation officers monitor compliance with conditional release orders and report to the General Public Prosecutor's Office.
Automatic release	-	-	-
Open prison (Centre pénitentiaire semi-ouvert)	X	X	Probation officers closely collaborate with the Psycho-Socio-Educational Service (Service Psycho-Socio-Éducatif - SPSE) of the semi-open facility in Givenich.
Penitentiary programme outside the prison	-	-	-
Suspension of the sentence pronouncement (Suspension du prononcé de la condamnation)	X	-	-
Execution in instalments (exécution fractionnée)	X	X	If applicable: supervision, coordination, reporting, referral, help and support.
Prison leave (congé pénal)	X	X	Probation officers either report directly to the General Public Prosecutor's Office or provide their reasoned opinion to the Advisory commission.
Early release (libération anticipée)	X	X	Foreign nationals under a deportation order or a ban from Luxembourg territory may, under certain circumstances, benefit from early release. The Probation officer can be requested to submit a report on the offender prior to the release.

Imprisonment

Since 2001 pre-trial detainees are no longer included in the scope of the Probation service's mission. Even if not defined by law, intervention starts once the offender's sentence has become final, i.e., at the expiry of the appeal period.

The tasks of Probation officers then consists in assessing the time and conditions for offenders to qualify for early release and in submitting a motivated report to the General Public Prosecutor's Office or the Penitentiary Commission. They will also assist offenders in finding a job and accommodation prior to their release.

In addition to probation work, the SPSE also provides follow-up during the entire incarceration period, with every prisoner being assigned one Probation officer and one SPSE staff member. The SPSE will also monitor convicted persons of foreign nationality.

Probation work with offenders in detention is determined by their attitude with regard to the crime or offence for which they were convicted: whether they are admitting, minimising, rationalising or denying the facts.

The vocabulary used by offenders to describe their criminal behaviour as well as their life story are elements to be considered when assessing their ability to show empathy for the victim. Probation officers will also focus on the behaviour of offenders in prison, exchanging with other professionals as psychologists, social workers, prison staff, workshop supervisors, sports instructors, prison teachers and tutors.

On the administrative level, Probation officers help offenders to manage their financial situation, pay fines, judicial fees and victim compensation. Meeting the offender's family and/or close friends will prepare their release in the best possible way.

Probation officers may also meet with representatives of bodies working with ex-offenders in the field of substance abuse or to discuss housing issues with hostel managers. The programme "Suchthëllef" for drug users was implemented in both national prison facilities. For other issues, the intervention of external therapists can be required.

Conditional Sentence (*suspension de peine or suspension probatoire*)

As a preparatory measure for conditional release, usually after a series of successful day leaves, a suspension of the sentence can be granted by the General Public Prosecutor's Office based on a guidance plan (plan de guidance) prepared by the Advisory commission. The period of suspension counts as an integral part of the sentence. For offenders benefitting from this measure, the Probation officer reports to the General Public Prosecutor's Office every three months or, if required, more frequently.

Suspended sentence = Suspension of enforcement combined with probation (*sursis probatoire*)

In recent years, suspension of enforcement combined with probation (*sursis probatoire*) evolved into an alternative to imprisonment (150 cases in 2001; 657 in 2010; 523 in 2019). Probation work then consists in ensuring that offenders who were granted this measure comply with the conditions determined by court and in submitting a written report to the General Public Prosecutor's Delegate. The Probation officer will also provide assistance and support to the probationer.

Electronic monitoring (*Surveillance électronique*)

Even though electronic monitoring was introduced as a pilot project in Luxembourg in July 2006, the law of 20 July 2018⁴⁴ finally provided a legal basis for this supervisory measure. Probation officers assess potential candidates for electronic monitoring and report to the General Public Prosecutor's Delegate or the Advisory commission, deciding on the application of electronic monitoring. This measure can be granted to:

- persons convicted to imprisonment of three years or less, and
- prisoners with a remaining sentence of less than three years.

The technical infrastructure is located inside the prison premises.

Community service (*service des travaux d'intérêt général*)

Community service is governed by the law of 13 June 1994 on the penalty regime with the General Public Prosecutor enforcing community service sanctions. Community service can be the main penalty in replacement of prison sentences not exceeding six months (article 22 of the Criminal Code). The offender must complete unpaid work between 40 and 240 hours with a public or philanthropic organisation or society, community association or hospital.

The offenders' consent and presence at the trial is required as they have the option to refuse community service. Offenders consenting to this measure must start their community service within 6 months after the court decision became final and must complete it within 24 months of this decision. This period can be suspended for medical, professional, private or social reasons.⁴⁵ (Law of 23 July 2016 amending art. 22 §3 of the Criminal Code).

A breach of a community service sentence may result in a prison sentence between two months and two years⁴⁶. Community service can consist in a manual or intellectual activity that is adapted to the offender's abilities and skills. Social usefulness and perspectives of social and professional reintegration for the offender will also be considered.

