



Probation in Europe

Spain

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1. Introduction

1.1 Probation organization

In Spain, the 'Probation system' belongs to the Spanish Penitentiary System. It depends on the General Secretariat of Penitentiary Institutions (i.e. the Penitentiary Administration) and comprises all measures and penalties seeking to avoid the prison, namely:

- Open – Regime (sp. “*medio abierto*”): for those inmates who are subject to the “third degree” treatment (below) and live in open centres, intended for the enforcement of the sentence.
- Management service of alternative sentences and measures: concerning not only the people sentenced to an alternative penalty or measure but also those who get the suspension of the sentence, either since the beginning before the enforcement of the sentence (total suspension), or during it (partial suspension), and require follow-up.
- The conditional release. Once considered as the last phase of enforcement of the sentence, today it is a modality of suspension of the sentence.

In order to provide a general overview of the Spanish Penitentiary Administration and to help the readers to understand the organisation of “Spanish Open Regime”, we have to underline that the Spanish Penitentiary system is not in a strict sense a “progressive system”. According to the Spanish Constitution, the Executorial Law (sp. *Ley Orgánica General Penitenciaria* of 1979, hereinafter *Penitentiary Law*) sets as a main goal of the prison service to re-educate and socially reintegrate offenders back into society, creating a system based in the ‘scientific individualization’.

This law establishes a system divided in three ‘degrees’ or regimes:

- First degree – dedicated to most dangerous offenders. It is focused on security and restricted movement;
- Second degree – open to the vast majority of prisoners. It is characterized by more freedom of movement inside the prison yard and the availability of many activities;
- Third degree – or open regime, which falls within the concept of ‘Probation’, as it is understood in the rest of Europe.

There are some intermediate modalities available for exceptional cases: when prisoners may be classified in one degree but using elements of another degree, for example, when an inmate is placed in second degree but housed in ‘open regime’, characteristic element of the third degree.

An inmate can be classified in a higher grade without having to go through the lower grades (this means that an inmate can be classified initially –directly- in third degree, ‘open regime’, without the need of being in second degree). Every inmate can be progressed to 3rd grade depending on the length of the sentence, the time served in prison, the penitentiary evolution and behaviour, the level of participation in activities, the involvement in the treatment programs, the use of leaves, etc. And conversely, in case of negative behaviour, his or her life regime can be restricted as well, regressing him or her to a lower grade.

Those classified in third degree are sent to the Social Insertion Centres (sp. Centros de *Inserción Social*), a kind of ‘open prison’ for the people placed in open and semi-open regime. These establishments are usually placed near the city in order to allow its residents or those allocated to it to have a ‘normalized life’. Inmates classified in third degree, including those who are under electronic monitoring, the conditional released, those sentenced to an alternative penalty or measure, and those whose sentence has been suspended under some kinds of conditions which need a follow-up, are assigned to a Social Insertion Centre.

The monitoring and supervision of the inmates in third degree, the coordination of the Social Insertion Centres and other kinds of open centres or departments (as the Mother’s unities, below) and the measures of telematic control, as well as the design, implementation, monitoring and evaluation of intervention and treatment programs for inmates in open regime, are belonging to the competence of the Deputy Directorate General of Treatment and Prison Management (sp. *Subdirección General de Tratamiento y Gestión Penitenciaria*, here in after SGTGP); the management of the alternative penalties and measures and the monitoring of the conditional released belong to the Deputy Directorate General of Alternative Sentences and Measures (sp. *Subdirección General de Penas y Medidas Alternativas*, hereinafter SGPMA), both depending on the General Secretariat of Penitentiary Institutions (sp. *Secretaría General de Instituciones Penitenciarias*, hereinafter Penitentiary Administration), the Central Services (see Figure 1).

Inside the organization of the Social Insertion Centres, there are administrative units of management of Alternative Sentences and Measures (SGPMA) which depend on the Penitentiary Administration and which are configured as multidisciplinary teams. They are in charge of the implementation of sentences and measures alternatives to imprisonment.

NGOs and voluntary work play a very important role in the Spanish Penitentiary System and are one of the latest features implemented to ensure the social reintegration of inmates. The collaboration of the NGOs is being carried out widely within prisons and outside them, in units of ‘open regime’ and in implementation of alternative measures. Specially, concerning the sanctions of community Service and some kind of treatment programs -as the drug treatments in Therapeutic communities- are implemented largely by the NGOs which collaborate with the Penitentiary Administration.

