



Probation in Europe

Italy

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1. Introduction

1.1 Probation organisation

The National Probation Service¹ for adults in Italy is a public service within the Department of Juvenile and Community Justice, which in turn falls within the Ministry of Justice. This department has a General Directorate, called General Directorate for the execution of sentences in the community and probation during the proceedings (*Direzione Generale Esecuzione Penale Esterna: DGEPE*). This Directorate has the task to establish the guidelines for the local probation offices (*UEPE- Uffici di Esecuzione Penale Esterna*), that are operating in towns where the offices of the Supervisory Judge are located. These offices (in this text further called “the probation offices”) have the following characteristics:

- are part of the civil service (Ministry of Justice);
- are independent from prisons system but work together with them;
- employ salaried staff professionally qualified as social workers and psychologists in order to perform institutional duties;
- may avail themselves of the professional assistance of experts in psychology, social work, pedagogy, psychiatry and clinical criminology, who will receive a fee in proportion to the service provided;
- may be assisted by volunteers or voluntary organisations in performing some of their duties;
- have as their general role to create and encourage links between prisons and communities, while their specific role is to provide a combination of both assistance and supervision to offenders placed on probation.

The probation offices take care of adults and are called upon to carry out activities that are generally related to specific requests of the supervising judge or the Supervisory Courts or to requests from the Directorate of penal institutions. Their institutional tasks involve interviews, observation and treatment interventions for the application and execution of measures or alternative sanctions to imprisonment or community and security measures.

The probation offices coordinate institutions, social services and public and private healthcare services, social cooperatives, associations and voluntary organizations active in the area, in an integrated perspective of intervention.

1.2. Probation activities in a nutshell

The responsibilities and duties of the probation offices are defined as follows:

- to carry out inquiries into offenders’ social and family backgrounds in order to outline rehabilitation programmes for convicted persons and for internees;
- to carry out social and family inquiries on convicted offenders for the enforcement of community measures;
- to propose to the judicial authority the treatment programme to be provided to prisoners who have applied to be assigned to the probation service and to be granted home detention;
- to supervise the enforcement of the programmes by those persons who have been granted community measures; they report to the judicial authorities, proposing possible interventions of modification or revocation;

¹ The term “Probation Service” is not used in Italy, but it is used here for convenience.

- to supervise and assist offenders assigned to the Probation Service;
- to support offenders who have been granted home detention;
- to provide supervision and assistance to offenders who have been granted semi-liberty;
- to provide advice regarding rehabilitation programmes for offenders at the request of the Directorate of a penal institution;
- to assist offenders who are allowed to work outside prison;
- to give assistance (in collaboration with public and private social care organizations) to offenders' families, in order to maintain and improve offenders' relationships with them and to eliminate difficulties which can obstruct social reintegration;
- to support offenders when they are released on completion of their sentence and help families in the period leading up to their return home;
- to carry out any other activity provided by law and/or by regulation: *e.g.*, participating in the multi-professional working committees such as the one for drafting internal regulations, or for library activity and for cultural, recreational and sport initiatives.

The specific task of the probation offices is to ensure a concrete and “inclusive” approach in order to keep the offender in his or her community and reduce the possibility that he or she re-enters or returns to prison. To this purpose, the probation offices interface with the judiciary and other social “actors” who are involved in protecting the safety of society.

1.3. General remarks about the implementation of probation rules

European Probation Rules contain a series of rules widely shared by the Italian System of Execution of Sentences in the Community.

The Administration is doing its best to encourage the immediate knowledge of the European Probation Rules R 1(2010) among probation officers. The Office for Research Studies Legislation and International Relations of the Department of Penitentiary Administration has even translated the Rules into Italian and disseminated them to local and central probation offices. Recently a comment to said Rules was published, drafted by the executives of the Department of Penitentiary Administration and addressed in particular to the training of University students and to the continuous training of experts working at the probation offices².

² M. Ciarpi, R. Turrini Vita, *Le Trasformazioni del Probation in Europa*, Laurus Robuffo Editore, Roma, 2015.

2. Historical Development of the Probation System

2.1 History from the origins to 2008

The Probation Service for adults was set up in Italy by Penitentiary Act N° 354, 26 July 1975 “*Provisions on the Penitentiary Act and on measures entailing restrictions on and deprivation of, personal liberty*”. Law nr. 354 transformed the existing Centers for Social Services for Adults in probation offices, reformulating their tasks.

As per Law nr. 354, alternative measures to detention in prison were introduced into the penal legislation, and rules were responsible for not making the stay in prison a mere “exclusion” of the subject from civil society, but a phase of life during which the convicted person could take advantage of various opportunities enabling him/her to return to society as a more responsible and aware man.

The Penitentiary reform as a whole has affirmed, then, the idea of prison as a place of opportunity, providing useful services for a project of social rehabilitation to be achieved with the active involvement and solidarity of healthy forces within society.

The important innovations, forming the new backbone of the prison system, in addition to the evolution of this body and the skills of the supervising judge, were the introduction of the new professional educator, in line with the new paradigm of punishment conceived in its re-socializing purposes, and the establishment of Social Services Centers for Convicted Adults (CSSA), within which social workers operate.

The introduction of Social Services for Adults in the Penitentiary system represents a completely new and extremely important approach. Indeed, in addition to recognizing the professionalism of the social worker, an innovation of such scope represents, above all, the acknowledged importance of the study of the social and environmental influence under which the personality of the deviant has developed. Within each institution a special committee has been established, composed of the prison governor, educators, social workers and representatives of the prisoners and internees, in order to manage the organization of such activities and to maintain contact with the external community, so useful to social reintegration. The Legislator has also provided that the purpose of social reintegration of prisoners and internees must be pursued also through solicitation and an organization of private individuals, of both institutions and associations (public and/or private).

The so-called Gozzini Law nr. 663, 10 October 1986 established rules which were designed to expand opportunities for social reintegration also through the widening of “substitute” alternative measures and through the introduction of special leaves and other mechanisms to encourage participation and active cooperation of the prisoner in the treatment plan.

The regulations implementing the law on the penitentiary system (230/2000) specifies that individualized treatment of prisoners and internees (according to specific individual needs) is to offer direct interventions to support their human, cultural and professional interests (through education, work, cultural activities and recreational sports), and aims to promote constructive social participation. By Decree of the President of the Republic nr. 55 of 2001, it was established the Directorate General to deal with the enforcement of sentences in the community.

2.2 Recent history from 2008 to 2011

In Italy, the traditional cooperation of the probation offices with the public and private agencies in the community has encouraged the legislator to identify new typologies of measures or sanctions other than detention, among them community work³.

Over time, there has been a rapid and important increase in the number of sanctions managed by the probation offices and working groups have been established between such Offices and criminal courts, also aimed at drawing up agreements with entities for use in community works of indicted persons.

Recently, measures have been adopted focusing on the access to alternative measures (widening access to these opportunities, removing some of the obstacles that in recent years have precluded the possibility of access by repeat offenders, even for minor offences), mainly in order to reduce overcrowding and make the penitentiary system more efficient as indicated by article 3 of the European Convention on Human Rights⁴. Following the plot judgment *Torreggiani and others v/ Italy* the Italian Government fielded legislative actions aimed at reducing prison entry flows and improving the access to community sanctions and measures.

Because of the lack of indoor living space in prison, the following measures aiming at relieving the prison system and at safeguarding prisoners' human dignity have been approved.

- **Legislative Decree dated 28 August 2000, nr. 274** provided that the justice of the peace, for the crimes falling under his/her competence, can apply, upon request of the accused person, the home detention measure or the community work. The penitentiary Administration does not participate in the execution and control of such sentences.

- **Law 21 February 2006, nr. 49** provided that the ordinary judge, for those consuming drugs or psychotropic substances, can apply by the conviction sentence the measure of community work instead of detention or pecuniary penalties, by giving the probation offices the task to verify that such work is effectively being carried out.

In this case, the rule does not provide that the sentenced person follows therapeutic programmes. In July 2010, law 29 July 2010, nr. 120 provided that even the examining judge can inflict the community work sanction to those subjects caught driving in a state of drunkenness.

In such a case, the control is carried out by the probation offices, or by the bodies as per article 59 of the legislative Decree nr. 274 of 2000.

- **Law 26 November 2010, nr. 199, reformed by law nr. 211, 22 December 2011** introduced the completion of shorter prison sentences or remaining sentences (where the sentence does not exceed eighteen months) outside the prison (home of the offender or other public or private care, assistance and support).

- **Legislative Decree 1 July 2013, nr. 78, (converted into Law nr. 94 09/08/2013)** eliminated the absolute bar of the Supervisory Judge's evaluation on eligibility for alternative measures, and expanded the possibility of suspending the completion of the sentence to provide access to alternative measures directly from

3 Community Service was imposed during the execution of the sentence as an alternative measure for minor crimes (Art. 105 Law nr. 689, 24 November 1981) and as an accessory penalty for certain offences relating to race, ethnicity and/or religion (Art. 1 Law nr. 205, 25 June 1993) was introduced as alternative sanction only for driving offences or minor drug crimes (Art. 73, para 5b dpr 309/90 and Artt. 52, 54 and 55 legislative decree 274/2000).

4 "No one shall be subjected to torture or to inhuman or degrading treatment or punishment".

liberty (previously not allowed for repeat offenders). The Law focuses on home detention, which permits serving the final part (currently two years) of the sentence in a place other than prison. Previously, this opportunity was precluded to a number of convicts, often restricted for minor offenses, who were repeat offenders. This Law also expands the use of community service as an alternative to imprisonment for minor offences. So, through restorative behaviour and employing prisoners in socially useful activities, the risk of recidivism will be reduced and social reintegration will be easier.

-Legislative Decree 23 December 2013, nr. 146, (converted into Law nr. 10/2014) provides for the following:

- Home detention (execution of the sentence at one's domicile): provision by which sentences up to 18 months of imprisonment may be served at home, introduced in 2010 as a temporary measure, has been confirmed and has become a permanent measure;
- Probation: supervisory judges may order probation for detainees who have to serve up to 4 years of imprisonment (the limit used to be 3 years before the new decree), if these judges believe that the measure can serve to re-educate the person and prevent the risk that he will commit new crimes;
- Special early release: temporary provision which allows deducting from the sentence a total of 75 days for every 6 months that the detainee spends in prison, for good behaviour;
- Special probation: detainees with a sentence up to three years who are addicted to drugs or alcohol may be granted therapeutic probation (where the probationary period is to be spent in a rehabilitation centre) several times; the previously existing rule, by which such probation could only be granted twice, has been revoked;
- Expulsion as an alternative to detention for third world nationals: the requirements for this measure, which applies to third world nationals sentenced to up to 2 years' imprisonment, has become less strict; moreover, such persons are to be identified during their imprisonment, so as to reduce the need to keep them in pre-return detention once released.
- Electronic surveillance devices: home arrest and home detention of suspects and convicted persons is always to be ordered together with electronic surveillance, unless this is considered unnecessary, provided that the relevant devices are available;
- a new, mitigated crime for minor cases, for which the maximum penalty is 5 years of imprisonment. This provision thus also allows for the imposition of reduced penalties for drug-related crimes (art. 131-bis CCP introduced by law nr. 28/2015).
- **On 25 February 2014, the Italian Constitutional Court adopted Judgment nr. 32**, which amended the national law on drugs (DPR 309/1990) clarifying the punishments for offences concerning "soft" and "hard" drugs. This constitutional judgment reintroduced a distinction between crimes (such as producing, selling or receiving) concerning "hard" drugs, now punishable by imprisonment from 8 to 20 years, and "soft" drugs, now punishable from 2 to 6 years imprisonment. Previously, all cases led to imprisonment from 6 to 20 years. The gap in Regulations was filled by Law nr. 36, 20 March 2014, converted by Law nr. 79, 16 May 2014.

- The **law by decree of 20th March 2014, nr. 36** re-established the discipline relevant to the alternative sanction of community service, which was provided for by the article which the Constitutional court judged illegitimate (judgment of the Constitutional Court nr. 32/2014, 12 February 2014). In case of conviction for misdemeanours (73-5), for addicts or users, the judge may order, no more than twice, a community service (work) which can include treatment, instead of a sentence to imprisonment and to a fine, upon the request of the person concerned and having heard the advice of the public prosecutor, for a duration equal to the correspondent sentence term to imprisonment. The community service can also apply in case of a crime different from the crimes indicated by article 73, paragraph 5, perpetrated, just once, by a drug addicted person and for which the judge can inflict a sentence up to one year of imprisonment, except when it is a crime against persons. (article 73, paragraph 5-b, 5-c DPR 309/90)
- **Law 28 April 2014, nr. 67**, containing “*Proxy to the Government in matters of non-incarceration prison sentences and reform of the prison system. Provisions concerning stay of proceedings with probation and in comparison of those not to be found.*” A new, long-awaited and of great importance, law provides for alternative sanctions such as home detention and community service, for limited crimes and a form of probation for adults modelled on the one successfully tested over time in the juvenile justice system, and traditionally in use in many European countries.
- **Law 26 June 2014, nr. 92**, converted into Law nr. 117, 11 August 2014, which has limited the possibility of remand in custody and *concerns urgent provisions relating to compensatory remedies in favour of prisoners and internees who have undergone treatment in violation of Article 3 of the European Convention for the Protection of Human Rights and Fundamental Freedoms.*

Such regulatory requirements (and before that political ones), provided the basis for the development of a modern system of alternative measures or “community sanctions” which cannot leave aside the implementation of the principle of subsidiarity, with the growing importance of the role covered by the community and, in particular by local bodies and public and private agencies in the territory, for the management of measures alternative to detention, such as to offer more and more quality services for the support, social rehabilitation of prisoners and for the valorization of the role of the victim of crime in the proceedings.

3. Legislative Basis of the Probation System

3.1. Legislative Basis

The Probation Service was introduced first for juveniles and subsequently for adults. The Probation Service for Juveniles, which developed from the setting up of Juvenile Courts (Decree dated 20 April 1934 and subsequent amendments, including the Act dated 25 July 1956), is regulated by an Act dated 16 July 1962. The Probation Service for Adults, which came into being with the Penitentiary Act and the establishment of community measures as an alternative to imprisonment, is governed by Act N° 354 dated 26 July 1975.

Both Services, however, had already been operating experimentally for at least 10

years prior to these laws being passed. They both fall within the responsibility of national public powers, and make sure that the judgments are executed, cooperate with public and private organizations to facilitate the reduction of crime and the social reintegration of the offender. The supervision activity carried out by the probation offices includes either the support activity and the control activity of the offender. In compliance with Rule 12, controls and motivation are promoted in cooperation with local social-health services (healthcare, employment, accommodation, etc) and volunteers.

The responsibilities of the social workers employed in the Penitentiary Department are currently limited to the penal sphere alone.

The recent legislative interventions mentioned in paragraph 2.2 have widened the competences of the offices for the execution of sentences in the community and mainly the recent **Law 28 April 2014, nr. 67** containing “*Proxies to the Government in matter of non custodial sentences and reform of the sanctioning system. Provisions in matter of suspension of the proceedings with probation during the trial*”.

The 2014 Decree of the President of the Council of Ministers concerning “*Regulation on the organization of the Ministry of Justice and reduction in directorates-general and staff*”, established the Department of Juvenile and Community Justice (it. *Dipartimento di giustizia minorile e di comunità*). Such Regulation, besides providing measures for the reorganization and rationalization of the offices of the Ministry of Justice, establishes the new department for juvenile and community justice with the purpose to bring together the juvenile world, which from several aspects of the management of the execution of sentences in the community has had a leading role, and the adults’ world.