The type of community service is determined on a case-by-case basis by the General Public Prosecutor's Delegate in coordination with the SCAS.

Semi-liberty (*semi-liberté*)

In semi-liberty, time in prison is limited to nights and free (leisure) time. This measure may also be granted to offenders to continue their education outside prison, to attend vocational training or for medical treatment. Offenders convicted to less than 12 months of

⁴⁴ Loi du 20 juillet 2018 modifiant : 1° le Code de procédure pénale en introduisant un titre IX concernant l'exécution des peines ; 2° le Code pénal ; 3° la loi modifiée du 7 mars 1980 sur l'organisation judiciaire ; et 4° la loi modifiée du 29 avril 1999 portant création d'un droit à un revenu minimum garanti

⁴⁵ Loi du 23 juillet modifiant l'article 22§3 du Code Penal

⁴⁶ Art 23 de la loi du 13 juin 1994 relative au régime des peines

imprisonment may benefit from semi-liberty as of the beginning of their sentence. For prison sentences exceeding 12 months, semi-liberty can be granted after six months.

Semi-liberty is almost exclusively available in the prison facility of Givenich. It is considered as a transitional stage to gradually prepare offenders for life outside prison. It also requires a high level of autonomy from offenders as they leave the facility in the morning, using public transport or their own car, and return at night. Offenders on semi-liberty are subject to close monitoring by their Probation officer.

Compensation of the victim

Probation officers will check if the offender (in prison and/or on community service) pays compensation to the victim as one of the conditions of the sentence may be full compensation of the victim. Should the offender not comply with this requirement, the conditional sentence can be revoked.

Conditional release (Article 687 of the Code of criminal procedure/*liberation conditionnelle*)

First-time offenders must have served at least half of their sentence. For imprisonment of less than six months, conditional release can be granted after three months. Re-offenders can be granted conditional release after serving at least two-thirds of their sentence. For a sentence of less than nine months, conditional release can be granted after 6 months. Offenders convicted to life sentence may be granted conditional release after they served at least 15 years of their sentence.

To be granted conditional release offenders must present “sufficient evidence of good conduct and serious grounds for believing them capable of social integration”. Conditional release can be granted together with assistance and monitoring measures, to support and supervise the offender’s rehabilitation after release.

For imprisonment between eight days and five years (*peine correctionnelle*), the probation period must cover at least the remainder of the sentence and may not extend beyond 12 months after the end of the sentence. For imprisonment of a minimum of five years and up to life sentence (*peine criminelle*), the probation period extends between 5 to 10 years. If conditions are breached, the General Public Prosecutor or his Delegate decide on revoking this measure (§ 10).

The general principle is that *all* offenders can be granted conditional release and that a revocation of conditional release is not an obstacle for it being granted again.

Article 687 of the Code of criminal procedure does not explicitly mention the Probation service. The law does not specify any procedure for conditional release and supervisory measures are not legally defined. Although the offender’s consent for conditional release is not specifically required, it is common practice for the Probation officer to discuss the conditions with the offender and thoroughly explain the exact meaning of conditional release and the consequences of a breach.

The Probation officer periodically submits a report on the offender's progress to the General Public Prosecutor's Delegate together with proposals to maintain, adapt (with the probationer's consent) or revoke the determined measures (given the person's employment, vocational training or orientation and housing situation). Any breach of conditions is also reported to the General Public Prosecutor's Delegate. Contacts between the Probation officer and the person on conditional release can be weekly or monthly, as required for assistance and monitoring.

Prison leave (*congé pénal*)

Prison leave allows prisoners to exit the prison facility during part of the day, for a 24- or 48-hour period. It is mostly used in the semi-open prison of Givenich. Time spent outside prison counts as part of the sentence. Prison leave may be granted for family reasons, in the context of rehabilitation, job search or as a form of probation for conditional release. Probation officers check the reasons of the request, as for instance family visit, finding a job or accommodation. Offenders eligible for semi-liberty are usually granted separate days of prison leave until they could secure an employment contract.

First-time offenders may be granted prison leave after serving one-third of their sentence, re-offenders after serving half of their sentence. In case of life sentence, prison leave may be granted after 10 years. The Advisory commission can allow exceptions to these rules based on the offenders' personality or their family situation. Generally, offenders are not accompanied when outside prison, but Probation officers can be requested to provide some supervision during this time.

Early release (*libération anticipée*)

Early release means that non-resident foreign offenders may be released from prison without probation if they already served part of their sentence and are eligible for conditional release. Early release leads to a ban to enter Luxembourg territory. In the event these offenders are found on Luxembourg territory while the ban is still applicable, the remaining sentence will be enforced without further hearings or formalities.