1.2 Probation activities in nutshell

Penitentiary Administration offers a wide range of programs aiming at achieving social reinsertion of those placed in ‘open regime’. The heterogeneity of the sentenced population’ requires to adapt its actions and to develop specific treatment programs in order to allow inmates under this treatment to be able to respond to outstanding problems in an open environment. The main purpose of the open regime is to integrate and to facilitate the full participation in a normalized family, social and work life. The starting point is the acceptance by the sentenced person of the treatment programs or the executorial plan of the designed measure.

In collaboration with public and private agencies, associations and NGOs there are employment programs, social integration programs, programs aimed at specific groups, health and drug addicts programs, training and educational programs, and other kinds of programs as education in values and social life, coexistence in religious and popular festivals, etc.

SGPMA carries out several activities in order to execute, implement, monitor and supervise the rules of conduct imposed by the judge in case of suspension of the enforcement of the sentence (for example, the participation in formative, employment, cultural, road safety or traffic education, sexual education or environmental protection programs) and in order to implement alternative penalties or measures.

Several criminal typologies require intervention programs to be developed by the SGPMA - through their own resources or community external resources - such as: drug addiction programs, alcoholism and mental health programs, training and employment programs, programs to control sexual assault, domestic violence programs, filio - parental violence programs and road safety workshop, commonly known in Spain as TASEVAL (sp. *Talleres de Seguridad Vial*), and considered by the Spanish Penal Code (sp. *Código Penal español*) as a way to serve the sentence to community service.

Recently, the SGPMA has developed two new programs: the so-called 'Prosocial Thinking Program' (for different crimes, aiming at respecting the rules of coexistence) and Road Safety Program (used for cases of crimes against traffic safety).

This Service is also in charge of the implementation of alternatives penalties, among which, one of the most important is the community service: this kind of penalty is a disqualification, and its application requires the consent of the prisoner, in order to implement certain activities of public utility. Community service is considered as a disqualification because it deprives people of certain rights. The community service placements will be provided by the state, regional or local Administration that, in order to fulfil this purpose, may establish appropriate agreements among themselves or with public or private entities which develop activities of public utility. Prison Service monitors their behaviour and provides the support and assistance necessary for the efficient development of the community services, through SGPMA. The Penal Code authorizes the execution of the sentence of community service through the participation in workshops, or training or rehabilitation programs, including the driver education program (i.e. the aforementioned TASEVAL).

1.3 General remarks about the implementation of Probation Rules

It is possible to say that recent Spanish regulation has been created in order to implement or improve the implementation of international regulations adopted by Spain.

According to the Preamble of Organic Law 1/2015, of 30 March, amending the Penal Code, *“the suspension and replacement of imprisonment is modified, and a new system, characterized by the existence of a single system of suspension that offers alternatives, and a greater flexibility and efficiency is introduced” in order to increase the efficiency of criminal justice”.*

Two important questions have been modified in the context of the implementation of European Probation Rules. The new Penal Code establishes that the existence of a criminal record does not justify in all cases the denial of suspension. This interpretation of the principle of individualization has been included in the new regulation so that it would enable judges and courts¹ to assess whether the criminal record of the convicted are, by their nature and circumstances relevant to assess its possible harmfulness and, consequently, whether or not may be granted the benefit of the suspension.

Although the system of criminal mediation is in at an initial stage, the new Penal Code and the Law 4/2015, of April 27, on the Standing of the crime victim starts to regulate it. The new Penal Code establishes as a possible condition for the suspension the compliance with the agreement between the parties after mediation process, where legally possible. According to the Law 4/2015 the mediation process cannot pose a risk to the safety of the victim, or there is a danger that new development could cause material or moral harm to the victim².

Despite these reforms, some authors consider that Spain has to continue working on a correct implementation of EPR and to improve some of the following questions:

-No existence of a Probation Agency: According to Recommendation CM/Rec(2010)1 of the Committee of Ministers to member states on the Council of Europe Probation Rules Adopted by the Committee of Ministers on 20 January 2010 at the 1075th meeting of the Ministers' Deputies) *Probation agency: means anybody designated by law to implement the above tasks and responsibilities. Depending on the national system, the work of a probation agency may also include providing information and advice to judicial and other deciding authorities to help them reach informed and just decisions; providing guidance and support to offenders while in custody in order to prepare their release and resettlement; monitoring and assistance to persons subject to early release; restorative justice interventions; and offering assistance to victims of crime.*

-In Spain, the 'Probation system' belongs to the Spanish Penitentiary System. According to José Cid *"In my view, the lack of a competent autonomous agency of alternative sanctions requiring supervision in the community, with advisory functions judges, enforcement of sanctions and their evaluation is perhaps the most serious shortcoming and the major impediment to ensure that the Spanish penological policy suits to European criminal policy"*³.