The unification of the two systems aims at strengthening the execution of sentences in the community for adults especially from the point of view of the construction of a network to take in charge the offender and prevent the risk of recidivism. Probation offices, in compliance with what is provided for in Rule 1 strategically aim at reducing recidivism through the establishment of positive relationships with offenders, to control, orientate and assist them better in their social reintegration.

The Probation system in Italy, has in fact the aim to deter the repetition of the offences, through a dialogue, and confidence with the offender. The methodologies used to this purpose cannot disregard the fundamental rights of offenders: each intervention takes into account the dignity, the health, the security and the welfare of convicts (Rule 2); in order to deal each case with justice and equity probation interventions are carried out in full compliance with the individual needs of the offenders, without discrimination on the basis of race, colour, sex, language, religion, etc.

To ensure the compliance with the community measure or sanction, the supervision (support and control) takes into account the peculiarities and needs of offenders (Rule 54); the supervision is not limited to a mere control of the offender but also includes important support and guiding actions of social workers and psychologists taking care of the offender. If necessary, it provides for other interventions directly carried out by the probation service, or by other organizations, for the training, the professionalization, working integration and care of the offender.

Each single person is carefully assessed by probation offices, since the treatment programme, especially in the case of community measures and sanctions, is as more effective as it manages to take into account the characteristics of each offender in order to ensure that each case is dealt with justice and equity (Rule 4).

The full compliance of the probation offices with the *principle of minimum*

intervention is a fundamental requirement in the handling and execution of community sanctions (Rule 5), and enables to avoid the excessive and unjustified tightening of prescriptions, mainly with respect to the seriousness, the nature of the crime, the real risk level of recidivism and aggressiveness of the offender.

It's for these reasons that the Directorate General for the execution of sentences in the community and probation during the proceedings is defining an instrument of assessment of recidivism risk level (according to what is provided for by Rec (2014)3 on Dangerous offenders) which can be employed, even jointly, by social workers, psychologists, criminologists, professional educators and legal experts properly trained and continuously trained.

The improvement of the management of risk levels in the people who ask or find themselves to benefit from a community measure or sanction, from the state of liberty or detention, can then be better ensured even by probation offices in Italy, through the definition and improvement of the tool.

In Italy some Universities have carried out studies on recidivism but, presently, notwithstanding numerous efforts, the Administration is not yet able to intervene in a targeted manner to increase and ensure a national standard of risk assessment by probation offices either to limit the risks for the collectivity, or to provide the judiciary homogeneous criteria to grant community measures and sanctions.

The considerable development even in our country of probation work, besides requesting the definition and scientific validation of new tools, such as those to employ for the assessment and management of risk levels of the offender, will need a concrete compliance of the probation officers with the new typologies of persons assigned or who request to be assigned to community measures or sanctions, as provided for by Rule 77.

The development of penalties and sanctions executed in the community, in the course of last years was carried out through initiatives aiming at encouraging the replacing of mono professional "social work" with multi-disciplinary work as it is provided for by European Prison Rules (92)16 and 2010 (1).

In order to increase the qualitative standards of taking care of the offender under a community sanction or measure, the Department of Penitentiary Administration in 2004 introduced a national standard for the social investigation providing for the use by probation offices of an appropriate "model of evaluation" in the report which shall be sent to the Supervisory Court.

Important initiatives have been carried out, either at national and local level, mainly aiming at enhancing the role of volunteers in probation work, according to what is provided for in Rule 34.

The Penitentiary Act, since its approval, has given the volunteers a role of great importance in the implementation of the re-education purpose of the penalty, executed either in prison, either under alternative measures in the community.

As per art. 78 of the Penitentiary Act, voluntary workers may cooperate with the probation service centres in relation to the assignment to the probation service, semi-liberty and providing assistance to released prisoners and their families.

The Italian Penitentiary Administration in order to encourage and enhance the activity of support of volunteers in the execution of alternative measures to detention, recently spread directions to territorial structures with which the will to enhance and further qualify the presence of volunteers at the probation offices is confirmed.

As it has happened for a long time in many European countries, volunteers can play also in Italy a strategic role in carrying out rehabilitative programmes and activities in

favour of persons under community measures and sanctions, mainly of those who have a low risk level.

The cooperation between volunteer organisations and probation offices has provided proof even of the taking care of the persons submitted to the new community measures and sanctions among which *the suspension of the proceedings with probation during the trial* and *community works*, even taking full account of the needs of the victims of crime, in line with what is provided for by Recommendation (2010)¹ (from Rule 93 to 98).

The victim, in fact, is informed by the probation offices (where there are workers with a particular professional expertise) on the majority of decisions concerning the offender which have been adopted by the judicial authority in the course of the execution of the community measure or sanction (Rule 95).

The offices are completely aware of the importance of rehabilitation of the offender, of his responsibility, and consequently of the awareness of the damage caused to the victim of the crime.

In line with what is provided for by Rule 97 of the Recommendation, in the last years the probation offices have taken particular care of the interventions of restorative justice, with an increasing involvement of the offender, the victim and, mainly of the community.

In the Italian System of execution of sentences in the community, both “networking” and “the Community” have a strategic role in taking charge of the offender under a community measure or sanction, because the complex offender’s needs require the joint action of several agencies and organizations and multi-disciplinary interventions. This results from the assessment that both the offender’s needs and public security needs require strict cooperation and contribution from different public agencies present in the community, as far as the partnership with other public or private organisations and communities is concerned. Such an approach is traditionally present and rooted in Italy, in keeping with the basic principles of European rules to promote the social inclusion of offenders. The work of the probation offices is co-ordinated and complementary with that of the institutions, the social services operating within the territory (Rule 12).

The involvement of several agencies and professionalism in the definition and management of the tailored treatment programme certainly encourage the good progress of community measures or sanctions.

The operational agreement with the services provided by agencies is defined through a global vision of social dynamics, investing in prisoners’ personal and familiar affairs with an integrated perspective of intervention. This coordination is carried out according to the general guidelines of the Directorate General for the Execution of Sentences in the Community and probation during the proceedings within the Department of Juvenile and community justice. Mainly following the approval of Law nr. 328, 8 November 2000, which has significantly improved social planning, there has been a progressive widening of the network of public and private subjects taking part in the planning of social policies. Also, the participation of the probation offices in the drafting of plans has significantly increased.

Multi-disciplinary teams are one of the characteristics of the probation offices according to European Probation Rule 12. This Rule provides that coordinated and complementary work among the services and/or different subjects is necessary to satisfy the complex offender’s needs and to strengthen public security.

From the point of view of administrative action, the Penitentiary Administration has

proposed, including via funding of the European Commission and the Fines Fund, to revise the current organizational structure in a manner so as to supplement current staff with other professionals. This encourages multi-professionalism, giving rise to the concrete action of supporting and managing offenders, and taking charge of them. As for European Rules concerning organization and staffing, experimentation has been completed on a new modality to carry out training in the territory, which pays more attention to the different and specific needs of the realities where it is actually done. As for European Rules concerning the process of evaluation of the need and risk level of the offender who asks to be assigned to a community measure or sanction, the Penitentiary Administration created an instrument evaluating the risk and need level of prisoners asking to be assigned to a community measure or sanction and for those coming from liberty.

3.2. Mission and mission statement

The probation offices guarantee a service characterized by the respect of the dignity and uniqueness of the person, addressed to the development of his/her potentialities and to the taking on autonomous and responsible choices.

The persons having access to the probation offices are therefore ensured particular respect for the person, equality and impartiality, self-determination and focus on the importance of the person, participation, no judgment, welcome, accessibility, confidentiality of information, professionalism, transparency of decisions, timeliness, continuity, an integrated service in the community at local level.

The functions of the probation offices combine social security issues, requests of “making penalty human”, of “social defense” and of “socio-educational treatment” of persons submitted to measures restricting liberty and involve either the community dimension and the prison dimension.

Such offices in their official duties strictly cooperate with the Supervisory Court, a jurisdictional body which supervises the enforcement of the sentence in compliance with the law, ensures that the law is respected and has the power to adopt measures to eliminate violations of rights, is responsible for the adoption of measures alternative to detention. In particular, the probation offices submit to the judicial authority the treatment program to apply to sentenced persons asking for alternative measures or for the probation during the proceedings. Such offices, in particular carry out the socio- family investigations, visiting the sentenced person’s house to ascertain the existence of life and relationship conditions necessary for the adequate execution of alternative measure and probation, at the community or public service for drug addicts where he/she intends to carry out the therapeutic programme.

Such investigations are carried out at the sentenced person’s workplace to ascertain the existence of the necessary requirements to carry out the working activity on a regular basis, at the public, private and volunteer agencies, present on the territory in order to identify possible working activities not remunerated which the sentenced or the accused person might carry out under alternative measures or probation; they check the execution of programmes by those persons assigned to measures alternative to detention or to the probation through assistance and control interventions and report to the judge proposing possible modifications or revocations. They carry out the investigations useful for the application, modification and revocation of security measures. In applying the new provisions on probation they also cooperate with the criminal Court and in particular with the judge for preliminary investigations in order to finalize the treatment programme.

From the community perspective, the community local probation offices provide for family and post-release assistance; they promote and participate in social policies, participate in the planning process in favour of social inclusion with the different social actors and make remarks and assessments in close cooperation with universities. They also cooperate with territorial Social Services, Therapeutic Communities, socio-Healthcare Services, Social Cooperatives, law enforcement Agencies, bodies, Enterprises, Lawyer's offices, trade offices, Universities and Volunteer organizations. From an inside prison perspective, the probation offices carry out socio-family investigations on prisoners and look for structural, instrumental and human resources necessary for their social reintegration. Social workers of the probation offices work in team with the governor, the educator, the psychologist and possible volunteers and, on the basis of the results of the observation, draft the educational tailored treatment programme by taking care of its implementation and of its periodic updating. This is designed to promote the process of changing their personal conditions and personal attitudes, and of improving their family and social relationships enabling them to reintegrate constructively into society (art. 1 of Decree of the President of the Republic 30 June 2000, nr. 230). They also participate in the working of multi-disciplinary commissions as that for the drafting of internal regulations, that for library activities and for cultural, recreational and sports initiatives.

3.3. Crime Prevention

Although it is true that the Probation Service does not have an organized role in general in crime prevention programmes, it is also true that by working not only with offenders and their families but also side by side with Social Services, voluntary associations, the community and (albeit sporadically) the police for the social reintegration of offenders, the probation offices build and increase the value of significant social networks supporting sentenced persons and their families on the territory and promote prevention actions and actions for the respect of legality on the territory such as to contribute to the security of collectivity and the prevention of recidivism.

3.4. Victim assistance

In the Italian system, the victim is defined as the owner of the interest protected by penal law, the damage represents the essence of the crime.

The criminal procedure code of 1989 has included the victim among the legal subjects giving her/him the ownership of powers and rights to exercise in the trial and then trying to give the victim something more than the role of mere claimant she/he had in the previous code.

Legislative Decree nr. 274, 28 August 2000 underlines the importance of the victim's role, through the innovation of the direct victim summons via the immediate appeal for the crimes which can be punishable by *ex parte* application (art. 21 *et seq.*). In the proceedings for less serious offences which may be prosecuted if the injured party brings an action, the accused person can be sued before the justice of the peace by such party. Previously, following the submission of the action the public prosecutor could decide to seek trial and could choose not to proceed by asking the closing of the case.

Notwithstanding this important innovation, the role of the victim recognized in the Italian criminal trial is completely secondary, even in the system of Execution of Sentences in the Community, mainly if compared to the present situation in

the other European Countries. The amendment of art. 111 of the Constitution, with the introduction of the so-called “fair trial”, does not seem to have taken into consideration the necessity of mainly protecting the victims’ rights.

A number of laws provides protection for some specific categories of victims such as: victims of terrorism and mafia crimes, usury, sexual abuse, trafficking of human beings or exploitation of prostitutes. Even if there is neither any organic norms nor a dedicated service, victims have never been neglected in the Italian Penitentiary law. It provides that, since the very beginning of the enforcement of the sentence, during the observation of the personality that will end with a tailored rehabilitation plan, all those who work in prison should demand the convicted person or the internee to reflect upon motivations and consequences of the committed crime, together with the possible actions to make reparation and to compensate the victim for damages. In this connection, one of the most interesting obligations the offender assigned to the Probation Service needs to fulfil, states that he or she has to make concrete actions in favour of the victim of his or her crime. Different experiences of restorative justice have made at least the convicted person’s will of repairing visible, by adhering to the programmes that adopt community service or unpaid work in the public interest. The Penitentiary Administration has promoted some important initiatives, one of them being the establishment of a Committee of study on restorative justice and penal mediation at the Directorate general for the Execution of sentences in the Community and probation during the proceedings, together with the carrying out of a project on penal mediation to be funded by the European Commission.

The recent Bill nr. 2798/2014 art. 1 enables the Government to propose the introduction of a completion of the proceedings to ensure the elimination of the social disvalue of the conduct with alternative modalities to penal sanctions according to the “restorative justice” rules and provides that the judge, for the offences prosecutable on the action of the injured party, declares the offence extinguished when the accused person has sought compensation for the damage caused and has eliminated its harmful or dangerous consequences.

3.5. Volunteers’ involvement

In Italy since the end of the Second World War, volunteer organizations represented an important resource in order to connect prisons and community, and in recent years, such role is turned out to be even more significant due to the strong economic and social crisis: volunteers are supported by probation officers and the other penitentiary workers in supporting and assisting sentenced and accused persons. At the beginning, the work of volunteers in the Italian penitentiary system mainly consisted in visiting prisoners and supplying them with first necessity goods. The purpose was that of “redeeming” sentenced persons through education and religious faith. The presence of religious volunteer organizations has always been very strong and well rooted in the Italian penitentiary system, and the first social workers have been employed late with respect to other important European countries. Even today, Catholic volunteers, together with other operators of services and of public and private agencies on the territory, support social workers of the probation offices and prison social workers in taking in charge the sentenced persons under alternative measures or in prison. Their presence and their commitment often turn out to be very important in favouring the social reintegration of sentenced persons and in containing risk level. In some probation offices, to make some examples, voluntary lawyers freely offer legal advice, other lawyers constitute an important connection

with support and admission structures present on the territory. The number of volunteers operating in the Italian penitentiary system has significantly increased since the approval of the Penitentiary Act by Law 354/75 until today, either in prison and in the probation offices. The increase in volunteers, however, is turned out to be stronger and clear in the Probation Service, mainly in the last years, thanks to a greater attention to this phenomenon by the Directorate General for the execution of sentences in the community and probation during the proceedings which has facilitated a more homogeneous presence of volunteers in the country with respect to the past, in line with what is provided for in matter of European rules on Probation and has issued specific circulars in order to implement the role of volunteers at the probation offices (Circular Letter 28/08/2006, nr. 0277508 “Law 6 March 2001, nr. 64 *“Measures applying the convention for the voluntary civil service”*; Circular Letter 21 March 2011, n° 0115073 “Voluntary Assistants as per article 78 law 354/75 at the local offices for the execution of sentences in the community”).