Conditions for early release determined by the General Public Prosecutor's Office usually include that offenders must pay the expenses for their trip back to their country of residence, the costs of their trial and all or a part of the fine. The payment of civil damages may also be required. Furthermore, they can be banned from national territory for up to 10 years.

Sentences enforced in instalments (*exécution fractionnée*)

Enforcement in instalments applies to custodial sentences of less or equal to one year hence, penalties for minor offences. Sentences can be served in instalments if this warrants the offenders' social rehabilitation and allows them to keep their job and maintain their family relationships. A sentence of up to three months may even be served during weekends, holidays and annual leave.

Enforcement in instalments is almost exclusively available in the semi-open prison in Givenich.

Table 4. Other probation activities at the enforcement stage

Providing support to the families of the offenders/detainees	It is part of the core mandate of the Probation service to provide advice, support and assistance to people in detention and to their families; to ensure that individuals discharged from prison and released on probation, and their families, receive the necessary practical and psychological support.
Coordinating volunteer prison visitors	Collaboration between prison visitors and detainees is organised and coordinated by prison administration. Nevertheless, the Probation service is working with the same organisation to accompany and assist released offenders in matters of daily life if they need and request any help.
Preparing offenders for (conditional) release	This is an integral part of a Probation officer's work as described in the previous section.
Preparing prisoners for home leave and/or providing support during home leave	This is an integral part of a Probation officer's work as described in the previous section.
Providing support to persons that have been pardoned or amnestied	This is on a voluntary basis, if requested by the offender, but as such, there is no legal mechanism for supervision in this case.
Providing advisory report with respect to amnesty or pardon	Occasionally, a former offender may ask for assistance to file a request for pardon for an outstanding fine or driving ban.

5.3 Care and after-care outside the criminal justice system

At the offenders' request, Probation officers may continue to assist them after they were discharged or after the end of any other supervisory conditions. This is mostly the case for urgent financial needs, accommodation, employment and psychological issues. Occasionally, people may also require help to fill out administrative forms.

The Probation officer will then work in close co-operation with social services and other specialised agencies to organise this help in the most efficient way, avoiding any duplication of efforts. The assistance of Probation officers can also be requested for rehabilitation procedures, allowing offenders to clear their criminal record after a given period and depending on the seriousness of the offence. Although the Probation service is not involved in this procedure, Probation officers may advise ex-offenders on how to proceed.

6. Probation methodology

Probation work, both in a prison setting and after release, has two inextricably connected core aims. First, to protect society by avoiding recidivism and second, to provide initiatives enabling offenders to lead a decent life.

In 2013 the Probation service issued the draft mission statement “Philosophy and Methodology of the Probation service”, officially endorsed by the General Public Prosecutor’s Delegate. In this draft paper, the Probation service describes its intervention methodology as follows:

In its daily work, the Probation service contributes to the development and orientation of individuals under its care/responsibility by

- Providing guidance for their integration through **personalised social assistance**, (*aide individualisée*), counselling, encouraging offenders to work on their criminal behaviour and to comply with the rules of life in society;
- Assisting offenders in **developing their personality and their social environment** to facilitate their social integration;
- Helping offenders to find **new perspectives** by **preparing a plan for their future life** (*projet de vie*);
- Motivating the offenders to stick to this plan;
- Assessing the situation and evolution of offenders and reporting to the General Public Prosecutor’s Delegate.

For community service, the “informed consent” of offenders is required by law under article 22 (2) of the Criminal Code providing that:

- the offender must be physically present at the court hearing, and
- the president of the court informs the accused that he has the right to refuse the community service and acknowledges his/her answer.

It could be argued that this is not an “informed consent”, yet the result is the same: community service is only possible if agreed to by the offender.

As for any other sanctions, professional experience shows that the consent of the offender is a pre-requisite for any available measure. Prison leave or conditional release may not be imposed on an offender, if the offender does not agree to this. (Rule 6 of EPR)

The main objectives of the Probation officer’s interventions are rehabilitation and desistance, they are constructive and proportionate.

Community service can be ordered for offenders who appear to be unable to perform any type of regular work. The aim of the judge in this case is desistance, even though it may not be realistically feasible.

The Probation service’s work in prison includes continuous assessment of the offenders’ evolution. In weekly meetings both at the CPL and the CPG, the Advisory commission on

sentence enforcement discusses the reports on the evolution and progress of offenders, which reports are then submitted to the General Public Prosecutor's Delegate.