1 In Spain, an offence can be judged by a single judge (unipersonal body) or by the court (collegiate body with several judges), depending on the competence. Normally, the sentences handed down by a penal judge, can be appealed to the Court.

2 According to the art. 15 of the Law 4/2015: "2. The discussion developed within the mediation process are confidential and may not be disseminated without the consent of both parties. Mediators and other professionals involved in the mediation procedure shall be subject to professional secrecy regarding the facts and events that were aware in the exercise of its function. 3. The victim and the offender may withdraw their consent to participate in the mediation process at any time".

3 CID, José, La política criminal europea en materia de sanciones alternativas a la prisión y la realidad española: una brecha que debe superarse (European criminal policy regarding Probation and the Spanish reality: a gap that must be overcome), Estudios Penales y Criminológicos, vol. XXX (2010). ISSN 1137-7550, pg. 82

Recent regulation has improved this situation because it has been created the Deputy Directorate General of Alternative Sentences and Measures, in charge of the management of the alternative penalties and measures and the monitoring of the conditional release. Cid considers that it would be necessary to create an independent body in charge of the following questions: *“performing pre-trial report for judges and other judicial authorities on consequences of incarceration and the possibility of imposing alternative penalty; the execution of criminal penalties in the community, such as community service...assessing the fulfilment of the purposes these sanctions, cooperation with other social agencies who are also involved in the rehabilitation process and attention to the needs of victims, including here its possible participation in the proceedings restorative justice”*.

Concerning the conditional release, after the new Penal Code, it has been regulated as a form of suspension of the execution of the rest of the sentence. Before the last penal reform, the time spent in conditional release was considered as time of enforcement of the sentence (it was the last phase of enforcement of the sentence); since the last legal reform, once the suspension of the sentence granted, the time spent in conditional release doesn't compute as “enforcement time” and if the sentenced person doesn't fulfil the conditions of the suspension (for example she or he commits a new offense), she or he comes back to the prison and takes up the enforcement of the sentence in the same point where she or he leaves off.

According to Cid: *“European recommendations state that the automatic revocation of alternative sanctions for breaches of conditions should be avoided”*⁴. Art. 8 of the Recommendation n° R (92) 17 of the Committee of Ministers to Member States concerning consistency in sentencing (Adopted by the Committee of Ministers on 19 October 1992 at the 482nd meeting of the Ministers' Deputies) establishes: *“In states where the suspended sentence of imprisonment is available, it is important to ensure that, where an offender breaches the suspended sentence, the implementation of the suspended sentence is a judicial decision which allows some discretion, in terms of full implementation, part implementation or other possibilities”*⁵.

Art. 86 of the new Penal Code allows the judge or court to revoke the suspension and order the execution of the penalty in the following cases: when the offender is convicted of an offense committed during the period of suspension and it becomes apparent that the expectation on which the suspension decision was based cannot be maintained; when the offender fails seriously or repeatedly prohibitions, duties and conditions for the suspension; and when the offender provides inaccurate or insufficient information on the whereabouts of goods or objects whose seizure had been agreed, does not comply with the commitment to pay civil responsibilities that she or he had been convicted -unless lacked the financial capacity to do so- or provide inaccurate or insufficient information about their assets.

The mandatory character of the article does not seem to allow some discretion from the judge, as the European rules requires.

4 CID José, Op. Cit, pg. 73

5 [http://www.coe.int/t/dghl/standardsetting/prisons/Recommendation%20R%20\(92\)%2017_E.pdf](http://www.coe.int/t/dghl/standardsetting/prisons/Recommendation%20R%20(92)%2017_E.pdf)

According to the article 22 of the Recommendation 2000, improving the implementation on the European rules on community sanctions and measures, the allocation of offenders to specific programmes and interventions should be guided by explicit criteria, such as their capacity to respond to the intervention, their presumed dangerousness to the public and/or to the staff responsible for the programme or intervention and the personal or social factors which are linked to the likelihood of re-offending. This means that it would be convenient to send a pre-sentence report to the judge or tribunal in order to allow them to evaluate the adoption of the measure on the basis of these criteria and in order to mitigate the risk of recidivism. In Spain, these reports are set only on an optional basis and are infrequently required for the decision on the suspension or replacement of imprisonment imposed by the judgment. In practice, this decision is based on the existence or not of criminal records rather than in the evaluation and intervention carried out on the offender.