In order to make the action of volunteer Associations towards those who have been admitted in the penal circuit and to identify the cooperation fields, an Agreement with the National Conference Justice Volunteers has been signed. In this context intervention programmes are defined and the activities jointly carried out are planned and joint training processes are expressly provided for. The Italian regions with the majority of volunteers are those in the Centre – north and in particular Liguria, Toscana, Lombardia and Triveneto, but important increases have been registered in the central- southern regions and, in particular in Sardegna, Abruzzo and Molise. At 17 December 2015 the volunteers present at the probation offices were 135. The volunteers are not paid but are motivated by their own beliefs and values.

4. The Organization of Probation Services

For some years, the Directorate General for the Execution of sentences in the community, in order to comply with the European standards (Rule 22), has recruited and selected probation officers through the “Master” project and psychologists with “Mare Aperto” project, such as to encourage a more effective multi-disciplinary professionals and a greater enhancement of experiences and previous professional skills.

As for MASTER Project “*Maintenance and Increasing Treatment and Reintegration Standards*” was born to facilitate the increase in the quality and number of tailored programmes of social, working and restorative justice reintegration drafted and carried out by the probation offices in favour of persons under community measures. It provides for the drawing up of free lance conventions with Free Lance Social Workers. Because of competition for scarce places, many candidates possess Social Work Degree and further qualifications such as a master’s degree or postgraduate professional degree.

The MARE APERTO Project “*Improving the reintegration activities of persons assigned to Probation to convey opportunities*”. This Project was born from the need to strengthen the number of employees of local offices, finalizing the action thereof more directly either for the reduction of recidivism and for rehabilitation purposes. It provides the drawing up of free lance conventions with expert psychologists mainly carrying out studying in detail and observation of personality and treatment activities so as to carry out investigations and more complete tailored treatment programmes, mainly aiming at the needs of sentenced persons and accused meeting the requests of

supervisory Judge besides favouring the experimentation of innovation practices such as the multi-disciplinary work, the group activity and the submission of projective and diagnostic tests.

To ensure an effective operational coordination and support, the project is carried out by an action involving all the three organizational levels: local, regional and departmental. The penitentiary administration, besides, in compliance with what is provided for by European rules (from Rule 23 to Rule 28), recognizes a strategic role to training and continuous training of all the staff working at probation offices by availing of experts belonging to training or scientific research centres, and of scientific systems of evaluation of acquired skills.

The access to training and continuous training, combining practical and theoretical aspects to all the staff belonging to each rank and career stage, to improve the quality of the service and of the service offered and ensure the professional growth through the study of applicable legislation, of national and local programmes, of the methodology, the social and penal policy but also through the knowledge and exchange with the staff working there, such as to develop the feeling of belonging to the administration.

The selection and recruitment of the staff of the probation offices is carried out in a rigorous and fair manner.

In compliance with what is provided for by European rules, the penitentiary administration is concerned to ensure probation officers working with specific categories of offenders, such as drug-addicted, alcohol addicted or persons with psychiatric troubles, a specialistic training, even at the single probation offices through cooperation relationships with experts and external training agencies.

In compliance with Rules 23 e 27, the training offered by the Administration aims at increasing the awareness of probation staff about the importance of the respect of diversities and at developing the necessary skills to adapt the professional intervention to the specific needs of probationers.

Probation offices manage to work effectively and efficiently, notwithstanding the decrease in probation staff.

The workload of each probation officer in fact takes into account not only the number of proceedings in course but also the characteristics and needs of the single probationers. When workload is excessive, the directors of the probation offices, upon disposal of the Directorate General, can identify the priorities to satisfy.

Probation offices, in order to take care of the probationers having more troubles, look for the cooperation of public and private agencies in the community.

A significant role is carried out by agencies specialized in the treatment of particular typologies of deviant people, such as the perpetrators of sexual offences, and addicted persons.

The exchange and sharing of information (in full compliance with the legislation on privacy) between the probation service and the public and private organizations contribute to improve and strengthen the handling of community sanctions and practices and policies.

Probation offices not only urge but also support and direct such organizations in the activity of care of the offender even concluding agreements or conventions.

In the last years, for a series of reasons mainly of social, economic and political nature, there was a significant increase in EU foreigners under community measures and sanctions; vulnerable people with very peculiar troubles in relation to whom probation offices ensure an adequate and not discriminating treatment, even if not all offices can count on the professional contribution of linguistic or cultural mediators.

4.1. Main characteristics

The National Probation Service for Adults in Italy is a public structure under the authority of the Ministry of Justice and is located at *national, regional* and level. The new Regulation of organization of the Ministry of Justice, definitively approved by the Council of Ministers on 18th May 2015, confers the competence in matter of execution of sentences in the community to the new Directorate General for the execution of sentences in the community and probation during the proceedings being established at the Department for Juvenile Justice acquiring the new denomination of Department of Juvenile and community justice.

This shall entail the subsequent suppression of the Directorate General for the execution of sentences in the community and probation during the proceedings (DGEPE) currently existing at the Department of Penitentiary Administration.

The latter is one of the four Departments of the Ministry of Justice, together with the Department of Justice Affairs, the Department of Judicial Organization, of Staff and Services and the Department of Penitentiary Administration. It is composed by a central structure drawing up guidelines, carrying out controls on the results achieved and coordinating the interventions on the National territory, and some local services. The local services of the Department of Juvenile and community justice are the probation offices (UEPE), the Social Service Offices for Juvenile (USSM), the Juvenile Prisons, the first reception Centre and the education Centre.

A new Directorate General for Staff Training at the Department of Penitentiary Administration, including all training activities, shall have the task to link up with the Department of Juvenile and community justice to ensure a common training path for the intramural treatment areas and the areas of the execution of sentences in the community and of the probation during the proceedings.

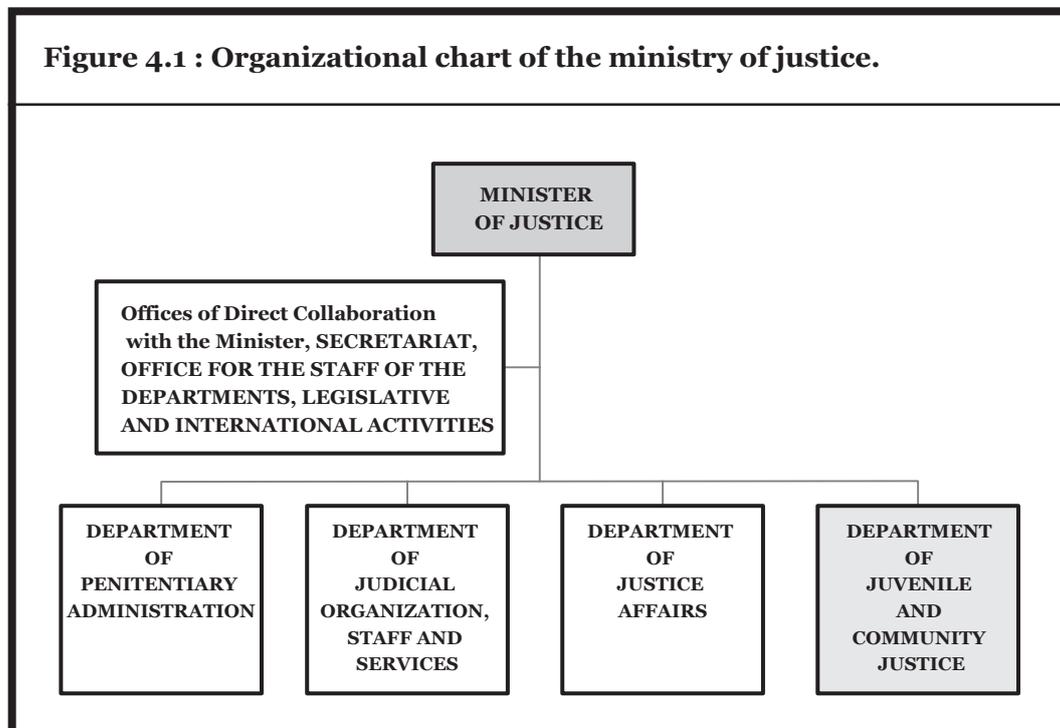
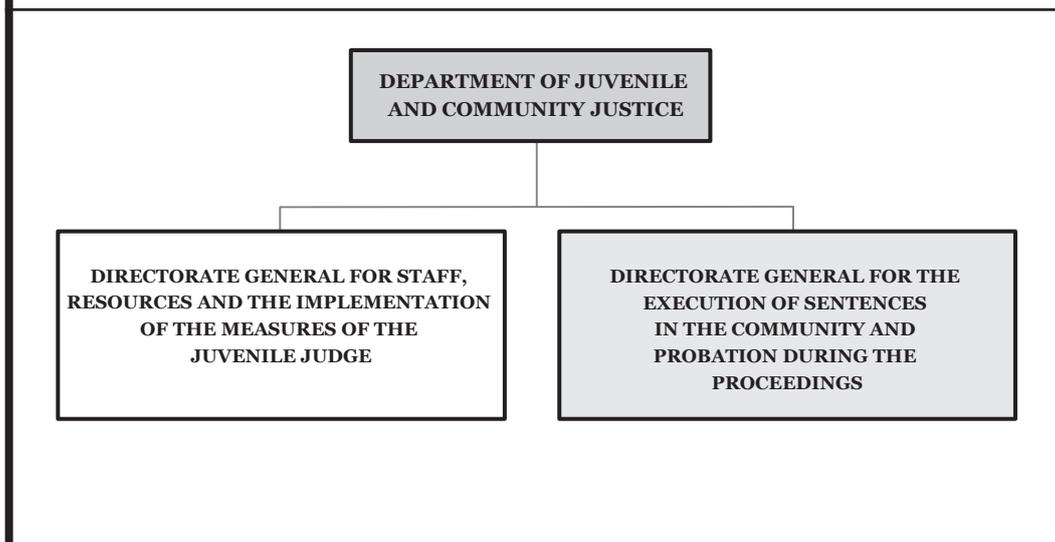


Figure 4.2 : ORGANIZATIONAL CHART OF THE DEPARTMENT OF JUVENILE AND COMMUNITY JUSTICE.



By Decree of the President of the Republic nr. 55 dated 6 March 2001 the Directorate General for the Execution of sentences in the community was established at the Department of Penitentiary Administration (of which it was part till the new organization of the Ministry of Justice, provided for, as it has been already said, by the Regulation on such organization approved on 18th May 2015), having guiding tasks and carrying out and coordinating activities of the competent offices in matter of execution of sentences in the community. At national level, it takes care of the relationships between the Supervisory Court, Public bodies, social private bodies, volunteer, work and enterprise organizations, aiming at the treatment of persons executing sentences in the community. The Directorate General is constituted by the Office for the analysis, planning, guiding and control and by the Office for the implementation of justice measures:

The Office for studies, analysis and planning, which is divided into the sectors “*Observatory of alternative measures*”, “*Guiding principles and general objectives*”, “*Planning and management of financial resources*”, has the following tasks:

- drafting of the annual and multi-annual programmatic document containing the guiding principles and objectives at national level relating to the execution of sentences in the community;
- examination of the programmatic documents of regional directorates;
- planning, management of financial resources allocated by the budget law for the functioning of and central offices of the Directorate General;
- management of financial resources allocated to the Directorate General.

The Office for the implementation of justice measures is divided into units “*Organizational Development*”, “*Intramural Observation and treatment*”, “*Development of the relationships with the networks*”, “*Methodological Development of the execution of sentences in the community*” and carries out coordination activities and operation technical support for the probation offices and for the regional offices at the regional Directorates. It takes care of the coordination of the research on the intervention methodologies, the development of operational protocols, the monitoring of modalities and standards of interventions of offices, even in relation to institutional relationships with prisons, the supervisory Court,

the law enforcement agencies, the private and public bodies cooperating with the management and planning of interventions of social inclusion of sentenced persons. It participates, besides, in agreement with the Office for studies, analysis and planning of the Directorate General, in scientific research projects, even under a comparative form with other countries and in agreement with universities, research centres and international bodies, collecting and spreading documentation on good practices in matter of measures alternative to detention in Italy and abroad.

Currently at regional level there are the Regional Directorates carrying out, as per Decree of the Minister of Justice 22 January 2002, the tasks connected with affairs at district level, according to the programmes, guiding principles and directives ordered by the Department of Penitentiary Administration, even to the purpose of ensuring the uniformity of penitentiary action on the national territory.

In the Regional Directorates of Penitentiary Administration the Offices for the execution of sentences in the community are established and at local level the Offices for the execution of sentences in the community (probation offices) are provided for, by law 27 July 1975, nr. 154 amending art.72 of law 26 July 1975, nr. 354 establishing the Social Service Centres for Adults of the Penitentiary Administration.

The decrees implementing the new Regulation of organization, not yet issued, shall provide for a new regional organization to link up the activity of the probation offices (UEPE) with the new Directorate General for the execution of sentences in the community and probation during the proceedings in order to ensure the coordination tasks currently carried out by regional Directorates of penitentiary Administration which have to identify treatment models adequate to the institutional and social reality of the district, the control on the execution of directives issued by the Department or the Regional Directorate, the guiding principles and the control of results and activities and the connection with the Supervisory Court in particular difficult cases.

4.2. Internal organization

At the 58 probation offices present on the Italian National territory, the staff belonging to social work and other professional sectors such as the officers of organization and relationships, accountants, psychologists, and free-lance and experts in psychology and social work is employed.

The internal organizational of the probation offices has provided for the subdivision of the functions in the following areas:

- social work area;
- secretarial area;
- administrative-accountancy area.

Each of these areas works in specific sectors belonging to the general activity of such Office.

Social workers working in these probation offices carry out supervisory and/or assistance tasks for the persons assigned to measures alternative to detention as well as support and assistance tasks for the persons assigned to supervised liberty. Social workers' tasks are better described in article 72 of the Penitentiary Act.

4.2.1. Probation workers

Table 1. The staff structure.

At 31 December 2014	Numbers
Total staff number	2.048
Out of which:	
Executives at the National Central Directorate	3
Executive at the Regional Directorates	13
Probation Directors (Units Heads)	69
Probation Officers (social workers)	948
Contracted employees	199 (75 free lance social workers MASTER ⁵ Project +124 Expert psychologists MARE APERTO ⁶ Project , Experts as per art. 80)
Probation service workers (administrative and penitentiary police staff)	577 (401 Administrative + Penit. Police ⁷ 176)
Volunteers	105
Other staff (to specify)	134 (trainees)

5 MASTER Project “Maintenance and Increasing Treatment and Reintegration Standards” was born to facilitate the increase in the quality and number of tailored programmes of social, working and restorative justice reintegration drafted and carried out by the probation offices in favour of persons under community measures. It provides for the drawing up of free lance conventions with Free Lance Social Workers. Because of competition for scarce places, many candidates possess Social Work Degree and further qualifications such as a master’s degree or postgraduate professional degree.

6 MARE APERTO Project “Improving the reintegration activities of persons assigned to Probation to convey opportunities”. This Project was born from the need to strengthen the number of employees of local offices, finalizing the action there of more directly either for the reduction of recidivism and for rehabilitation purposes. It provides the drawing up of free lance conventions with expert psychologists mainly carrying out studying in detail and observation of personality and treatment activities so as to carry out investigations and more complete tailored treatment programmes, mainly aiming at the needs of sentenced persons and accused meeting the requests of supervisory Judge besides favouring the experimentation of innovation practices such as the multi-disciplinary work, the group activity and the submission of projective and diagnostic tests.