Thus, periodical evolution and information reports (*rapport d'évolution et d'information*) and a final report (*rapport de clôture*) are drafted and submitted to the General Public Prosecutor's Delegate. Such reports include updates on the offenders' progress and their compliance with court conditions. Risk assessment is also part of the weekly commission meetings and staff meetings of the Probation service. In this context, no formal tools or forms are used. (Rule 66, 81 and 91 of EPR)

The assessment report includes the offender's point of view and the latter is informed of the assessment result. (Rule 67 & 68 of EPR)

The Probation officer and/or the Advisory commission regularly review and re-assess the situation of the offender (Rule 69 + 70 of EPR). In January 2020 the new Service for penological intervention (*Service psycho-criminologique – SPC*) was implemented in both prisons to analyse the needs for psychotherapeutic follow-up or the continuation of existing support, mostly focusing on offenders charged for acts of violence and/or sexual assault.

While probation staff did not receive specific training on how to perform assessments, this is part of the curriculum of social studies, the academic background of all Probation officers. (Rule 71 of EPR)

Currently, there is no formal “work plan” as the interventions of the Probation officer are based on the conditions imposed by court. They are considered as a guideline for the offender's reintegration and desistance.

Since the reform of 2018 on prison administration, offenders can prepare a voluntary plan for reintegration into society (*plan volontaire d'insertion*) together with the social workers in prison. This plan will document the offender's wish of rehabilitation by choosing measures likely to facilitate this process. Probation officers are informed about these measures and will consider them in their assessments. (Rule 73 of EPR)

The Probation service acts through individual interventions and does not organise group activities. Risk factors, needs, strengths and weaknesses of the offender will determine the Probation officer's work. It should be emphasised that interventions are never more restrictive than required by the court decision.

Probation officers have adopted a multi-disciplinary approach, of which their listening skills, initiatives and teamwork are the cornerstones. They organise individual meetings with offenders, provide guidance and perform assessments. Probation officers position themselves halfway between the judicial power and the offender under judicial control (Rule 76 of EPR). The basic principles of their intervention can be defined as follow:

- **An empowering and pro-active approach** (*approche émancipatrice*): the objective is to develop the skills of the offender;
- **Accountability** (*responsabilisation*): the Probation officer, in a clear and transparent way, explains the functioning of the justice system and the

consequences of a breach of court-imposed conditions. The Probation service has an obligation of means (as opposed to an obligation of results), which requires the offenders' informed consent and co-operation;

- **Non-normativity** (*non-normativité*): the Probation officer helps offenders in positioning themselves with regard to the judicial intervention. This entails working on the criminal behaviour, the motives and motivations thereof to understand the offenders' vision of the world, their perceptions and beliefs with the aim to prevent them from committing further unlawful acts;
- **Non-substitution** (*non-substitution*): the Probation officer does not act for or instead of the offender, but rather supporting the latter to use the available means to lead a decent life.

Probation officers may use various approaches in their work, but traditional counselling remains the dominant practice. Over the last ten years there were hardly any significant changes in this methodology, also due to a high staff turnover. Frequency of meetings (individual meetings, home visits...) between Probation officer and offender is decided on an ad hoc basis.

Monitoring performed by the Probation service is a combination of supervision and assistance, based on the needs of the offenders and their situation. Priority areas for financial support are housing, rents, clothes and food. (Rule 77 of EPR)

Probation methodology is influenced by a series of factors and the staff in charge of its implementation is one of the key elements. In the mid-nineties, the Probation service was blatantly understaffed with an average caseload of more than hundred offenders per Probation officer. Currently, the Probation Service's staff counts 13 Probation officers.

The SPSE includes social workers, educational staff and psychologists with tasks allocated based on requirements. Social workers and educational staff mostly perform administrative work for the renewal of documents, contacts with the Ministry of Foreign Affairs, the municipalities, the social security and the internal organisation with regard to employment or to the transfer in prison of a detainee from one bloc to another.

Psychologists are providing follow-up and support on request of an inmate in the context of a voluntary integration plan (*plan volontaire d'insertion - PVI*). Probation officers can stay in contact with the psychiatric department for prisons. Addiction treatment is offered by the service "*Suchthilfe*" organised by the Centre Hospitalier Neuropsychiatrique and available in both prisons with specific monitoring related to addictions. In recent years, this service was reinforced in terms of staff.

Staff working on the social reintegration of prisoners was significantly increased in the last ten years, yet so far, no department was assigned a coordinating role. (Rule 80 of EPR) Professionals dealing with an inmate are regularly in contact by phone, e-mail or in meetings. When discussing an offender's request at an Advisory commission meeting, they will be requested to share their views. The SPSE then submits a report on the current situation of offenders, their evolution inside prison, administrative situation, etc.

The Probation officer will prepare a report on the development and progress of offenders during detention with the aim to promote their social integration through their transfer to the semi-open prison facility in Givenich and via conditional release. (Rule 81+91 of EPR). The reports are sent to the General Public Prosecutor’s Delegate or to the Penitentiary commission (Commission Pénitentiaire) as final decisional bodies.