Overall, we consider that the Spanish legislation and practice comply with the EPR. However, more reforms are necessary in order to comply more accurately with some the regulations regarding, for example, the pre-trial phase of the penal procedure (where in Spain the ‘Probation service’ has not almost participation), the support and care for victims (where the Spanish Penitentiary Administration could have more implication) or a closer involvement in the general crime prevention.

2. Historical Development of the Probation System

2.1 History from the origins to 2008

The open regime was created in Spain in order to contribute to a more effective penitentiary system which is less afflictive and stigmatizing. Initially, the open regime was inevitably linked to the progressive system, which required a progress through the different degrees of classification.

Conventionally, the conditional remission of the sentence, currently known as the conditional suspension of the implementation of the sentence has its origin in the Law of 17 March 1908⁶. Up to now the Penal Code in Spain allowed the suspension of the enforcement of the prison sentence, always under the condition of not committing a new offence during an established period of time. This measure was the only alternative to the prison that the Spanish legislation contemplated for some years. The Penitentiary system in Spain (including the ‘probation system’), was therefore centred in avoiding the relapse (the recidivism), rather than on the implementation of assistance and surveillance measures.

6 Espartero, P. (2008), “Spain”, in: van Kalmthout A.M and Durnescu I. (eds.), Probation in Europe. Wolf Legal Publishers, the Netherlands, pp. 1001-1024. Available on: http://www.cepprobation.org/uploaded_files/Spain.pdf

With the emergence of the Prison Regulations in 1968, one in 1977 and the legislative changes occurred with the entry into force of the post-constitutional prison legislation in 1979, it was enshrined the principle of Scientific individualization' which allowed the classification in third grade (open regime) since the beginning of the execution of the prison sentence⁷. Thus, according with the Spanish General Penitentiary Law of 1979, and the Prison Rules in 1981 and 1996 (*Reglamento Penitenciario, hereinafter Prison Rules*) which develop this legislation, the Spanish Penitentiary System is thus largely flexible; as seen, an inmate can be classified in a higher grade, except conditional release, without having to go through the lower grades, and he or she can be progressed to the Open Regime directly, just depending on the length of the sentence, the penitentiary situation (if he or she is recidivist or not), the time served (e.g. in pre-trial detention), his or her behaviour etc.

Concerning the conditional release, it originated in the Conditional Released Law of 23 July 1914, which established the legal concept of this institution subsequently used in the later penal codes and developed by the abovementioned Penitentiary Law of 1979. In the Spanish legislation the conditional release has been traditionally conceived as the last phase of enforcement of the sentence, as a transition between the prison and the full freedom, which occurs when the inmate fulfils some requirements, and always with the condition of not re-offending.

In 1995 the Penal Code was published. In the subsequent years it has suffered several modifications during the last years. In that moment, one of the novelties of the new penal code was the promotion of the alternatives penalties and measures. Specifically, this Penal Code introduced the community service as a penalty / punishment, and also the possibility of substitution of the custody sentences by the community service, fine or others kinds of measures (disqualifications and treatment and formative programs).

Among the legal reforms operated by the Penal Code of 1995 affecting the probation system, it's important to mention those implemented in 2003 by some Organic Laws; among them, we can highlight the Organic law 7/2003, of 30th June, about the full and effective compliance of the penalties, that introduces the 'security period' which prevents access to the third degree in the case of sentences exceeding five years of imprisonment before to have served half of the sentence⁸.

7 See García Mateos, M. P. (2004). La ejecución de la pena privativa de libertad en el medio social abierto. Memoria presentada para optar al grado de doctor (Doctoral thesis). Universidad Complutense de Madrid.

8 This condition to access to the third degree was removed of the penal Code in 2010 by the Organic Law 5/2010 (above) but is newly introduced in the Penal Code by the recent Organic Law 1/2015 of 30th March 2015.

This legal reform introduced also new limitations in the access to the conditional release imposing the obligation of satisfying the civil liability in accordance with the conditions established by the Penitentiary Law, as well as some new additional conditions in the case of terrorism and organised crime⁹.