7 As per article 16, second paragraph law 1.4.1981, nr. 121 “Public Security System” and in art. 1 paragraph 3 of law 15.12.1990, nr. 395, “Penitentiary Police system”, the penitentiary police is a civil corps under the Ministry of Justice. Those belonging to the penitentiary police corps cannot be employed in tasks which are not directly connected with prison services and, in particular of control and supervision of person under alternative measures at UEPE. The penitentiary police staff working at probation offices shall enter data in the law-enforcement Information System called “SDI”, shall carry out the supervision in the field of facilities and staff security and shall carry out driving tasks. The recent bill nr. 2798/2014 enables the Government to provide the integration of the rules on the organization of the probation offices and the rules to make the control system more effective, even through the involvement of penitentiary police.

4.2.2. Education, training requirements and opportunities

Recruitment of all staff levels is the same for all public employees in Italy, namely through a public competitive examination at national level. Progress from one level to another may take place in the same way or through a specific professional training course that can be attended by internal staff who have the required educational and professional requirements.

Probation officers are required to have a University degree in Social Work (a three-year course) and directors must have a five years course degree. Both probation officers and directors must join the Roll of Social Workers. Once they have begun service, training courses organized by the Higher Institute of Penitentiary Studies, that is a national training school of the Italian Department of Penitentiary Administration, must be attended.

The recruitment and the selection is based more and more on previous professional experiences connected with management skills, as it has recently occurred with the recruitment of experts of the social service and psychologists.

Last recruitment of 439 social workers has been carried out together with the training project COACH (Operational Reception Course for *Human Resources*), which has represented for Penitentiary Administration the experimentation of a training path implemented at decentralized level in compliance with regional specificities.

The national probation service informs the staff on the ethical requirements of the role held and this mainly occurs through specific training and continuous training modules.

4.2.3 Other organizations involved in probation work

In implementing observation and treatment interventions outside prison (application and execution of alternative measures, substitute sanctions and security measures) the probation offices coordinates with institutions, social and healthcare services and volunteers operating on the territory in an integrated intervention perspective.

Law 8 November 2000, nr. 328 "*Framework Law for the achievement of the integrated system of social interventions and services*" has significantly increased the value of social planning and the network of private and public persons involved in the planning of social policies has more and more widened.

The Department of Penitentiary Administration – Directorate General for the execution of sentences in the community by note 24 March 2006, nr. 0105474 put forward for the probation offices more articulated directions in order to make the presence of the administration in the planning of social interventions effective, widely provided for by article 19, law 328/2000, for regions and local bodies through the *local plan*.

Besides individual cases, social workers frequently participate in projects and study activities even in cooperation with universities and research centers, in activities and cooperation with authorities.

4.3. Probation and offenders abroad

Italy has not yet implemented the Framework Decision 2008/947 “*Concerning the recognition of sentences and decisions of conditional release and probation measures among the different UE members*”. In order for Italy to implement the directive relating to the recognition of *probation* decisions it is necessary that our system further develops a *community sanctions* system and the Legislator offers the examining judge the possibility to inflict alternative sentence to imprisonment as it already happens in the execution stage. The approval of the recent Law 28 April 2014, nr. 67 containing “*Proxies to the Government in matter of non custodial sentences and of reform of the sanctioning system. Provisions in matter of suspension of the proceedings with probation and towards untraceable persons*” is a significant step in this direction, and the proxy exercise is currently being studied as per the legislative decree nr. 2798/2015 which at the art. 26 lett. b) provides for the “review of the access requirement to access alternative measures, either with reference to the subjective requirements and the reference to the penalty limits, in order to facilitate lodging them”. Italy instead has promptly implemented the Framework Decision 2008/909/GHA “*Concerning the application of the principle of mutual recognition of judgments inflicting penalties or measures entailing restrictions on and deprivation of, personal liberty, in order to execute them in the European Union*” concerning the penalties to be executed in detention, through the approval of the legislative decree 7 September 2010, nr. 161 and the probation offices actively participate in the transfer procedure, by carrying out socio-family investigations on the basis of which it can be ascertained if the prisoner is rooted in Italy or if his roots have been left in the country of origin where he shall be transferred.

5. Different Stages of the Criminal Justice Process

5.1. Pre-trial/remand/trial stage

Table 2. Sanctioning system and probation involvement

Sanctions/Measures/ Penalties/Conditions attached to a conditional decision or sentence	Provided 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	x		
Pre-trial/remand detention	x		
Police custody			
Bail			
Caution			
Surety			
House arrest	X		
Community service	x	x	coordination, reporting, referral, help&support,
Treatment order	x	x	coordination, reporting, referral, help&support,
Training/learning order			
Drug/alcohol treatment program	x	x	coordination, reporting, referral, help&support,
Compensation to the victim	x	x	coordination, reporting, referral, help&support,
Mediation	x	x	
Semi-detention			
Attending a day centre			coordination, reporting, referral, help&support,

Sanctions/Measures/ Penalties/Conditions attached to a conditional decision or sentence	Provided in legislation?	Probation service involvement?	Main characteristics of the probation activity
Liberty under judicial control			
Interdiction to enter different cities/places	x		
Interdiction to carry out different activities	x		
Interdiction to contact certain persons	x		
Psychiatric treatment	x		
Deferment of sentence			
Fine			
Other financial sanctions	x		

5.1.1. Pre-trial/pre-sentence report

- **Suspension of the Proceedings with Probation during the trial**

(*artt. 168 b, 168 c e 168 Criminal Code (CC); artt. 464 b, 464 c e 464 d CCP*).

Such system, which already proved successful in the juvenile system, has been extended to the adults' system. According to it, the offences punished with imprisonment up to 4 years or with a pecuniary penalty or for which summons to appear is provided for, the accused person can ask for the suspension of the proceedings with probation during the trial. The measure, applicable once and with the exclusion only of habitual offenders, consists in community works and implies the performance of restorative conducts and (if possible) compensatory, with the assignment to the probation service to carry out a rehabilitation programme. The successful outcome of the trial period extinguishes the offence, while in case of violation of the programme or of commission of new offences the measure shall be revoked (the trial period suspends the prescription). Such system is similar to the probation system provided for in different countries of the Council of Europe. In such a case the Probation Office shall carry out a socio-family investigation aimed at the drawing up a treatment programme which shall contain indications on the modalities of involvement of the accused person and his family in the process of social reintegration, the behavioural obligations and prohibitions, the compensation for damages activities and community works. Such Office agrees on the programme with the accused person and asks for the support of the Local Bodies involved. Finally, it shall transmit to the judge the socio-family investigation, the treatment programme and the "observations supporting it", including the news relating to the economic situation and the possibility to carry out compensation or mediation activities.

The assignment to the probation during the trial is subordinated to the availability to carry out community works and implies the assignment to the Probation service

to carry out a programme based on the commitment to carry out actions aiming at the elimination of harmful consequences deriving from the offence, such as the compensation for the damage and the volunteer activities if possible, and the compliance with the obligations and prohibitions relating to the relationships with the Probation service or with possible healthcare structures, to the domicile, the freedom of movement, the prohibition to attend certain facilities.

Community work consists in a performance which is not remunerated, lasting not less than 10 days, even if not continuous, in favour of the collectivity, to be carried out at State, regions, provinces, municipalities, healthcare companies or bodies or social assistance, healthcare, or volunteer organizations levels.

The performance is identified taking into account attitudes and professional skills of the accused persons; it is carried out through modalities, which do not prejudice his/her work, study, family and health requirements and has a daily length not exceeding 8 hours.

5.2. Enforcement stage

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

Sanctions/ Measures/Penalties/ Conditions attached to a conditional sentence	Provided in legislation?	Probation service involvement?	Main characteristics of the probation activity
Imprisonment	x	x	Observation, reporting
Suspended sentence	x	x	Coordination, help and support
Conditional sentence			
Assignment to the Probation Service	x	x	Coordination, supervision, help and support
House arrest			
Electronic monitoring	x	x	Help and support
Community service as sanction	x		Supervision, reporting, referral
Semi-liberty	x		Supervision, reporting, referral
Semi-detention	x		
Treatment order			
Training/learning order			

Sanctions/ Measures/Penalties/ Conditions attached to a conditional sentence	Provided in legislation?	Probation service involvement?	Main characteristics of the probation activity
Drug/alcohol treatment program	x		Supervision, reporting, referral ● ● ●
Educational measures			
Compensation to the victim	x	x	Supervision, reporting, referral
Mediation	x	x	Supervision, reporting, referral
Attending a day centre	x	x	Supervision, reporting, referral
Interdiction to leave the country			
Interdiction to enter different cities/ places	x	x	Supervision, reporting, referral
Interdiction to carry out different activities	x	x	Supervision, reporting, referral
Fine	x	x	Supervision, reporting, referral
Day fine			
Other financial penalties			
In/out patient order (psychiatric treatment)	x	x	Supervision, reporting, referral
Security measures	x	X	reporting, referral Help and support
Combined order			
Community punishment			
Conditional release / Parole	x	x	reporting, referral, help and support

Sanctions/ Measures/Penalties/ Conditions attached to a conditional sentence	Provided in legislation?	Probation service involvement?	Main characteristics of the probation activity
Automatic release			
Open prison	x	x	Supervision, reporting, referral
Penitentiary programme outside the prison			

Since the notification of the order of execution of the final sentence by the Prosecutor's Office, both Italian and foreign persons sentenced to a penalty not exceeding four years (in the case of drug addicts the term extends to six years), who do not have reasons hindering it, shall submit within 30 days a request for the granting of an alternative measure to the competent judicial authority. If the request is not accepted, the execution of the sentence is carried out.

The probation offices can help the persons concerned to fill in the request.

The Supervisory Court fixes an hearing to assess if such measure may be granted and can charge the probation offices carrying out a *socio-family investigation* in order to examine if the conditions for the granting of the measure exist (to the same purpose, the Court acquires information on the person by the law enforcement agencies and by other specialized services, in order to guarantee an overview of the situation).

Social workers of the probation offices, through interviews, home visits, work checking and meetings with the workers of services, shall acquire information concerning the family, the training, the work and other significant relationships by assessing which aspects can be relevant in the re-educational treatment and in the resocializing path⁵.

The information collected is summarized in a written report so-called *Project Proposal* in order to achieve the general objectives of social reintegration and reduction of recidivism risk. Such proposal takes into account the willingness of the person to change and identifies the specific aims to be met, by activating the resources of the person and of the Service. The social investigation shall be carried out, generally, within three months.

In the case of granting of an alternative measure, the probation offices, having jurisdiction to support the person while executing his/her sentence, shall draw up a *tailored treatment programme* to be proposed to the Supervisory Judge, taking into account the obligations and prohibitions suggested by social workers and imposed by the judge, which aim at ensuring:

- the execution of the alternative measure in compliance with the obligations and prohibitions imposed;
- the development of personal skills of the sentenced person, in order to favour his/her reintegration into the community;

⁵ The Directorate General for the execution of sentences in the community shall issue orders and instructions also by disclosing a "model of investigation" and, for people sentenced for crimes of a sexual nature, has provided for specific directives to strengthen the need and risk assessment in line with European Prison Rules and the Recommendation on Dangerous Offenders R(2014)3.

- the support of the person in the internalization of the concept of legality and in the identification of reparative actions;
- the development of personal autonomy and the promotion of self-determination.

More generally, interventions by the probation offices are characterized by:

- offering the subject to experiment a relationship with the judicial authority characterized by a relationship of trust, aiming at recovering the person's capacity and the control of his/her own behaviour;
- an assistance to the person in order to make use at the best the resources of his/her family/social context;
- a control on the behaviour of the person in order to make him comply with the obligations and prohibitions imposed by the Supervisory Court;
- urging an aware and critical revision of the crime committed and the damages caused;
- prisoners and internees⁶ who have committed particular serious crimes may be granted alternative measures to detention only if they cooperate with justice (artt. 4-b e 58c Penitentiary Act) and there is no evidence of current links with organized or subversive crime.

Assignment of the offender to the probation service

(Article 47 Penitentiary Act)

When the Supervisory Court assigns the offender to the probation service, detention in jail is replaced by a regulated and monitored behaviour by the convicted individual, with the support and control of the social workers of the Ministry of Justice. The rules of conduct which are set in the judge's decision tend to prevent the assigned convict from committing other crimes or from maintaining relations with dangerous individuals.

Assignment may be granted when the penalty does not exceed four years, even if that same period is the final part of a longer prison sentence. The start of the execution of an assignment to the probation service is marked by the signing of a contract between the Probation Office and the convicted individual; the contract lists the obligations and prohibitions set by the judge. Such office controls the conduct of the assigned individual, helping him/her to overcome difficulties; the social worker (Probation officer) in charge of the case operates through contacts with the convict's family and the environment in which he or she lives, regularly reporting to the supervisory judge.

The public prosecutor may, in specific cases, suspend the execution order to enable the sentenced person to submit a request to the Supervisory Court to obtain one of the measures alternative to detention or the suspension of the execution of the sentence.

The Supervisory Court established the obligations and prohibitions which the assigned person is committed to comply with.

⁶ The internees are incapable of discernment but dangerous offenders under security measures (penal farm, penal labour colony, judicial psychiatric hospital, prison hospital)

The necessary obligations and prohibitions are those concerning the following aspects:

- relationships with the probation offices;
- domicile;
- freedom of movement;
- prohibition to attend certain facilities;
- work;
- prohibition to carry out activities or to have personal relationships which can lead to the commission of other crimes.

Further obligations and prohibitions such as:

- prohibition to stay permanently or partially in one or more municipalities;
- obligation to stay in a specific municipality;
- to compensate the victim for the harm done, to do one's best, as far as possible, in favour of the victim of the crime.
- punctually comply with the obligations of family assistance. The family does not need to consent with this.

During the period of assignment to the Probation Service the obligations and prohibitions may be modified by the Supervisory Judge, also taking into account the information of the probation offices, which are not binding.

In the course of the assignment to the Probation Service, the probation offices have the following tasks:

- help the person to overcome the difficulties of adaptability to social life in order to favour his/her reintegration;
- control the conduct of the person with regard to obligations and prohibitions;
- act as an intermediary between the assigned person, his family, and his/her life environments, in cooperation with the services of bodies, the healthcare services, and private social services;
- periodically report, with a three-monthly minimum attendance, to the Supervisory judge the progress of the assignment and send him a final report at the conclusion of the measure;
- provide the Supervisory Judge with any significant information on the life condition of the subject and on the progression of the measure (to the purposes of a possible modification of obligations and prohibitions, etc.).

The assignment ends:

- with the positive result of the probation period extinguishing the sentence and any other penal effect. In this case the Supervisory Court having jurisdiction in the place where the measure has been served shall issue the order of the extinction of the penalty;
- the extinction of the penalty; probation period extinguish
- the behaviour of the subject, contrary to the law, or the obligations and prohibitions laid down, considered incompatible with the continuation of the probation;
- occurrence of another enforceable judgment.

The assignment to the probation service may be granted even exceeding the term of the penalty provided for the persons suffering from HIV and serious immunodeficiency or other particularly serious disease.

Special probation for drug addicts or alcoholics (*art. 47-d law 354/75; artt. 90, 94 e 115 decree of the President of the Republic 309/1990*)

Offenders who are drug addicts or alcoholics can obtain the so-called therapeutic assignments, in order to start or continue a program of detoxification. In this case the maximum sentence for the granting of an assignment is raised to six years of detention.