Accurate monitoring and recording of the offender’s situation is one of the main missions of probation work in Luxembourg. (Rule 88 of EPR)

As a public entity the Probation service reports to the General Public Prosecutor’s office. There is no independent monitoring from an external body. An audit conducted in 2015 by an external provider on the needs of the various departments of the SCAS documented a significant lack of staff. A lack also acknowledged at the level of the Probation service, which was then allocated 5 new full-time positions in order to reduce workload and offer more targeted support to offenders. (Rule 103 of EPR)

7. Finances, Accounting, Registration Systems and Evaluation Procedures

7.1 Finances

The Probation service in Luxembourg is exclusively financed by public funds, included in the budget annually approved by Parliament. This budget specifies the funds allocated to jurisdictions and penitentiary facilities. The budget of the SCAS is part of the overall budget of the Ministry of Justice. Financial support can be granted to released offenders whether on probation or not. Priority areas for this type of help are rents, clothes and food. (Rule 10, 21 & 33 of EPR).

The Probation service is not allowed to receive any private financial support.

Table 5. Prison / Probation expenditure

	Probation service (2019)	Prison Social Service (2019)
Total current yearly expenditure	/	/
Average number of employed staff	17,25 probation staff ⁴⁷	30,50 SPSE staff for both prisons

⁴⁷ Rapport d’activité Ministère de la Justice 2019, p. 314-315 (17,25 = total of full-time positions working for the Probation service)

⁴⁸ Rapport d’activité Ministère de la Justice 2019, p.499 (30,50= total of full-time positions working in both prisons)

Daily average number of offenders/clients dealt with	0,48 clients ⁴⁹	0,24 clients ⁵⁰
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7.2 Accounting

The head of the SCAS is accountable, via the Ministry of Justice, to the General Inspection of Finances (*Inspection Générale des Finances*) and to the Court of Auditors (*Cour des Comptes*) for the funds allocated annually to discharged offenders and probationers. The Court of Auditors (provided for under Article 105 of the Constitution), as an auxiliary body of Parliament, monitors public accounts. Furthermore, the SCAS is also accountable to the financial controller of the Ministry of Justice. (Rule 15 of EPR)

7.3. Registrations Systems and Evaluation Procedures

Since 2005 a database includes the reports of Probation officers and records of the number of client contacts and accompanied prison leaves.

Starting in 2017, Probation officers record their interventions (except phone calls and e-mails) in a monthly activity sheet. The only available data to measure the effectiveness and efficiency of the Probation service are the statistics in the SCAS's annual report, which in turn is part of the annual report of the Ministry of Justice.

There are hardly any studies or research on probation in Luxembourg and some are out of date (Rule 16 of EPR). In 2003 a survey was conducted on the penological approach to conditional release, a second survey in 2007 focussed on the implementation of electronic monitoring (as a tool of public policy).

Information on offenders is documented in individual paper files as well as in the electronic database JUCHA. This database is accessible to the Public Prosecution, investigating magistrates, the SCAS and Luxembourg's first level courts (*Tribunal de première instance*). Luxembourg is also involved in the interconnection of European criminal records. Files of discharged offenders are stored in the Probation service's archives.

Since 2001 the Probation service has access to the "BASIS" software⁵¹ connecting the Public Prosecution with the two prison facilities and the Probation service and granting online access to a multiplicity of information about the offender.

The Probation service also has access to the RNPP (national) database on the population of Luxembourg.⁵² Thus, Probation officers can retrieve information on the place of

⁴⁹ In 2019 the total number of files treated in 225 working days by the Probation service was 1869. Daily average per full-time Probation officer is: $1869/17,25=108/225=0,48$

⁵⁰ In 2019 the total number of detainees' files treated in 225 working days by the SPSE of both prison facilities was 1650. Daily average per SPSE staff is: $1650/30,5=54/225=0,24$

⁵¹ **Buchungs- und Abrechnungssystem im Strafvollzug (BASIS)**

⁵² **Registre National des Personnes Physiques**

residence, the household, the last change of address or any previous addresses of the offender, the date of birth, etc. Access to RNPP data is recorded and monitored.⁵³

8. Societal Support and Clients' Views

The work of the Probation service is documented in the annual report of the Ministry of Justice with statistics on judicial, penitentiary and probation activity (Rule 107 of EPR).

Unfortunately, departments publish their statistics separately using different methods for data collection. While some are quite elaborate, others are solely limited to figures. A heterogeneity that makes a dynamic analysis close to impossible. Hence, it is difficult to perform a transversal and longitudinal study to identify a tendency at a criminal or political level.

Other than in the annual report of the Ministry of Justice, little information is provided to the media or available to the general public. In 2017 media coverage of the functioning of the Probation service and an interview of the head of the SCAS contributing to a better understanding of the role and value of probation in society (Rule 106 & 107 of EPR).

Parliamentary questions (*questions parlementaires*) submitted by members of Parliament to ministers occasionally also provide insight on the work of the Probation service. (Rule 106 of EPR).