Two of the most important Laws which have promoted and multiplied the use of the alternative penalties and measures in the last years, are the Organic Law 1/2004, of 28 December, on comprehensive protection measures against gender-based violence (hereinafter, GBV), and the Organic law 15/2007, which modified the Penal Code on road safety. The first law increased the penalty in case of domestic violence and regulated community service or domestic violence programs as sanctions. The Organic law no. 15/2007 establishes new offences against the road safety, imposes harder penalties for this kind of offences and states the use of alternative penalties and measures as the most common sanctions for this sort of felonies.

In order to organize the supervision and the implementation of the alternatives measures referred to in the Penal Code of 1995, and latter developed by the abovementioned legal reforms, in 2006 it is approved the Royal Decree 515/2005, which establishes the necessary conditions for the enforcement of community service, permanent, security measures, and for the suspension of the execution of prison sentences, allocating the functions of control and supervision of all these measures to the Penitentiary Administration through the penitentiary social services.

The prison social assistance, which provides the necessary social assistance to convicts and conditionally or definitively released persons and their families, has his historical precedents in 1908 –with the creation of the Convicts and Released Persons Trust Board (*Junta del Patronato de Reclusos y Liberados*)- and in 1968 –with the creation of ‘ Our Lady of Mercy Trust’ (*Patronato de Nuestra Señora de la Merced*). It is also developed by the Penitentiary Law of 1979, which replaced this Trust by the Social Assistance Commissions (*Comisiones de Asistencia Social*), belonging to the General Directorate of Penitentiary Institutions. These commissions are eliminated in 1995, when a new reorganization takes place ascribing the competences in social assistance matters to the Autonomous Labour and Penitentiary Assistance Organisation¹⁰, renamed today Autonomous Prison Work and Training for Employment Organisation (Sp: *Organismo Autónomo de Trabajo Penitenciario y Formación para el Empleo*), taking in charge the organization and development of labour inside the prisons, and also the professional training of the inmates in order to promote their inclusion in the labour market.

9 Also, the Organic Law 11/2003, of 29th September, provides specific measures relating to public safety, domestic violence and social integration of foreigners, among which we can highlight the reform on the rules of individualization of punishment, which punished more harshly the recidivism, and establishes, as the general rule, the substitution of the sentences of less than 6 years of imprisonment by the judicial expulsion from the Spanish territory in the case of not legally resident foreigners. Finally, the Organic Law 15/2003, of 25th November, removes the penalty of “weekend home arrest” and creates the new penalty of “permanent location”, provides for the application of the community service to a wider number of offences and misdemeanours and also provides for the substitution of the prison sentences of less than two years of imprisonment by an alternative measures, in the case of no habitual offenders.

10 See Espartero, P. (2008), op. Cit, p. 1002.

Another reorganization of the Ministry of Interior, implemented in 2004 ascribed the competences in social assistance matters to the actual named SGTGP, competences which in 2006 are ascribed, after a new reorganization, to the newly created General Vice-Directorate of Open Environment and Alternative Measures (Sp: *Subdirección General de Medio Abierto y Medidas Alternativas*)¹¹.

2.2 Recent history from 2008 to 2011

Concerning the organisation and structure of the Penitentiary Administration there were many legal modifications between 2008 and 2011¹², affecting the organisation chart of the Ministry of Interior and also the Penitentiary Administration, which became a General Secretariat (it was a General Direction before) through the Royal Decree 1181/2008¹³. These legal reforms had an important impact on the distribution of competences about Open Regime and alternative measures, which were changing of General Directorate until 2012, when the Royal Decree 400/2012, established the actual organisation chart of the Penitentiary Administration¹⁴ (below).

Regarding the Penal Code, some legal reforms performed in 2010 by the Organic Law 5/2010, affected the alternatives sentences and measures. This reform envisages the possibility of serving the community service sentence achieving an educational, formative, labour and similar workshop or program, modifies the “permanent location” (extending the length of the sentence and considering the option of serving this measure in the prison) and amends the security measures system. A legal change concerning the road safety offences reduced the use of the community service sentences for the “excessive speed offences” (see Table 3). Finally, the Organic Law 5/2010 introduced the possibility of substituting, during the enforcement, the custody sentence by the judicial expulsion, only in the case of “no legally resident” foreigners.¹⁵

These legal changes led to substantive reforms concerning the alternative sanctions, currently regulated by the Royal Decree 840/2011, which sets the circumstances for enforcing community service sentences and permanent location at penitentiary facilities, certain security measures, as well as the suspension of the enforcement of the sentences for imprisonment and substitution of sentences.