The granting of such measure entails a period of observation of the personality “in the year preceding the submission of the request” and the observation can also make reference to the conduct carried out by the free person. The observation is carried out by the UEPE which to this purpose asks the SERT [drug addicts Service] (ambulatory) or the therapeutic community (residential) (public/private) the therapeutic programme to which the convict must be submitted. At these facilities physicians, social workers, psychologists mainly work.

The observation stage starts from the application of the Supervisory Court and ends with the trial for the granting of alternative measures.

In order to encourage the access to such measure of sentenced persons, the supervisory judge can apply it temporarily in case of serious prejudice resulting from the continuation of the state of detention, before the final decision of the supervisory court, which shall intervene within 60 days.

The benefit may not be granted more than twice and may be granted to recidivists.

Special mention should be made of a specific alternative measure (art.656 para 5 CCP) which is used for drug addicts and alcoholics. The Supervisory Court can replace a prison sentence or the remainder of a prison sentence of six years to drug addicts or alcoholics who are taking part or have requested to take part in a therapeutic treatment. In this way, the offender is allowed to choose between serving the prison sentence or undergoing treatment. After five years, and in case of success, the penalty shall cease.

Home detention (*Articles 47 c-47 e Penitentiary Act*)

The Supervisory Court may grant home detention that consists in the obligation not to leave his/her own home, or another site designated by the judge, without the judge’s express permission. A sentence of up to four years of detention, even if that same period is the final part of a longer prison sentence, can be replaced with home detention, assuming that special subjective conditions are met by the convict.

Such cases involve pregnant women, convicts with serious illnesses that need continuous medical treatment outside prison, convicts older than sixty who are partially or totally disabled, and convicts under twenty-one with particular needs.

Other cases regard mothers with children under ten years of age, assuming the children live with their mothers, as well as fathers, when the mother is dead or unable to take care of her children.

If such measure is revoked, the remaining part of the sentence cannot be replaced by another measure.

By law nr. 231 of 12.07.99 which introduced art. 47-d of the Penitentiary Act, for those persons suffering from HIV or serious immunodeficiency or other very serious disease, the granting of the alternative measure may occur also exceeding the sentence term provided for.

The person under home detention is not submitted to the prison regime provided for by the Penitentiary Act or its Regulations of enforcement.

Such person may be granted the benefits provided for by the legislation for all

prisoners, and in particular conditional release (art. 54 Penitentiary Act). The Penitentiary Administration shall not bear any expenses relating to the maintenance, care and medical assistance of the convict benefiting from such measure.

The interventions of the Probation Office, within the application of home detention, concern the support, and not the control which is instead carried out by law enforcement agencies.

The Probation Office, in fact, according to the instructions given by the Supervisory Court, has the task to establish valid connections with community services on the territory in order to help the prisoner to overcome the difficulties related to the application of such measure.

Home detention (*Law n° 199 of 26 November 2010*)

The sentence to imprisonment not longer than eighteen months, even if it is the remaining part of a longer sentence is enforced at the convicted person's home or at any other public or private healthcare, assistance and housing structure.

Such measure for its extensive character provides for more urgent exceptions:

- to the persons sentenced for the crimes as per art. 4 b of law 354/75 and to habitual, professional or for propensity offenders (artt. 102, 105 and 108 of the CC).
- to prisoners under the special surveillance regime (art. 14 b of the Penitentiary Act);
- if there is a concrete possibility that the sentenced person can escape or commit other crimes;
- if the sentenced person doesn't have a domicile suitable to surveillance and to the protection of the potential victims of such crime.

Community works (*art. 105 law 24 November 1981, nr. 689/art. 1 law 25 June 1993, nr. 205/ artt. 52, 54 e 55 legislative decree 28 August 2000 nr. 274/law 21 February 2010, nr. 49/art. 333 law 29 July 2010, nr. 120*)

Community works consist in a non remunerated performance, assigned taking also into account the specific professional and working aptitudes of the accused, lasting not less than 10 days, even if not continuative, in favour of the collectivity, to be carried out at State, regional, provincial, municipal level or at community service or volunteer bodies or organizations level, even international organizations, operating in Italy.

In the Italian system, community sentence can be ordered as subsidiary sanctions (art. 105 law 24 November 1981, nr. 689); accessory sanctions (art. 1 law 25 June 1993, nr. 205) for a series of crimes concerning racial, ethnic and religious discrimination; as a sanction for the crimes falling under the jurisdiction of the Justice of the peace (artt. 52, 54 e 55 legislative decree 28 August 2000 nr. 274), for the crimes committed by drug addicts, or the persons making use of psychotropic substances (art. 4-b para 5 b law 21 February 2010, nr. 49) and towards the subjects caught driving in a state of drunkenness (art. 333 law 29 July 2010, nr. 120). The sanction shall be applied to the accused drug addict or to drugs or psychotropic substances users in relation to the cases of minor trafficking. In such a case community works have a length corresponding to that of a prison sentence inflicted and cannot be applied twice to the same offender.

The control of persons assigned to community works is carried out by the probation offices, or by the bodies as per article 59 of legislative decree nr. 274 del 2000.

The non-remunerated working activity is carried out at the local public bodies, community services or volunteer organizations identified through proper conventions concluded by the Ministry of Justice.

The judge, by his/her judgment, shall appoint the Probation Office to verify the effective carrying out of community works and such office periodically reports to the judge.

Conditional release (*art.176 c.c. and art. 104 Decree of the President of the Republic nr. 230/00*)

Conditional release consists in the possibility of serving the sentence outside prison under the supervised liberty regime.

Conditional release is granted to convicts who, while serving the sentence, behaved in such a way as to show his/her safe renunciation of criminal purpose. It is not sufficient that the convicted person regrets for the crimes committed and that he wants to forget. He must also prove with his/her real behaviour during the execution of the sentence, a trusty criticism of his criminal choices. The judge, as for the other measures alternative to imprisonment, shall evaluate the positive results of the rehabilitation treatment process and the real possibility of reintegration into the community; the judge has also to assess that the offender is no longer a danger to society.

Conditional release may only be granted to those detainees who have already served thirty months in prison and at least half of the imposed sentence, if the remainder of the sentence does not exceed five years. These terms increase in the case of recidivists. Prisoners serving a life sentence can also be granted this benefit, as long as they have served at least 26 years of their sentence.

Conditional release is only granted to those who have fulfilled the civil duties resulting from the offence, unless they can prove that it was impossible to do so (at least they must show evidence of their desire to eliminate or mitigate the harmful consequences or however of their effective interest in the moral and material situation of people offended by the crime as well as the attempts made within the limits of their ability to mitigate the damage caused).

The Supervisory Court is responsible for this measure, and usually imposes prescriptions. Where those conditions exist, the benefit must be granted.

The requirements for granting this benefit must be weighed up in relation to the behaviour during the enforcement term in Italy.

The probation offices carry out a community investigation to provide the Prison, and through it, the supervisory court, with subjective and objective elements, relating to the sentenced person with particular reference to the socio-family environment belonging to him/her and to personal, family relational and environmental resources on which an hypothesis of intervention and reintegration is based.

The probation offices carry out the interventions provided for supervised liberty in respect to the persons under the supervised liberty from conditional release.

Conditional release can be revoked if the released person commits a crime or infringes the obligations imposed.

Conditional release automatically ends once elapsed all the time of the sentence imposed, or after 5 years from the date of the conditional release order, in case of life sentence, if no cause of revocation is intervened. (Art. 176 CC).

Semi-liberty (*Articles 48-51 Penitentiary Act*)

The Supervisory Court may also grant the semi-liberty regime which consists of allowing sentenced persons to spend part of their day outside prison for purposes of work, education, or participation in other activities useful for their social reintegration. The beneficiaries of such a regime are assigned to special establishments or to separate units in ordinary prisons.

Semi-liberty is granted to those detainees who have already served half of the imposed sentence. Prisoners serving a life sentence can also be granted this benefit, as long as they have served at least 26 years of their sentence.

Prisoners and internees for particular crimes (416-b e 630 CC, art. 74 Decree of the President of the Republic 309/90, etc.) can obtain semi-liberty only if they cooperate with justice (artt. 4-b e 58-c Penitentiary Act).

Prisoners and internees for other particular crimes (committed for terrorism purposes, artt. 575, 628 para.3, 629 para.2 Code of criminal procedure, etc.) can be assigned to semi-liberty only if there is no evidence of current links with organized or subversive crimes.

The Probation Office carries out a community service investigation to provide the supervisory court or the prison objective or subjective elements, relating to the convict with particular reference to the socio-family environment and to personal, family, relational and environmental resources on which an hypothesis of intervention or reintegration is based.

If the assignment to semi-liberty concerns a mother in prison of a son under three years, she has the right to make use of the house for the semi-liberty as per the last para. of article 92 of the Decree of the President of the Republic 29 April 1976, nr. 431. In the treatment programme the prescriptions the person has to underwrite and comply with concern the activities he shall have to carry out outside prison: work, family relationships and relationships with the probation offices, other activities useful for the reintegration, etc.

In the course of the measure the treatment programme can be modified by the supervisory judge upon report of the prison governor.

The person under semi-liberty regime may be granted the benefits provided for by the legislation for all prisoners, and then in particular early release (art. 54 penitentiary act).

One or more prison leaves can be granted, as a bonus, for a period not exceeding 45 days per year (artt. 52 e 53 Penitentiary Act), which are used in semi-liberty regime. The probation offices carry out towards the persons under semi-liberty regime the following tasks and interventions:

- it takes care of the supervision and assistance of the person outside prison;
- it cooperates with the Directorate of the prison which is responsible for treatment;
- it periodically reports to the prison governor on semi-liberty progress and life conditions of the person;
- provides the prison governor with any information useful to a possible modification of the treatment programme;

Semi-liberty may be revoked by the Supervisory Court when the person leaves prison without a justified reason or however when he/she is deemed not fit to continue treatment.

Expulsion as an alternative sanction to detention (*art. 16 para 5 law 286/1998*)

The expulsion as an alternative measure to detention shall be issued by the supervisory judge with regard to the foreigner who must serve a remaining part of the sentence not exceeding 2 years for crimes other than those as per art. 407 para 2 lett.

a) CCP

Paras 5b and 5c of said article provide for simplified procedures to acquire information on the identity and nationality of non- EU prisoners against which an order of expulsion has been issued, so as to avoid their subsequent passage to the identification Centres at the end of the execution of the sentence and to accelerate their repatriation.

The expulsion as alternative measure aims at the reintegration of the foreigner in his/her country of origin and may not be ordered:

- a) when the foreigner might be subject, in the state of destination, of persecution for reasons of race, sex, citizenship, religion, political opinion, personal or social conditions or may be send back to another State where he is not protected from persecutions;
- b) when the foreigner is under 18 years (without prejudice to the right to follow the parent or the guardian expelled);
- c) when the foreigner owns his/her residence permit;
- d) when the foreigner lives with relatives within the fourth degree or with the spouse of Italian nationality;
- e) in case of pregnant women or in the six months following the birth of their son during which they take care of him/her.

The penitentiary Administration on 9 June 2015 subscribed a Protocol with the Directorate General for Immigration of the Ministry of Interior agreeing upon procedures encouraging and accelerating the identification of foreign prisoners who must be repatriated.

Early release (*art. 54 law nr.354/75*)

Persons sentenced to imprisonment who have shown effective participation in the re-educational process may be granted, as a recognition of such participation and for the purpose of more effective re-inclusion into the community, a forty-five-day reduction of their sentence for every six months actually served. Conviction for an intentional offence committed during the enforcement of the sentence but after the benefit has been granted shall imply revocation of the benefit. The reduction of sentences is a reward for participation in convict rehabilitation granted by the Supervisory Judge and it can only be granted to finally sentenced persons. The judge considers the nature of the crime and the behaviour as well: the more serious the crime, it is more important that the condemned follows the re-inclusion treatment and shows willingness; the period spent in pre-trial custody or home detention is also taken into account as any conditional release. The evaluation can be challenged before the Supervisory Court within ten days of notification showing motivations in the appeal.

Early release is considered by the Italian legislator crucial in the concrete achievement of the constitutional principle of the rehabilitative purposes of punishment. Article 27 of Italian Constitution states: "*Criminal responsibility is personal. The defendant is not considered guilty until final judgment is passed. Punishment cannot consist in treatment contrary to human dignity and must aim*

at rehabilitating the condemned. The death penalty is not permitted, except in cases provided for in martial law.”

The supervisory Offices are jurisdictional bodies composed of members of the judiciary and experts. The supervisory Judge is a monocratic body which supervises the organization of prison, approves the treatment programme and makes decisions on the complaints of prisoners and internees.

There is a Supervisory Court in every Appeal Court district which acts either as first instance judge (it decides on the assignment to probation, home detention, semi-liberty, conditional release, rehabilitation) and as second instance judge in the cases against which the orders of the supervisory judge and the decisions (leaves, early release, expulsion, orders) against which the appeal can be lodged.

Security measures

Security measures apply to offenders, chargeable or not, upon assessment of his/her social dangerousness, in order to prevent recidivism.

The application of security measures, ordered by the examining judge or by the supervisory judge, implies the concrete ascertainment of the social dangerousness of the subject.

The supervisory judge is competent to evaluate the social dangerousness and to issue the measure in the stage of execution of the sentence; in such cases the probation offices shall carry out, upon request of the judicial authority, the investigations useful to provide the data necessary for the application, the modification, the postponement and the revocation of security measures.

The probation offices also see to, as per art. 72, para 2, lett. a) of law 26 July 1975 nr. 354, the provision of information necessary for the Supervisory Judge in order to apply, modify, or revoke the security measures applied to offenders, chargeable or not upon assessment of his/her social dangerousness, in order to prevent recidivism. As per art. 55 law 26 July 1975 nr. 354 and per art. 105 of Decree of the President of the Republic 230/2000, the probation offices handle the persons under a non custodial security measure (supervised liberty - artt. 229-230 CC, prohibition to reside art.233c.c.-, prohibition to attend inns and public shops selling alcoholic drinks -art.234 c.c.-) and those to which ‘ a prison security measure is applied (execution in a labour colony-art.216 c.c., execution in hospitals and hospitalization in judicial psychiatric hospital, since 1° April 2015 replaced by the execution in the *Centres for the Execution of Security Measures (REMS) at exclusive healthcare management*) possibly assigned to the enjoyment of benefits provided for by the penitentiary act, in case of bonus or assignment to semi-liberty regime.

The Italian system also includes:

Bonus Leaves for good conduct (*art. 30c and 30d law nr. 354/75 and artt. 64-65 Decree of the President of the Republic nr. 230/00*)

The Supervisory Judge, after consulting the prison governor, may grant good behaviour bonus leaves, the duration of which cannot exceed fifteen days each time, to convicted persons who are not considered a danger to society, for the purpose of allowing them to cultivate affective, cultural or work interests. In total, bonus leaves cannot exceed forty-five days in each year of the term to be served. The experience of bonus leave is an integral part of the treatment program and it must be followed by educators and penitentiary social workers working together with social workers in the community.

The behaviour of convicted persons shall be considered “good” where, during their detention, they have constantly shown a sense of responsibility and have behaved correctly in the activities organized in prison and in any possible work or cultural activities.

Leave permit in case of necessity (*art. 30 Law nr. 354/75*)

Irrespective of any evaluation relating to their behaviour, prisoners can enjoy permit (no more than five days) whenever the life of a member of their family or a spouse is at risk or, in exceptional circumstances, for particularly serious family events. The leave permit cannot exceed five days. The Supervisory Judge decides on whether or not to grant leave.