The situation is very different for prisons, as they are often at the heart of parliamentary questions submitted by various political parties when a prisoner committed suicide or escaped. A visit of the Council of Europe's Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) or by the national Ombudsman⁵⁴ under the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment may also be covered by the media.

8.1 Societal support and public opinion

Audio-visual and written media have contacted the Probation service on various occasions to report about its functioning and interventions. In this context the head of the SCAS and some Probation officers were interviewed.

⁵³ This data is governed by the provisions of the Law of 2 August 2002 on the protection of personal data.

⁵⁴ Loi du 11 April 2010, (1) portant approbation du protocole facultatif se rapportant à la Convention contre la torture et autres peines ou traitements cruels, inhumains ou dégradants, adopté par l'Assemblée Générale de l'Organisation des Nations Unies à New York, le 18 décembre 2002 et (2) portant désignation du médiateur en tant que mécanisme national de prévention et fixant ses attributions.

When invited by secondary schools, Probation officers will explain their job, the philosophy of their work and experiences in class.

Probation officers will also intervene in courses attended by future public agents, as prison staff, police officers, court bailiffs and SCAS employees.

To date, no research was conducted on Luxembourg's probation system. Some reports of university students doing internships at the Probation service dealt with the work of Probation officers and the Probation service.

In 2009 an international colloquium and a conference organised by the Luxembourg Society of Criminology (*Association Luxembourgeoise de Criminologie*) focused, inter alia, on the probation system in Luxembourg.⁵⁵

A reviewed version of the policy and practices of the Probation service is pending publication (Rule 108 of EPR). However, the missions of the Probation service are clearly outlined⁵⁶ on the official website of the Ministry of Justice.

8.2 Clients' Views

Unfortunately, no data is available on how clients of the probation system view the work of the Probation service. So far, no academic research was conducted in this specific field.

9. Probation Clients' Rights

The rights of the Probation service's clients are not specified by law. While they are free to submit written complaints to the head of the SCAS, the General Prosecutor or the Ministry of Justice, no formal complaint procedure was introduced so far. (Rule 14, 100 and 101 of EPR).

In practice, the most frequent complaints come from clients having issues with their Probation officer. These issues are discussed between the head of the SCAS and the staff member. Internal decisions are taken on a case-by-case basis. For re-offenders, a change of their Probation officer may give them an opportunity to get a new start with a new person to assist them.

The Ombudsman (www.ombudsman.lu) ensures external monitoring of complaints. This entity is also in charge of supervising facilities for the deprivation of liberty (prison and police cells, hospitals, psychiatric institutions) and prisoners or probationers can submit written complaints to the office of the Ombudsman.

⁵⁵ Actes du colloque de l'Association Luxembourgeoise de Criminologie, Journée d'étude (9 mars 2010), La politique pénitentiaire au Luxembourg : approche multidisciplinaire et état de la question.

⁵⁶ <https://justice.public.lu/fr/organisation-justice/ministere-public/parquet-general/assistance-sociale.html>

Foreign nationals, whether in detention or on probation, who were given notice by the Ministry of Foreign Affairs – Department of Immigration to leave Luxembourg, may appeal against this decision before the Administrative Court of Luxembourg (*Tribunal administratif*).

Probation officers are bound by article 458 of the Criminal Code on professional secrecy even though relevant information on offenders may be shared with professionals from other entities. The law on the status of civil servants also provides that “civil servants may not disclose any information pertaining to their job”⁵⁷. In addition, as civil servants, Probation officers have to report any information received from a client on their intention to commit further crimes or escape from prison, as well as any confession of previous crimes.

Data collected and recorded by the Probation service is governed by the existing legislation on data protection and is not public. (Rule 41 & 89 of EPR)

Free legal assistance is governed by the law of 18 August 1995 and the decree of 18 September 1995. It is granted, based on the income and financial situation, to all nationals and foreign nationals lacking sufficient financial means, whether in detention or not. Persons who were granted the services of a court appointed lawyer also have access to the services of interpreters and bailiffs.

In each judicial district, the Legal Information and Reception Service supports individuals in completing the relevant forms and provides information on court procedures as well as explanation of legal proceedings, for which the assistance of a lawyer is not required.

Under Luxembourg legislation offenders have no access to their records kept by the Probation service (Rule 92 of EPR). Upon request to the General Public Prosecutor’s Delegate, lawyers receive the reports of the Probation officers and offenders have access to their case file prior to court proceedings.

10. Developments to be expected

10.1 Developments in coming years

Half-way house (*Maison de transition*)

In 2019 the Probation service started to work with the Ministry of Family to organise housing for offenders after their release, with accommodation structures adapted to their needs to support their reintegration into society. Housing solutions are available for 6 months subject to certain conditions to benefit from the reintegration programme.