11 Currently, the above-mentioned Deputy Directorate General of Alternative Sentences and Measures, SGPMA.

12 Among these legal reforms, we can stress the Royal Decree 1181/2008, of 11 July, which amends and develops the basic structure of the Ministry of Interior, modified by the Royal Decree 331/2009, of 13 March; and the Royal Decree 1887/2011, of December 30, on the basic organizational structure of the ministerial departments.

13 which amends and develops the basic structure of the Ministry of Interior.

14 Also recently reformed by the Royal Decree 873/2014, which modifies the basic structure of the Ministry of Interior, [...] legislation in force since 14 October 2014.

15 Comas D'Argemir, M, Sánchez-Albornoz, C., Navarro, E. (2012), “Sustitución de la pena por expulsión: principio de proporcionalidad, audiencia del acusado y del penado, distintas fases procesales (artículo 89 CP)”, en Jornadas de la comisión penal de jueces para la democracia (Valencia, 17 y 18 de Diciembre de 2012), Valencia: Ciudad de la Justicia, p. 4, available on: <http://www.juecesdemocracia.es/actividades/jornadas/2012/PoneciaVa2012/SUSTITUCION%20PENAS%20POR%20EXPULSION.pdf>; and Montero Pérez de Tudela, E. (2014), “La extranjería en prisión. Las distintas medidas repatriativas en el ámbito penitenciario según la clase de extranjero”, *Diario La Ley*, nº 8394, pp. 1-8.

3 Legislative Basis of the Probation System

3.1 Legislative Basis

The Spanish 'probation service', comprises both the open regime and the alternative sentences and measures system. It is a public service belonging to the Penitentiary Administration. It is legally based on the Spanish Constitution, the Penitentiary Law, and developed by the Prison Rules, the Penal Code and the abovementioned Royal Decree 840/2011. The Royal Decree 400/2012 regulates the distribution of competences regarding this area inside the Penitentiary Administration.

The starting point is art. 25 of the Spanish Constitution, which, following the EPR (Rule 1), establishes the basis of the Spanish Penitentiary System (and therefore, the basis of the 'Spanish probation system'): *"Punishments entailing imprisonment and security measures shall be aimed at rehabilitation and social reintegration, and may not consist of forced labour. The person sentenced to prison shall enjoy during the imprisonment the fundamental rights contained in this Chapter, except those expressly limited by the terms of the sentence, the purpose of the punishment and the penal law. In any case, he or she shall be entitled to paid employment and to the appropriate Social Security benefits, as well as to access to cultural opportunities and the overall development of his or her personality"*.

According to these guidelines, and according with the EPR (Rule 8), the Penitentiary Law establishes the basis of the Spanish penitentiary system, stating a penitentiary individualized system divided into three degrees, where the third one is known as the 'open regime'. Prison Rules develop the open regime and establish several modalities of life in open environment with different levels of freedom. According to this legislation, the open regime establishments can be of different types: Social Insertion Centres -the most common establishments- and Open departments and depending units. The Social Insertion Centres are intended for the enforcement of the custody sentence in open regime, the home arrest sentences (today named 'permanent location' sentences), the implementation of the alternative sentences and measures and the follow-up of the conditional released. The open departments are ascribed functionally to a penitentiary establishment (they take part of a penitentiary centre) and they are set up to house the inmates classified in third degree. Dependent Units are residential facilities outside the prisons, managed through the collaboration of public or private entities, to facilitate the achievement of specific objectives of penitentiary treatment of inmates classified in third grade.

The conditional release is regulated by the art. 90 and following of the Penal Code. Currently, the conditional release is considered as a partial suspension of the sentence. The general conditions to get this benefit are to be classified in third degree, to have served $\frac{1}{2}$, $\frac{2}{3}$ or $\frac{3}{4}$ of the sentence (depending on the circumstances of each case) and to have a good behaviour. The implementation of the conditional release and the follow-up of the conditional released are also developed by the art. 192 to 201 of the Prison Rules. The monitoring of conditional release is done by the Social Insertion Centres, which prepare an individualised program for each inmate in order to support his/her reintegration and implement the conditions and obligations imposed by the court.

The last legal reform operated by the Penal Code has changed the suspension sentence system, extending the circumstance in which a custody sentence can be suspended, and eliminating the cases of ‘substitution of the prison sentences by alternative sentences and measures’, which become also ‘cases of suspensions of the sentence’ with an alternative measures imposed¹⁶.

The alternative sentences and measures are also regulated by the Penal Code. The community service and the fine are considered as a ‘less severe penalty’ or ‘light sentences’ depending of the length. The ‘permanent location’ (before called ‘house arrest’) is a light sentence which can last from one day to three months, and the disqualifications can be a light, less severe or severe penalty depending also of the length.