Pardon (*Article 174 CC*)

It is a personal measure, granted by the President of the Republic who has full power of discretion to grant sentence commutation or the sentence imposed or part of it. The sentence must be final and the finally sentenced offender may apply for it. The Judge having jurisdiction on its application is the Judge of execution (who delivered the judgment).

Collective pardon (*Article 174 CC*)

The Parliament, approving a bill with the special majority of two-thirds can remit the sentence imposed or part of it. The Judge having jurisdiction on its application is the Judge of the execution (who delivered the judgment). It is applied also to persons sentenced abroad and transferred in Italy in order to serve their sentence.

Table 4. Other probation activities in the enforcement stage

Providing support to the families of the offenders/detainees	
Coordinating volunteer prison visitors	
Preparing offenders for (conditional) release	idem
Preparing prisoners for home leave and/or providing support during home leave	idem
Providing support to persons who have been pardoned or amnestied	idem
Providing advisory report with respect to amnesty or pardon	idem
Other tasks that are not included here. Please add to this list and explain.	

5.3 Care and after-care outside the criminal justice system

The persons who have finished to serve the sentence or the security measure can receive from the probation offices a particular help, for a consistent period after the sentence has been served. U.E.P.E. in such cases may, for example, support and help the persons in addressing to the services on the territory so that they can take into consideration their requests.

6. Probation Methodology

Within the probation offices, there are various professionals such as: executives (Principal Directors and Directors), social workers, psychologists, penitentiary police, administrative officers, accountants and auxiliary and support staff. Volunteers also cooperate for the reintegration activities of persons executing sentences in the community.

The professionalism of probation officers, mainly social workers, at the probation offices is strictly connected with the purposes of the Penitentiary Act which legitimates its efficiency as coordinator and activator of resources in order to carry out the institutional objectives as per art. 72.

The tasks of the probation offices provided for by the penitentiary act (art. 72 Law 354/75) and governed by the Regulation of enforcement of the penitentiary Act, are various and can be substantially brought to two main sectors of intervention:

- a) interventions carried out in favour of prisoners;
- b) interventions carried out in the community.

In fact within prisons: the probation office, with the support of social workers, participates in the activities of scientific observation of prisoners' personality and gives its contribution within the Observation and Treatment Equipe to draw up the relevant tailored programme.

The task of social workers is to report on the social and family links of the prisoners, highlighting their relationship with the outside world and their possibility to interact with current or activable resources.

Besides, social workers give their contribution to treatment activities, by participating in commissions inside prisons to organize cultural, recreational and sport activities, to manage the library and to draw up the internal regulation.

They carry out interventions with prisoners on:

- family problems;
- economic problems, issues connected with the outside world;
- they cooperate with prison workers to the activities aiming at maintaining, re-establishing or improving the relationships of prisoners with their families, cooperating with public and private bodies, through an integrated system of planning of interventions and social services as it is provided for by Law 8 November 2000, nr. 328, "Framework Law on the implementation of the integrated system of interventions and social services".
- **Outside:** The probation offices central jurisdiction, however, is that concerning the granting and management of measures alternative to detention (assignment to the Probation Service, assignment in particular cases, home detention and semi-liberty). With respect to such sector, probation offices carry out social enquiries requested by the supervisory Courts, aiming at getting to know the family, relational and social situation of the persons concerned, with particular regard to the problematic issues and the interventions carried out in order to overcome them. In the course of the social investigation carried out in respect of a person from liberty who is waiting for trial (supervisory proceedings) where it will be established if he/she shall serve the sentence in detention or under an alternative measure, the report directly sent to the judiciary is characterized by a wide autonomy and an as much wide responsibility.

The tasks of the Office for the execution of sentences in the community, are strictly connected with the nature and characteristics of measures alternative to detention.

In order to improve the risk and need assessment of sentenced persons requesting to have access to a measure alternative to detention, as it is provided for by the European Rules on probation, the Directorate General for the execution of sentences in the community is defining an instrument which will be employed by social workers and psychologists working at the probation offices .

Such instrument shall certainly facilitate the assessment and monitoring of offenders' risks and needs in the various stages of the criminal proceedings, also with regard to self-harm, aggressiveness risk levels and other conditions of weakness and vulnerability of the offender. Such assessments shall be taken into consideration for the drawing up of the treatment programme and the relevant prescriptions. Social workers, in order to assess risk and need levels of the offender, can draw on a diversified range of sources such as, in particular, criminal records, the reports and the documents drawn up by the other public and private agencies in the community (social-health, municipal, private and volunteer services,) who know or who have previously taken in charge the offender.

Probation officers and psychologists help the offender to identify and recognize his own difficulties and critical state, to carefully assess their own personal and environmental resources and to share the objectives to pursue.

The assessment of the offender occurs regularly, or during all the length of the sanction to verify the progress carried out and the adequacy of the tailored treatment programme.

To this concern, the Directorate General for the Execution of sentences in the community and probation during the proceedings by circular letter 0091537 of 21 March 2007 "*Activities following the reduction of persons taken in charge*", asks the directors of the probation offices and the Regional Directors to orientate social workers employed at such offices to consider profitable a visit with the person under probation once a week in various possible contexts (housing, study or working place, head office); to consider sufficient such a meeting every two weeks; not to consider phone calls as visits; to guarantee, finally, that the visiting contexts shall not be limited at the head office.

Subsequently, mainly due to the significant increase in the work load of social workers, said Directorate had to reshape such standards by circular letter dated 16/10/2014 nr. 0351817 "*Priority criteria in carrying out their tasks*" by which it points out a more effective approach methodology in the context of assignment to the probation service, by initiating the experimentation of a treatment modality providing for three intensity bands (high, ordinary and low). The placement in one of the three bands occurs on the basis of the need and risk level of each person under probation measures. Such circular letter contains a series of indicators, or individual peculiarities which over time experts have outlined as risk factors to successfully complete the measure and, ultimately as recidivism risk. Social workers, besides, in order to carry out periodical assessments, take into account the changes occurring in the course of the offender's life, as they could influence the final outcome of the sanction. Changes as job loss, starting again using drugs or alcohol, which has been reported by public services for drug addicts (it. Ser.t- Servizio per le tossicodipendenze) and by therapeutic communities, and family conflicts, can raise even significantly the risk and aggressiveness level of the offender.

The risk and need assessment levels mainly occurs at the beginning and during the execution of the community sanction or measure and once they have been served. The establishment by the Directorate General of an instrument to assess need and

risk levels, shall facilitate in particular the consistent assessment of the offender throughout the National territory.

The outcome resulting from the application of such instrument on the offender, shall be submitted to the analysis and interpretation of social workers.

Social workers, besides, in order to plan the assessment work on the offender, currently and regularly measure themselves up with the Director of the Office or his delegate.

When the assessment is over, social workers, after having mainly dealt with the offender and having looked for his cooperation, shall decide how to proceed and face the problematic issues identified.

The objectives, always agreed upon during the investigation stage by social workers together with the offender, are clear, specific and, mainly practicable.

The offender, besides, freely expresses his consent before being submitted to a community sanction or measure.

To this concern, the accused or sentenced person before taking any decision on them, are adequately and promptly informed by the probation office, in particular on the characteristics of the community sanction or measure and on their rights.

In case of long-term community measures and sanctions, social workers shall proceed by differentiating short, medium and long term objectives.

Mainly in case of offenders with various problematic situations, some of which even complex and of difficult resolution, the probation office defines not excessively practicable but well-structured treatment programmes, providing for the participation in and the involvement of several public, private agencies, and of community volunteers.

The programme of tailored treatment, shall be defined by such office on the basis of the indications and instruments provided for by the Directorate General for the Execution of Sentences in the Community and probation during the proceedings by circular letter dated 5th March 2015, nr. 3661/6111 "*Treatment programme for those requesting alternative measures – article 72, c. 2 lett. C of the Penitentiary Act – and suspension of the proceedings with Probation – article 464 bis CCP – Starting of experimentation*", such to make it not excessively complex and, mainly clear and easily mainly understandable by the judicial authority.

Probation officers, besides, make the offender responsible by involving him as much as possible in the stage of drawing up the tailored treatment programme, to make him fully aware of its contents and objectives.

The latter are always agreed upon by the probation officer with the offender, are clear and specific, such as to monitor the progress carried out by the offender during the community sanction and mainly practicable.

In case of long-term community sanctions and measures, as it is indicated in Rule 72, the offices shall differentiate the short, medium and long term objectives.

Mainly in the case of offenders having various problematic situations, some of which even complex and of difficult resolution, the offices shall define not excessively ambitious but articulated tailored treatment programmes, providing for the participation and cooperation of several agencies.

Probation offices shall besides make the offender responsible by involving him in the stage of processing of the tailored treatment programme, such as to make him fully aware of its contents and objectives.

The tailored treatment programmes besides aim to decrease the recidivism, aggressiveness and need risk level in the offender.

The probation officers shall then mainly help the offender to adequately cope with external pressures, reconsider the consequences of their actions, see the things from the point of view of others and, mainly not to act with impulsiveness.

Such programmes can be general, or suitable to the recurring characters in the people assigned to community sanctions and measures, or specific, as addressed to particular typologies of deviant persons as in the case, only to make some examples, of perpetrators of sexual offences or of those who abuse of psychotropic or alcoholic substances.

The treatment programme shall establish and identify what must be done to solve the offender problematic issues in order to implement the individualized intervention.

The old expression “tailored treatment programme”, concerning the procedures of intramural treatment, has been recently introduced in the Italian experience of probation: formally it goes back to the rewriting of art. 72 of the Penitentiary Act, in 2005.

The programme of the tailored treatment can be reshaped and modified in the light of data and information resulting from the periodical assessments of need and risk level and is structured and planned by the probation office together with the offender and must tend to his responsibility, rehabilitation and withdrawal from committing further offences.

Probation offices interventions take into consideration the nature of the offence, the amount of punishment and consequently the length of the community measure and sanction, connected with the duration of the intervention and have more frequently a social nature and support and guiding aims and are mostly carried out through social-educational, psychological, therapeutic, working reintegration, vocational training interventions for drug addicts and alcoholics, often carried out in cooperation with public, private and community volunteer agencies.

However, several programmes are defined in order to contain the recidivism, aggressiveness and need risk levels.

Probation officers in Italy, in assessing risk and need levels of the offender, can have access to a variety of sources such as in particular the documents and the relationships with the judicial authority, the reports and the documents drawn up by other agencies which know or have previously taken in charge the offender such as in particular the local healthcare services.

Social workers in particular can carry out a motivational interview to help the offender to identify and recognize his difficulties and critical issues.

Such assessment should, besides, help the offender and the probation officer to identify and share the objectives to pursue, fundamental condition for the good result of the community sanction.

Risk assessment and the aspects taken into examination are always shared by the probation officer with the offender who, in particular is constantly informed on the procedure followed by the service on the assessment of risk and need levels.

The assessment of the offender is regularly carried out, or throughout all the term of the sanction to verify the progress carried out and the appropriateness of the tailored treatment programme.

The probation officer who carries out the risk assessment pays particular attention to the changes carried out in the offender's life, as they could influence the final outcome of the sanction.

The assessment of risk and need levels occurs at the probation offices mainly at the beginning and during the carrying out of the community sanction or measure.

In Italy we do not have yet a specific instrument for the risk assessment and probation officers carry out such assessment through the appropriate instruments of social work and, in particular the interview, home visit, network work, documentation and inspection of the working activity. When the assessment is over, the probation officer, after having measured with the offender and having looked for his cooperation, decides how to cope with and solve the concerns identified. Probation officers then help the offender to adequately cope with external pressures, to reconsider the consequences of their actions, to see things even from the point of view of others and, mainly not to act with impulsiveness.

Such programmes in part are general, or suitable to common peculiarities of persons under community measures or sanctions, or specific since they address to particular typologies of deviant people as in the case, only to make some examples, of the offenders who have committed sexual offences or of those who abused of drugs and alcohol.

The Directorate General considers a priority to facilitate and implement the tailored “multi-modal” care of the offender, through the valorization of a wide and varied series of methods of interventions connected with the different expertise and skills. For this reason, the Directorate General has always encouraged the presence of expert psychologists to cooperate with social workers employed at local probation offices. Multi-disciplinary work is however ensured by probation offices even through a close cooperation with the other public, private and volunteer organizations in the community.

Probation offices work is mainly carried out with individual offenders but, more and more frequently, even with groups of deviant persons.

Offenders have concretely experienced on some occasions the possibility to deal with persons having the same deviant life experience or suffering from social marginalization, the same problematic issues and needs.

The implementation of the working group at the probation offices had mainly been made possible thanks to the action of impulse of the Directorate General and the initiatives of several social workers and psychologists, both aiming at strengthening multi-disciplinary work, facilitating the good progress of measures and sanctions and the successful reintegration of the offender into society.

To avoid such inconveniences, the probation offices as it is provided for by Rule 80, shall identify among the probation officers a case manager with coordination tasks of the various professionals involved in the care of the offender, such as to enhance the various skills. Social workers and psychologists working at the probation offices shall have therefore the possibility to choose to work with deviant groups, to cope more efficiently with the needs of the offender and manage consequently to decrease the offender risk and need level.

Probation work in Italy is mainly carried out with the single offender but, increasingly, even with groups of deviant people.

In such contexts, the offender can face with people having the same life deviant or social marginalization experience, the same critical issues and needs. In such circumstances there are greater possibilities to conclude positively the sanction and reintegrate into society. The probation officer in many offices has more and more often the opportunity to work with groups of deviant people, as it is indicated in Rule 77, to cope more effectively with the offender’s need and therefore to manage to mitigate the risk and need level.

Mainly in such case, the offender is adequately informed by the social worker on the

activities which he will be bound to carry out within the programme.

In some cases, social workers and psychologists take care to motivate the offender to continue to carry out the treatment programme, especially in periods of tiredness or in cases of failures, job loss, family conflicts and other.

Such action is carried out, in some cases, together with the workers of other public and private agencies in taking in charge the offender.

In order to better define and carry out the tailored treatment programme, probation officers have then the possibility to cooperate with the other public, private and volunteer agencies in the community.

In order to facilitate the “multimodal”, multidisciplinary” and “network” intervention approach with the other public and private agencies in the community, social workers with *case manager* functions take in charge the offender. They coordinate the various experts involved, so as to enhance the various skills.

The probation office is bound to periodically inform and update the judicial authority on the progress of the treatment programme.

Data and information concerning the progress of the treatment programme are regularly reported in the offender personal file.

To this concern, the Directorate General has deemed appropriate to start thinking about the interventions and promotions to comply with the provisions given for the maintenance of the file and of the remaining documentation regarding the offender. Still today, such subject-matter is governed by the Directorate General by circular letter 2353/4807 dated 31 July 1976, repeatedly supplemented and, as last, updated by circular letter nr. 3450/5900 dated 23 January 1997; subsequently it has been again partially amended, either for the occurrence of new community measures and sanctions, and for the introduction of computerized procedures of trials management. The instructions given by the Directorate General shall then mainly facilitate the periodical updating of the judicial authority on the progress of community measures and sanctions.

Probation offices besides give great importance to monitoring and assessment of progress carried out by the offender under the tailored treatment programme. In Italy, in fact, probation offices have to inform and periodically update the judicial authority on the progress of the treatment programme. Data and information concerning the treatment programme are regularly reported in the offender personal dossier.