Initially, a single site was planned, but to promote diversity and curb preconceptions, the approach was changed to include housing facilities in various locations.

⁵⁷ Loi modifiée du 16 avril 1979 fixant le statut général des fonctionnaires de l’Etat Chapitre 5, Art 11.

Construction of a third prison (*Ueschterhaff*) for pre-trial detention in Sanem

With almost 50% of the prison population being pre-trial inmates, the Ministry of Justice approved the construction of a third prison for pre-trial detention, expected to be operational in 2023. This will decongest the prison in Schressig although with a risk of increasing the overall prison population.

Internal work group on sexual abuse

In 2007 the introduction of a safety penalty for sex offenders was discussed. However, the idea was dropped in favour of probation measures as for instance a conditional sentence. Currently, measures consist in psychotherapeutic follow-up to support rehabilitation of perpetrators of sexual assault.

As mentioned under point 3.2., the Probation service attended special training in June 2018 and a conference on sexual abuse in February 2020. Vocational training of Probation officers in this field and the implementation of an internal work group to provide follow-up and assistance to perpetrators of sexual violence are planned.

Extending of the use of electronic monitoring

With the reform in 2018 of the General Public Prosecution Office for sentence enforcement, electronic monitoring was formally introduced into national legislation.

Currently, 70 electronic monitoring devices are available, 20 of which are equipped with GPS. However, tests showed that the GPS system requires technical adjustments to function properly. The Code of criminal procedure⁵⁸ also provides for the possibility of electronic monitoring instead of pre-trial detention, although this was not implemented so far. The creation of a department to manage electronic monitoring is envisaged in the near future.

⁵⁸ Art. Ier. Le Code de procédure pénale est respectivement modifié et complété comme suit :

- 1) Il est ajouté à l'article 107 un alinéa 3 nouveau, libellé comme suit : «Le juge d'instruction peut placer une personne, soumise aux obligations visées à l'alinéa 2, points 1, 2 et 3, sous surveillance électronique au sens de l'article 690.

11. Important Publications

Actes du colloque de l'Association Luxembourgeoise de Criminologie, Journée d'étude (9 mars 2010). La politique pénitentiaire au Luxembourg : approche multidisciplinaire et état de la question.

A record of a one-day meeting in March 2009 in Luxembourg organised by the Luxembourg Association of Criminology on the topic "Penitentiary policy in Luxembourg: multidisciplinary approach and current situation". Speakers came from the criminal justice in Luxembourg with two keynote speakers: Sonja Snacken (Belgium) and Philippe Combessie (France).

Annual report of the Ministry of Justice (2019)⁵⁹

The annual report of the Ministry of Justice with the figures of the various sections of the Luxembourg criminal justice system, i.e., courts, prison facilities, Probation service and penitentiary administration. It includes a record of the activities of the Probation service reflecting the evolution of community sanctions over the last years.

Annual figures of Justice "La justice en chiffres" (2019)⁶⁰

The document describes, with supporting statistics, the procedures for the enforcement of penalties, possible adaptations and remedies. It also includes information on the organisation and functioning of justice.

Biancalana, D., (2003), La libération conditionnelle entre ancienne et nouvelle pénologie. Etat de la question au Luxembourg, Université catholique de Louvain-la-Neuve, 185p.

This publication analyses the influence and impact of the new penology on conditional release issues and practices in Luxembourg. Based on interviews with Probation officers, it emphasises that in Luxembourg individual treatment of offenders is at the centre of probation interventions with a clear focus on rehabilitation.

Gosselin, S., (2011), L'encadrement social de la Libération Conditionnelle en Belgique et au Grand-Duché du Luxembourg, Université catholique de Louvain-la-Neuve, 284p.

The social framework for parole was subject to political issues leading to a new way of considering delinquency and justice. This document analyses the convergences and divergences between Belgium and Luxembourg.

⁵⁹ <https://gouvernement.lu/fr/publications/rapport-activite/minist-justice/mjust/2019-rapport-activite-mjust.html>

⁶⁰ <https://justice.public.lu/dam-assets/fr/publications/justice-en-chiffres/La-justice-en-chiffres-2019.pdf>

Council of Europe, SPACE II, Luxembourg (2015-2019) ⁶¹

“The Council of Europe Annual Penal Statistics, or SPACE (Statistiques Pénales Annuelles du Conseil de l’Europe) cover two projects. SPACE I provides data on imprisonment and penal institutions in Member States while SPACE II collects information on non-custodial sanctions and measures. Figures for 2019 are available online.”

G. Schmit, Chapter 12, Luxembourg, in : A. Van Kalmthout., J. T.M. Derks, *Probation and Probation services. A European Perspective, 2000, Wolf Legal Publishers (www.wolfpublishers.com) CEP, Utrecht, pp. 323-354.*

This chapter includes an earlier analysis of the probation situation in Luxembourg (status 2000) in the publication “Probation and Probation services. A European Perspective”.