The alternative sentences and measures are regulated by the Royal Decree 840/2011 of June 17th. In this act, the community service is regulated as unpaid work for the public utility and may consist of repairing work of damage or support or assistance to the victims, as well as the participation of the convict in training or re-educational workshops or programmes. The permanent location requires the convict to remain at home or at a place fixed by the judge¹⁷. The probation measures (sp. *libertad vigilada*), known in other countries as supervised liberty, consist in the submission of the convict to a judicial control through compliance of any or some of the measures referred to in the Penal Code: the obligation to be always reachable by electronic devices that allow their permanent monitoring, the obligation to appear periodically in place that set the judge or court, the obligation to communicate immediately, within a maximum period and by the means indicated by the judge or court, each change of the place of residence or of the place or job, the obligation to participate in educational, occupational, cultural programs of sex education or other similar, the obligation to follow external medical treatment or undergo a regular medical monitoring etc. The measures can entail also prohibitions, such as: the prohibition of approaching the victim, or those of relatives or other persons determined by the judge, the prohibition of contact with the victim, or those of relatives or other persons determined by the judge, the prohibition of being in certain territories, places or establishments, the prohibition of residing in certain places and the prohibition of certain activities that may offer or provide the convict with the opportunity to commit criminal acts of a similar nature

The alternative sentences measures management services are defined by the Royal Decree 840/2011 as multidisciplinary administrative units dependent on the prison administration which are charged with the implementation of measures and alternatives to deprivation of liberty sentences. These units take part of the organisation chart of the Social Integration Centres (see Figure 2). The management of these measures is implemented by the SGPMA.

16 It is possible to suspend a custody sentence imposing an alternative penalty or measure and/or several disqualifications; see arts. 80 and following of the Penal Code.

17 However, in cases where the permanent location is provided as the principal penalty, regarding the reiteration in the commission of the offence and if established by the applicable provision, the judge may agree in ruling that the penalty of permanent location meets Saturdays, Sundays and public holidays in the prison nearest to the domicile of the convict.

According to the Royal Decree 400/2012¹⁸, the monitoring and supervision of the inmates in third degree, the coordination of the Social Integration Centres and other kinds of open centres or departments, the measures of telematic control, the design, implementation, monitoring and evaluation of intervention and treatment programs for inmates in open regime, as well as the execution of the penalty of ‘permanent location’ when enforced in a penitentiary centre, are competence of the already mentioned SGTGP. The development of the planning, coordination and management of social action (penitentiary social assistance) to the inmates and the conditional released, the management and monitoring of the alternative sentences and measures which are competence of the Penitentiary Administration, and, in particular, the management, coordination and monitoring of the community service sentences, the suspension of the execution of custody sentences, conditional release and security measures, preparing reports on these competencies required by the relevant judicial authorities, are competences of the SGPMA.

The penitentiary social assistance is regulated by the art. 74 and following of the Penitentiary Law. In order to obtain the social rehabilitation of inmates in ordinary and open regimes, the Law establishes that it may be requested the cooperation and participation of citizens and institutions. The social action (sp. *acción social*) is thus a public service provided by the different administrations but also achieved with the collaboration, cooperation and help of the public and private organisations and institutions, as the NGOs.

3.2 Mission and Mission statement

According to the above-mentioned art. 25 of the Spanish Constitution and the art. 1 of the Penitentiary Law, and also according with the EPR (Rule 1), the main objective of the Penitentiary Institutions (and the open regime) is the ‘re-education and the reinsertion of the sentenced persons’, without making any distinction between the custody sentences and the probation measures. Concerning specially the open regime, and according to the art. 83 of the Prison Rules, the main purpose of the penitentiary activity is to enhance the positive social insertion capacities of the inmates classified in third degree, implementing the support and advise task and establishing the necessary cooperation to promote the progressive incorporation into the social environment. This article mentions the means to achieve these purposes, establishing the following principles which inspire the open regime: attenuation of the control measures¹⁹, self-responsibility, social normalization and integration, prevention to prevent family and social breakdown, and coordination with all those agencies and public and private institutions involved in working with prisoners and ex-prisoners.

As established by the preamble of the Spanish Prison Rules, one of the goals of the Spanish legislation is to open the prison to society, promoting the prisoner’s contact with the outside world, with the society, and reinsertion of the inmates, through the development and promotion of the open regime. This guideline has been established by all legal reforms performed in the last years.