The documentation to be kept in the offender personal dossier includes, as it is provided for by Rule 88, mainly personal data, tailored treatment programme, assessment plan, interviews recording, home visits and working inspections, the diary, and the information concerning the criminal record of the offender.

The probation service draws on data contained in the personal file mainly to periodically update the judicial authority on the progress of the community sanction. The file shall be prepared by the secretariat of the social service area which, as early as at the stage of assignment, shall request, where provided for, the criminal record, the conviction/convictions if deemed necessary on the basis of the indications formulated at footnote 3 of the circular letter nr. 0420463 of 5 December 2005 and any other useful documentation for information.

The dossier is subdivided in a dossier for any proceedings against the offender. In the dossier are included:

1. the relevant service order (either of the social worker and of the psychologist), which makes immediately clear the typology of the task;

2. the documentation, collected in a decreasing chronological order, subdivided into two folders: one for *juridical acts* (orders of assignment to alternative measures and sanctions and of reduction of the punishment, judicial status, criminal record, execution orders, judgment, etc.), the other for *technical-administrative acts*.

The documents contained in the personal file are constantly updated and submitted to the control of the responsible for the social work area and of the probation office Directorate.

The probation office draws on the data contained in the personal file mainly to periodically update the judicial authority on the progress of the community sanction and measure.

The right of the offender to have access to his own personal file, in some cases, can suffer some restrictions, mainly not to compromise the security of other persons and of probation officers who have taken care of the procedure. The Directorate General, by circular letter indicates the modalities which the probation offices shall adopt in case of request of copy of social investigations requested by the sentenced persons' lawyers, close to the date of the trials at the supervisory courts. According to such circular letter, the probation offices are bound to accept the request of access to defence investigations as per art. 391 d code of criminal procedure.

The copy of the documentation which can be acquired, at the expense of the applicant, is that concerning the proceedings in matter of alternative measures, security measures or early release. In delivering the documentation, the probation office guarantees the confidentiality of the social worker who has drawn the report by putting *OMISSIS* on the name of workers. The requests of documentation concerning advice activities carried out and requested by prisons, are forwarded to them by the probation offices.

However, the offender can contest the data and information reported by probation office workers in the various documents contained in the personal file, having directly recourse to the competent judicial authority.

The offender personal file then constitutes a fundamental instrument for the maintenance and updating of information concerning the offender and the progress of the community sanction and measure.

Each person entering in contact with the probation offices activities and who is not completely satisfied with the services and interventions offered by them and with the introductory indications received by the workers of the office, with which he has contacts, can besides report or make suggestions concerning critical issues, and also lodge a complaint if he believes that there has been failure to comply with the provisions of the "Service Charter". The "Service Charter" is an information document, addressed to probation office clients, by which such office declares which are the services delivered, the fundamental principles on which professional performances and the modalities of access to the service are provided. The Service Charter represents one of the management instruments on the quality of public services available to the Administrations and this is the outcome of an active and permanent process building with the participation and the involvement of the client, as well as of other actors involved.

Sometimes it happens that some people protest against facts of which the Office is not responsible for. In these cases the staff addresses the user to the competent body. Complaints, reports, and suggestions can be presented directly to the Directorate of the probation office.

The probation office, within the overall management activity of measures and community sanctions, also supervises on the compliance with prescriptions by the offender.

This mainly happens through the involvement of the offender and the utmost cooperation of public and private community agencies.

For some infringement of prescriptions, consequences which can even entail the revocation of the community measure and sanction and, consequently, the imprisonment, are provided for.

The nature and the characteristics of community measures and sanctions shall be accurately explained by social workers to offenders who are informed on the consequences which can happen in case of infringement of each prescription, but even on the duties and responsibilities of probation officers.

In case of infringement of one of the prescriptions by the offender, probation officers are bound to intervene promptly, never omitting to monitor and assess the circumstances which may have caused or facilitated them.

In the most serious cases, social workers are bound to promptly inform the competent judicial authority of what happened, contextualizing and analyzing the deviant behaviour held by the offender.

The probation office shall besides formulate and propose to the judicial authority possible amendments or supplements to the treatment programme, so as to avoid further infringement to the prescriptions by the offender and risks for the collectivity or for potential victims. The offenders, besides, can freely express their consent before being submitted to a measure or to a community sanction.

To this regard, the accused person and the sentenced person, before any decision be adopted on them, are adequately and promptly informed by the office, in particular on the peculiarities of community measures and sanctions and on their rights.

Social workers in charge of supporting the persons under probation measures during the length of the sentence are competent for the control of the subject's conduct, in the framework of the prescriptions inflicted by the Supervisory Court which has granted the measure, and for the support to overcome the difficulties to respond to social life: the control function, provided for by law, within the tailored treatment process, shall be integrated by the exercise of social worker professional methodologies and by help and support interventions. The observation by social workers of the compliance with the prescriptions and the behaviour of the subject, allows to implement a control becoming a monitoring of the ongoing rehabilitation process (that is control as a form of help offered to the person).

7. Finances, Accounting, Registration Systems and Evaluation Procedures

7.1. Finances

The probation offices, as well as prisons, are entirely financed by the Ministry of Justice. In addition to the staff salaries, which are directly paid by the Ministry of Economy and Finance, all the other expenses of the probation offices must comply with the accounting rules of the Penitentiary Administration and are included in an annual budget, subdivided into expenditure items currently approved by the Regional Directorate receiving the funds from the Department of Penitentiary Administration and allocating them to the prisons and the competent probation offices. The new

organization provided for by the Regulation approved on 18 May 2015 by the Council of Ministers, shall provide for the inclusion of the probation offices in the annual budget of the Department of Juvenile and community justice.

Table 5. Prison/Probation expenditure

Prisons	367.500.392,63	98,1%
Probation offices *	2.454.862,63	0,7%
Regional Directorates	4.510.118,34	1,2%
TOTAL	374.465.373,60	100,0%

*Data relating to UEPE with an accounting autonomy = 27 offices.

7.2. Accounting

Some probation offices have an autonomous bookkeeping system and directly run their budgets. The accounting autonomy is entrusted to the biggest offices with the greatest economic resources to run.

Most of them, however, receive their funds through the penal institutions to which they are connected for accountancy purposes. Although most probation offices are not autonomous from an accounting point of view, they have an internal accounting unit assisting the Director in planning expenditure. The accounting unit records income and expenditure and deals with staff travel purchases and invoices for the payment of cleaning and maintenance expenses and utilities (telephone, electricity etc).

7.3. Registration systems and evaluation

All Probation Service activities are recorded, firstly because this is an obligatory practice in government service and secondly because it is essential in a Service which deals with the execution of penalties and consequently with matters affecting citizens' fundamental rights, such as the deprivation and restriction of liberty. The registration system moves into two directions; incoming– directives, circulars, in-Service orders, information – and outgoing – reports on Service problems, requests, notes to higher Officers, to Supervisory Judges, to bodies with which the Service has a working relationship. Staff are acquainted with this documentation, unless it is confidential, so that they are fully informed and can participate in the more general tasks carried out by the Service.

One example of these tasks is the annual report written by the directors of the probation offices and sent to the Directorate General for the Execution of Sentences in the Community and probation during the proceedings (the report represents an opportunity for each Office to reflect on its short, medium and long-term objectives for the various aspects of its work. It is also used to plan research into both organizational matters and specific Service issues, which is useful in assessing the quality of the Service's investment in resources. The contents of the annual reports are returned to the probation offices by the competent Office of the Directorate General, which sends statistics and overall evaluations to the central and local offices of the Penitentiary Department.

Thanks to an Internet website, located inside the Justice site, a large amount of information on legislation, procedures and activity, as well as statistics, is available to everyone. The probation offices are connected to one another by intranet and to the Directorate General for the execution of sentences in the community and probation

during the proceedings; this makes it possible for the DG to update its statistics monthly and to be informed of the workload of each probation office and of the whole of the Service. Computerization of the Probation Service started in 1993 and was extended to all probation offices by 1996, allowing clients' personal details to be recorded together with their family contacts, any previous involvement they have had with the Service and the results of that involvement etc. This allows information to be found quickly when it is needed, creating greater efficiency in responding to clients and to authorities contacting the Service for information.

The documentation related to each individual case makes up the client's File. This file includes documents from outside the Service, for example sentences and orders by judicial authorities, requests for action by the Service, documents that have been presented, and certificates. The file also contains information from within the Service such as the social worker's details, records of meetings with the client, of visits to their home and of contacts with other services; reports sent to the Judge, to the penal institution, and to other probation offices. When the Service's involvement with an offender comes to an end, the case is closed with a formal order from the Director of the Office concerned, and the file is put away in the archives, from where it is retrieved if any other action is subsequently required. In this instance the file is divided into sub-files, one for each time the Service is involved. Penal law, official secrecy, which is one of the civil servant's duties to respect, and the recent law on the protection of privacy (1996) mark the boundaries within which clients' personal details are handled.

The National probation service shall ensure the community, public opinion and the addressees of the service, the quality and compliance with the services rendered to the national legislation, by directly carrying out regular inspections at probation offices and adequately monitoring the progress of community measures and sanctions.

The purpose of such system of control and monitoring of the National probation service does not aim at first at the ordinary inspection function of the administration, but instead, at reassuring public opinion, and at improving probation intervention.

Good practices raising from the work carried out through these interventions of control and research are appropriately studied and analyzed by the Directorate General to decide on the real effectiveness and, subsequently, mainly disclose them within the Administration.

Research activities always follow strict and impartial procedures, and are frequently carried out together with public or private universities and research centres which can guarantee, exactly, the reliability and the quality of the results.

The latter are adequately advertised either within probation agencies and the Administration, to develop and strengthen the new and more effective actions, and outside through the publication of articles in specialist magazine of the sector. The probation service shall inform besides the governmental authority, frequently upon its request, by sending reports on the progress of community measures and sanctions and the results of controls and research carried out by the probation service. In so doing, the governmental authorities do not take into consideration only the even though legitimate expectations of the offender, the victim, or the public opinion, but even the scientifically validated assessments produced by the Directorate General in cooperation with universities. Most research and assessments carried out by the Administration in the last years have concerned, in

particular the effectiveness of interventions implemented by the probation Service. Supervisory and monitoring activities of the progress of community measures and sanctions are carried out directly by probation offices, while the other public, private and volunteer organizations mainly cooperate for the offender support and assistance action.

The Italian experience in fact ignores a private system of intervention in the community other than that offered in cooperation with the “third sector”. To this regard, a particular relevant role is recognized to the organizations freely cooperating with the probation offices to offer the offenders legal advice. The presence of volunteers at the probation offices is regularly growing, both from a quantitative and qualitative point of view, mainly because of the lack of financial and human resources concerning the Italian public administration for a long time and also the penitentiary administration. In the last years however, despite the economic crisis of which the country is suffering, every effort has been made by the Administration to ensure adequate financial, human and instrumental resources to the probation offices to clearly help them to qualify their intervention and be more visible outside and to public opinion.

There is no electronic databases available.

8. Societal support and public opinion

The Directorate General for the execution of sentences in the community and probation during the proceedings actively works to keep constantly informed public opinion on the work carried out at the probation offices, on the peculiarities and purposes of the various community measures and sanctions.

According to European Probation Rule 107 the results of the research carried out by the penitentiary Administration, by universities and research centres, even jointly, and the statistics on the national Probation Service, are published and regularly updated on the website of the Ministry of Justice (www.giustizia.it), besides being openly discussed within the probation offices, mainly to the purpose of improving the justice point of view in the public opinion.

According to European Probation Rule 106 mainly the successful outcome of community measures and sanctions, the functioning modalities and the organization of the national community service, in the last years have been disclosed to public opinion mainly through the participation of their own representatives to important national television programmes.

The penitentiary administration, through the participation in such television programmes, and some publications and articles in scientific magazines, wanted to show to public opinion an active national community service able to respond according to qualitative standards suitable to its own institutional mandate.

The visibility of the Probation Service has significantly grown in Italy in the last few years because of its more incisive penetration into society. It has been carried out through common plans, projects and agreements, the coordination of actions in favour of the multi-problematic offenders who often need professional interventions from different services and agencies. Particularly in the case of drug-addicts, mentally disturbed offenders, unemployed or disadvantaged persons in need of assistance. Furthermore, the increasing number of offenders benefiting from alternative measures has greatly contributed to making the Probation Service’s activity much

more visible than before. However many factors have influenced and continue to influence the lack of visibility of the Probation Service in Italy. One such factor is that the Service was only recently set up and has dealt with relatively few cases in its first few years. Besides its structural inadequacies, already mentioned above, there is also the difficulty the Service has faced in ensuring the public opinion complete and correct information about its role.

The Service has heavy workloads and severe staffing shortages, which means that its energies are focused on everyday urgencies, rather than producing additional information, or reflecting on its work. One exception to this is the Service's connections with Social Services Colleges and Universities, which are based not only on research but also on the Service's being able to accept trainee students. There have not been any surveys or research on the public's perception of community measures, with the exception of the somewhat superficial media surveys carried out when a measure is granted to a well-known personality.

In May this year the Minister has started a public consultation on issues relating to the execution of sentences so-called "General States" (it. Stati Generali) with the purpose to approach public opinion to a reality which till now has been considered separated but mainly that of involving the "external world" with its contribution of ideas, remarks and proposals, considering the contents and modalities of the execution of sentences.

The discussion and the proposals shall be useful property for the exercise of the proxy for the reform of the penitentiary act but also for the implementation of the new Regulation on the organization of the Ministry of Justice.

8.1. Clients' Views.

Over the last few years, the presence of the Probation Service has been felt more both at local and central levels. This has come about through training projects for both professional and voluntary workers. There have also been public debates on specific issues, and the Service's input has been made through participation in coordinating bodies, in committees and in study groups. This has taken place particularly at a local level and also, to a lesser extent, at regional and national level. The Directorate General is directly responsible for the Service's participation in multidisciplinary committees inside the Penitentiary Department, in inter-ministerial bodies and in trans-national projects. Wherever possible, it arranges for the staff from local Service units to be involved. Furthermore, a law on the re-organization of social services that came into force in 2000 provides for an explicit statement according to which the Penitentiary Administration should be involved – through its local structures – in defining the "local social plans" for the social inclusion of disadvantaged people. Training initiatives are promoted, addressed to the different stakeholders, to encourage the use of a common language, continuity of action and special attention to disadvantaged people and to offenders in particular.

9. Probation Clients' rights.

According to European Probation Rules 99-103 the offender is ensured, besides, the possibility to lodge an appeal against any decision of the judicial authority and of the probation office concerning community measures or sanctions.

The appeal procedures are made easily understandable and can be activated to probation office clients mainly through the "Service Charter".

The probation office, since the beginning of the community measure or sanction, shall inform there of the offender comprehensibly of such possibilities and of the procedure to follow to formulate the appeal, mainly through the delivery of a copy of the "Service Charter" and of other explanatory material.

The appeal is taken into consideration by the Office Directorate according to a clear and impartial procedure.

The offender formulating the appeal has the right to be informed on the outcome raised by the investigation carried out on the merits by the competent bodies.

The National probation service provides for the internal control procedure to highlight if possible mistakes have occurred and to improve the service.

The agreements concluded between the probation service and the territorial organizations in particular provide for the possibility to exchange information concerning the offender, with particular reference to his life and work environment and on the progress of the individual activities included in the treatment programme. The transfer of information ensuing thereof, is carried out complying with the national legislation regarding the processing of personal data.