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Carnes, P., (2015) *Facing the Shadow : Starting Sexual and Relationship Recovery, Gentle Path Press, p. 300*

⁶¹ https://www.coe.int/fr/web/prison/home/-/asset_publisher/ky2olXXXogcx/content/council-of-europe-publishes-annual-statistics-on-probation?inheritRedirect=false

12. Main Addresses and contact details

Probation service: (*Service Central d'Assistance Sociale*)

Plaza Liberty

12-18, rue Joseph Junck

L-1839 Luxembourg

Tél. 352/47 58 21-1

Scas-probation@justice.etat.lu

General Public Prosecutor's Delegate for sentence enforcement (*Délégué du Procureur général d'Etat à l'exécution des peines*)

Cité judiciaire/Plateau du St-Esprit

L-2229 Luxembourg

Phone : 352/47 59 81-348 or 391

pgexpg@justice.etat.lu

Ministry of Justice (*Ministère de la Justice*)

Centre administratif Pierre Werner

13, rue Erasme

L-1468 Luxembourg

Phone : 352/ 478-4506

www.mj.public.lu

Penitentiary center in Schrassig (*Centre Pénitentiaire de Luxembourg - CPL*)

Um Kuelebiërg

L-5299 Schrassig

Phone : 352/ 35 96 21-1

Penitentiary facility in Givenich (*Centre Pénitentiaire de Givenich, CPG*)

Maison n°9

L-6666 Givenich

Phone : 352/74 04 60-1

ANNEX 1



SUMMARY INFORMATION ON PROBATION IN LUXEMBOURG

General Information

- Number of inhabitants: 626.108 (on 1 January 2020)
- Prison population rate per 100.000 inhabitants: 108,2 (SPACE I, Survey 2019)
- Link to Probation service: www.justice.public.lu
 - Links to websites: www.mj.public.lu
 - Member of the CEP in: 1983

Characteristics of the Probation service

The Central Service for Social Assistance (SCAS) is part of the General Prosecution Office under the authority of the Minister of Justice. The SCAS is a centralised non-private organisation.

The SCAS includes various units dealing with people under judicial supervision.

Probation officers work with adult offenders. The SCAS includes probation departments:

- a) the Probation service (*Service de Probation*) for offenders subject to pre-trial control measures (contrôle judiciaire) introduced in 2006, or to in-prison and on parole/probation measures; and
- b) the Department for community service (*Section des travaux d'intérêt général*).

Both units are part of the Service for sanctions and community measures (*Service des sanctions et mesures appliquées dans la communauté*).

Tasks

Core tasks of both units are:

- counselling, support and assistance to detainees and to their families;
- preparing social support plans for the General Public Prosecutor's Delegate and several committees;
- reporting to various judicial authorities on the accused and convicted person's situation and on important aspects regarding sentence enforcement;
- guidance when a person is discharged from prison;
- coordinating the transition from prison to release with parole or on probation after detention;
- guiding and monitoring people subject to conditional release, conditional sentence and electronic supervision;

- liaising with public agencies accepting offenders for community service;
- following-up with specialised public or private agencies for addiction treatment and psychiatry;
- deciding on small financial aids to offenders on early release or probation and to former detainees;
- providing assistance and guidance to former prisoners at risk of re-offending;
- staying in contact with volunteer prison visitors.

If needed, the Probation service stays in close contact with the addiction support unit “*Suchthëllef*” and the psychiatric department for prisons. Close cooperation with the Psycho-Social and Socio-Educational Service (SPSE), an internal social service for penitentiary facilities will support social reintegration of offenders.

Number of staff (average numbers in 2019)

- Probation officers:	13
- Probation managers, all levels:	1
- Administrative support staff, all levels:	3
- Community service supervisors:	4

Total: 21

- Daily average number of offenders dealt with: 0,22
(average caseload on 31/12/2019: 71 offenders/Probation officer)

New developments

- Half-way house project (*Maison de transition*)
- Construction of a third prison facility (*Ueschterhaff*) for pre-trial detention in Sanem
- Creation of an internal work group on sexual abuse
- Extension of electronic monitoring

Probation during the different stages of the criminal procedure

	Pre-Trial phase	Trial and enforcement phase	Post release phase
Preparing pre-sanction report	x		
Supervising etc. sanction of probation		x	x
Supervising etc. conditional sentence		x	x
Supervising etc. special measures drug addicts	x	x	x
Supervising etc. community service		x	x

Supervising training or learning projects		x	x
Interventions with young offenders		x	x
Supervising etc. suspended sentence			x
Assistance/support of offenders in prison/detention		x	
Preparing pre-release reports, prisoners		x	
Supervising conditional release/parole			x
Supervising post custody, sex offenders			x
Preparing victim impact reports			