The information contained in the personal file can be transferred to the workers of other public and private agencies involved in taking charge of the offender, but only for well defined objectives and in full compliance with the national legislation on *privacy*.

The offender right to have access to his own personal file, as previously said can suffer restrictions, mainly not to compromise the security of other persons and of the probation officers.

The Directorate General by circular letter 07 February 2006, nr. 0043563 indicates to the probation offices the modalities to adopt in case of request of copies of social investigation received by them by the sentenced persons' lawyers, in the upcoming trials at supervisory courts.

According to such circular letter, the probation offices are bound to accept the request of access to the acts for the defence investigations as per art. 391d CCP. In such case the defence counsel is bound to submit his appointment in the supervisory proceedings for which the acts of the probation office to be submitted to the competent judge have been drawn up. The documentation which can be acquired, at the requesting person's expense, is that concerning alternative measures, security measures or early release. In delivering the documentation, the probation office guarantees the confidentiality of the social worker who has drawn the report by putting some *OMISSIS* on the name of workers. The requests of documentation concerning advice activities carried out and requested by prisons, are forwarded to them by the probation offices.

The offender has not the opportunity to be involved in the preparation of the report according to European Probation Rules 44-46 but however can contest the data and information given by the probation officers in the various documents present in the personal file, having directly recourse to the competent judicial authority.

In order to understand clients' rights and the regulations governing them in the Italian system, it is important firstly to acknowledge that the probation client is not a voluntary Service client. The offender has not chosen to benefit from a service but is subject to the machinery of justice. Secondly, it is important to take into account that the Probation Service is part of the Justice System; it is also a part of the Civil Service and its work is based primarily on the social work profession. Each of these characteristics is governed by regulations, rules or professional ethics which protect the rights of probation clients on different grounds, and which are based on the rights common to all citizens laid down in the Italian Constitution. In so far as they are subject to jurisdiction and its measures, probation clients are guaranteed protection of their rights as set out in the Penal Law and Penitentiary Act: the notification of proceedings, the right to a defence, the right to participate in proceedings etc. As far as the execution of community measures is specifically concerned, the protection of probation clients' rights is based on their right to be fully and correctly informed of their obligations and duties. This is achieved by ensuring clients to understand all the documents concerning them and through the information provided by the probation officer or the Director of the Office for the execution of sentences to which they have been assigned.

The fact that the Probation Service is part of the Civil Service determines the Service's relationship with its clients. This relationship has received much more attention in the last few years than previously, due to the input from the Civil Service Department. This Department has produced laws, ministerial decrees and directives laying down regulations for access to records, principles to guide the performance of public services, a code of conduct for public employees and regulations aimed at improving efficiency. It is the duty of the public employee to respect official secrecy, which binds all civil servants and therefore also probation officers, not to disclose information in their possession or that they receive in the course of their work unless to the appropriate authorities. The fact that Probation Service staff is part of the social work profession means that they are also bound by professional confidentiality, one of the ethical principles of their profession. The creation of the Roll of Social Workers in 1993, which all Probation Service social workers and Directors must join, represents a tangible reference point for these workers, who can address to the Association to defend their professional ethics. Of course, neither official secrecy nor professional confidentiality can be invoked when the information that comes into the possession of a Probation Office concerns the commission of a crime or the risk of a crime being committed. The same situation applies when Probation Service staff is summoned to give evidence before a judicial authority.

There are no special bodies to which Probation clients may address to report to the Probation Service or make a complaint, that are any different to those available to all citizens. If they have a complaint, and it is not of a penal nature (in which case they should appeal to a judicial authority), probation clients, like all other clients of public services, can use the managerial chain. In the case of the Probation Service this means: the Director of the Probation Office, followed by the Regional Directorate and the Directorate General. If the complaint concerns the protection of their privacy, they should address to the Data Protection Authority, unless they consider they have suffered damage, in which case they should appeal to the civil judicial authorities. In this case, if civil proceedings have started, a State lawyer will represent the Probation Office during the trial. As probation clients are in the execution stage of a penalty, they can also appeal to the Supervisory Judge, who receives all the details

about the progress of the probation period and therefore is in a position to assess the probationer's complaint. To date there has rarely been the need to provide an interpreter for contacts between the probationer and the probation officer. This need is much more frequently felt in prisons because of the large number of foreigners in custody, who often do not benefit from community measures because they lack family connections, work and a home.

10. Developments to be expected

10.1 Developments in coming years

The new regulation on the organization of the Ministry of Justice, finally approved by the Council of Ministers on 18 May 2015 confers upon the Department of Juvenile and community justice the competence on the execution of sentences in the community with subsequent suppression of the Directorate General for the execution of sentences in the community presently existing at the Department of penitentiary administration, the functions of which will be conferred upon the Directorate General for staff, resources and for the implementation of the juvenile judge measures.

The new Directorate General for training of the Department of penitentiary administration (previously named Higher Institute for Penitentiary Studies) including all training activities, will have also the task to connect to the Department of Juvenile and community justice to ensure a common training path for the areas concerning intramural treatment, the execution of sentences in the community and the probation during the proceedings.

The proxy given to the government by the bill nr. 2798/2014 on the reform of the penitentiary act and the implementation of the new Regulation on the organization of the Ministry of Justice, shall introduce a system of sanctions in the community, taking into account the kind of crime and its concrete seriousness, enabling the judge, supported by a risk assessment carried out by a scientific method, to apply an adequate whole of sanctions and *probation* measures, through the strong assumption of responsibility by communities where the sentenced person spends all or part of his/her day allowing to combine in a balanced way the ineluctability of the sanction with the support and reintegration needs.

In order that the *probation* can represent a credible alternative to short term sentences, the expansion of the probation offices shall be carried out. Such Offices, as provided for by the new Regulation on the organization within the new structure of the Department of Juvenile and community justice, shall make use of adequate resources similarly to the other realities involved.

It will be also be necessary to implement the building of infrastructures and services in order to constitute a network composed by public and private persons working in the context of reference of the accused (in the volunteer, training, work and welfare fields), based on forms of shared cooperation.

11. Important Publications

F. Della Casa, G. Giostra, *Ordinamento Penitenziario*, Cedam, 2015.

G. Concato & C. Mariotti, Luigia (eds) *Supervisione per gli operatori penitenziari*. Published by Franco Angeli, Milan, 2005.

The book presents the results of the experimental supervision of the “Observation and Treatment” prison teams, carried out by the Higher Institute of Penitentiary Studies in cooperation with the University of Florence. Supervision of prison teams is proposed experimentally as a methodological approach to increase staff’s awareness and operational abilities. As a result of stimulating a systematic deliberation on the roles, resources, competencies, interpersonal relations, as well as on the methods of work and assessment of results, communication and exchange of knowledge are facilitated.

G. De Leo & C. Mariotti, Luigia (eds) *Attenti al lupo*. Published by Giuffré, Milan, 2005.

The text provides for a series of thorough remarks on the topic of sex-offenders whose victims are minors, and in particular on the possible models of treatment that might be used with them. Through a comparative study of experiences carried out in a number of European countries and the presentation of an Italian experimental training model, most critical points concerning this issue are highlighted. At the same time some methodological reflections and treatment hypothesis are provided for, with the intent of taking responsibility for the “wolf”.

L. Frudà, (*a cura di*) *Alternative al carcere Franco Angeli*, Milano, 2006.

The text deals with the issue of public safety in relation to alternative measures. A survey promoted by the Department of Penitentiary Administration – Directorate General for the execution of sentences in the community – shows with unquestionable evidence the usefulness of routes other than imprisonment and the strong potentialities that alternatives can offer in terms of re-socialization. In particular the research dwells upon the role of the probation office with regard to the Office network of the organizations involved in the execution of penal sentences in the community, providing at the same time trends and appraisals coming from the offenders themselves.

M. Ciarpi, R. Turrini Vita, *Le Trasformazioni del Probation in Europa*, Laurus Robuffo Editore, Roma, 2015.

The text is a comment to said Rules drafted by the executive officers of the Department of Penitentiary Administration and addressed in particular to the training of University students and to the continuous training of experts working at the Offices for the Execution of sentences in the community was published.

M. Pavarini, *Governare la penalità. Struttura sociale processi decisionali e discorsi pubblici sulla pena*. Bonomia University Press. Numero monografico ius17@unibo.it.



M. Pia Giuffrida e M. Palombo, *The penalty of alcohol*. Milano 2004.

The book describes an action-research, carried out by the Directorate General of execution of sentences in the Community of the Department of Penitentiary Administration, to assess the effectiveness of activities performed for convicted subjects with alcohol related problems who are undergoing alternative measure programmes instead of being in custody. The book analyses the scale of the phenomenon and puts forward intervention methods deriving from field research and from the social workers' reflections on their daily practices.

P. Trecci e M. Cafiero, *Riparazione e Giustizia Riparativa*, Milano, 2007.

The text studies in depth the subject of reparation in the penal and penitentiary sectors. It presents some theoretical contributions and analyses those critical aspects that various professionals (educators, social workers, judges etc.) have faced in carrying out their activities either with adult or minor offenders. The book represents a valid tool for refreshing and continuous training activities of the staff working in the justice field.

R. Palmisano, *Realizzazione di un sistema di Probation*, Rassegna penitenziaria e criminologica, fascicolo nr. 1/2015.

In the above-mentioned text, after a summary of European principles on Probation, some experiences of other Countries have been mentioned, as well as the most recent legislative interventions and the delegation to the Government for the reform of the penal system. The author recalls the Council of Europe Rules on Probation containing the guidelines to build a system of community sanctions and really invest in an effective system of community measures.

R. Turrini Vita, *Civiltà della pena*, Roma 2006.

S. Mordegia, I. Mastropasqua, *“Esperienze di probation in Italia e in Europa. I numeri pensati”*, Gangemi Editore, 2012.

General Information

- Number of inhabitants: 59.000.083
- Prison population rate per 100,000 inhabitants:103,8
(National Institute of Statistics [istat] data)
- Link to Probation Service:
https://www.giustizia.it/giustizia/it/mg_2_3_1.wp
- Links to websites: www.giustizia.it
- Member of the CEP in:

Characteristics of the Probation Service

The National Probation Service⁷ for adults in Italy is a public service within the Department of Juvenile and Community Justice, which in turn falls within the Ministry of Justice. This department has a General Directorate, called General Directorate for the Execution of sentences in the community and the Probation. This Directorate has the task to establish the guidelines for the local offices for the execution of sentences in the community, that are operating in towns where the offices of the Supervisory Judge are located. These offices, in this text further called: the probation offices have the following characteristics:

- are part of the civil service (Ministry of Justice);
- are independent from prisons system but work together with them;
- employ salaried staff professionally qualified as social workers and psychologists in order to perform institutional duties;
- may avail themselves of the professional assistance of experts in psychology, social work, pedagogy, psychiatry and clinical criminology, who will receive a fee in proportion to the service provided;
- may be assisted by volunteers or voluntary organisations in performing some of their duties;
- have as their general role to create and encourage links between prisons and communities, while their specific role is to provide a combination of both assistance and supervision to offenders placed on probation.

Tasks

U.E.P.E. tasks, provided for by the reform of penitentiary act (art. 72 L.354/75) and governed by the regulation of enforcement, are various and can be substantially categorized according to 2 main sectors of intervention:

a) Interventions carried out in favour of prisoners.

In fact, within prison, through social workers, it participates in the activities of scientific observation of the personality of prisoners and gives its contribution within the Equipe of Observation and Treatment for the drafting of the relevant tailored programme.

⁷ The term “Probation Service” is not used in Italy, but it is used here for convenience.

b) Interventions developed on the territory in the community.

Probation office central jurisdiction, however, is that relating to the granting and management of community measures and sanctions (assignment to the Probation Service, assignment in particular cases, suspension of the proceedings with probation, home detention and semi-liberty). With regard to this sector, the probation office carries out social requests by the supervisory courts aiming at the assessment of recidivism and of the need and, in particular at the knowledge of the family, relational and social situation of the persons concerned, with particular regard to the problematic issues and the interventions carried out for their resolution. In order to improve the risk and need assessment of sentenced persons requesting to have access to a measure alternative to detention, as it is provided for by the European Rules on probation, the Directorate General for the execution of sentences in the community is defining an instrument which will be employed by social workers and psychologists working at the probation offices.

Number of staff

- Probation Officers: **948**
 - Probation Managers, all grades: **85**
(out of which 3 Executives at the National Central Directorate + 13 Executive at the Regional Directorates + 69 Probation Directors (Probation office Directors +Responsible for suburban offices))
 - Administrative support staff, all grades: **577**
(401 Administrative + Penit. Police 176)
- Total: 1610**

- Daily average number of offenders dealt with (at 30th September 2015):
- Average number of alternative measures per social worker: **34**
- Average number of investigations per social worker: **34**
- Average overall number of proceedings per social worker: **68** (alternative measures and sanctions, security measures and substitutive sanctions, investigations, treatment activities, procedures for the drawing up of treatment programmes for the probation during the proceedings.

New developments

The new Regulation of organization of the Ministry of Justice, definitively approved by the Council of Ministers on 18th May 2015, confers the jurisdiction in matter of execution of sentences in the community to the new Directorate General for the execution of sentences in the community and probation during the proceedings being established at the Department for Juvenile Justice (acquiring the new denomination of Department of Juvenile and community justice).

The approval of the recent Law 28 April 2014, nr. 67 containing “*Proxies to the Government in matter of non custodial sentences and of reform of the sanctioning system. Provisions in matter of suspension of the proceedings with probation and towards untraceable persons*” is a significant step for the development of a national System of execution of sentences in the community.

The persons accused for the offences punishable only with a pecuniary penalty or with a decreed prison sentence not exceeding four years, by itself, aggregate, or alternative to pecuniary penalties, as well as for the offences as per paragraph 2 of article 550 of the code of criminal procedure can request the Criminal Court the

granting of the suspension of the proceedings with Probation during the trial. In such a case the Probation Office shall carry out a socio-family investigation aimed at the drawing up a treatment programme which shall contain indications on the modalities of involvement of the accused person and his family in the process of social reintegration, the behavioural obligations and prohibitions, the compensation for damages activities and community works. Such Office agrees on the programme with the accused person and asks for the support of the Local Bodies involved. Finally, it shall transmit to the judge the socio-family investigation, the treatment programme and the “observations supporting it”, including the news relating to the economic situation and the possibility to carry out compensation or mediation activities.

The assignment to the probation during the trial is subordinated to the availability to carry out community works and implies the assignment to the Probation service to carry out a programme based on the commitment to carry out actions aiming at the elimination of harmful consequences deriving from the offence, such as the compensation for the damage and the volunteer activities if possible, and the compliance with the obligations and prohibitions relating to the relationships with the Probation service or with possible healthcare structures, to the domicile, the freedom of movement, the prohibition to attend certain facilities.

Probation during the different stages of the criminal procedure

	Pre-Trial Phase	Trial and Enforcement Phase	Post Release Phase
Preparing pre-sanction report	x	x	x
Supervising etc. sanction of probation		x	x
Supervising etc. conditional sentence		x	x
Supervising etc. special measures drug addicts		x	x
Supervising etc. community service		x	x
Supervising training or learning projects		x	x
Interventions with young offenders			
Supervising etc. suspended sentence		x	x
Assistance/support of offenders in prison/detention		x	x
Preparing pre-release reports, prisoners		x	x
Supervising conditional release/parole		x	x
Supervising post custody, sex offenders		x	x
Preparing victim impact reports			