18 Modified recently by the Royal Decree 873/2014, which modifies the basic structure of the Ministry of Interior (in force since 14 October 2014).

19 In relation to the “close regime”; in the open regime the offenders have much more freedom and they are submitted to the minimum control measures.

The 'open regime' and the penitentiary social services have thus as the main purpose to facilitate and to promote the integration into the community, participating in the design and implementation of individualised treatment programs, working with the inmates and sentenced persons but also with their family and social environment.

3.3 Crime Prevention

The penitentiary administration works on the general and special crime prevention, specially, contributes to the reducing re-offending.

In open regime there are different programs and control measures which seek to avoid recidivism. When an inmate is placed under the open regime, the technical team implements an individualised treatment program. According to the Penitentiary Law this 'treatment' aims at turning the inmates into law-abiding citizens. To this end, efforts will be made, as far as possible, to develop in them an attitude of self-respect and individual and social responsibility towards their family, neighbours and the society in general. Thus, in the Social Insertion Centres, the technical team studies the factors which have led the person to fall down into the delinquency (criminal factors) in order to neutralize them.

There are also some programs focusing on targeted groups, like drug addicts, foreigners, women, gender based violence offenders, sex offender etc. Examples are employment programs, social integration programs, health and drug addicts programs, training and educational programs, etc.

Finally, in several penitentiary centres 'school and high school programs' for young people are also implemented; such program is a type of 'general crime prevention program' based on regular visits of the young students to the penitentiary centres (especially to the therapeutic educational units for drug addicted), in order to show them the consequences of a crime life. This initiative, ongoing since several years, has very good results in crime prevention and drug prevention.

3.4 Victim assistance

Concerning the victim, the penitentiary activity is focused on the protection and the compensation and reparation to the victims rather on its 'assistance'.

Thus, in the case of suspension of the enforcement of the sentence (total or partial) the judge can impose some measures, some of them aiming at the protection of the victims (as the prohibition of approaching the victim or those of relatives or other persons determined by the judge or court, their homes, their workplaces or other places commonly frequented by them, prohibition to communicate with them, prohibition to contact with them, obligation of residing in a specific place or prohibition of leaving certain place etc.; see art. 83 of the Penal Code). The compliance of these measures will be supervised normally by the State Security Forces (usually the National Police). The judge is competent to immediately revoke the suspension of the sentence when there is some risk for the victim.

The Penitentiary Administration, especially in the cases of gender based offences, has to coordinate its work with the State Security Forces, the Offices of Assistance to the Victims and the Gender Violence Government Delegations²⁰.

20 See the article 25 of the above-mentioned Royal Decree 840/2011.

One of the conditions for the suspension of the sentence (in order to avoid the custody sentence, or to impose an alternative sentence or measure, or to get the conditional release – today a modality of suspension of the sentence) is to have paid the civil liability or to sign an engagement in order to face up to these liabilities (art. 90 of the Penal Code).

The Penitentiary Law establishes, to this end, that the classification or progression to the third degree of treatment (open regime) requires, in addition to the requirements prescribed by the Penal Code, that the offender pays the civil liability derived from the offense, considering the effectively observed behaviour, in order to restore the stolen, to repair and to compensate the material and moral damages, adopting the necessary guarantees for ensuring, in his case, the future satisfaction (art. 72). As seen, the classification in the third degree is a required condition to access to the conditional release.

Concerning the alternative sentences measures, the victim is also taken into account. Thus, these measures can be imposed in order to protect or to compensate the victim. The community services may consist of repairing the damage or of support or assistance to victims (art. 49 of the Penal Code).

One of the novelties of the new Penal Code is to consider, as a possible condition for the suspension of the sentence, the fulfilment of an agreement between the parties after a process of mediation, where legally possible. This fact allows the victim to have an active role in the resolution of the penal process.

In April 2015, the European Framework Decision on the standing of victims was transposed into the national legislation (Law no. 4/2015). According to this law, victims will play a more active role in the criminal proceedings.

Nevertheless, as seen, the Spanish Penitentiary system is focused on the protection and the compensation of the victim, and therefore, according with the EPR (Rules 95 and 97) the ‘Spanish probation service’ should be more involved in the victim assistance and should have a larger involvement in the restorative justice process, which is, furthermore, slightly used.

3.5 Volunteers involvement

According with the EPR (especially Rule 34), approximately 765 NGOs and collaborating entities are involved in the implementation of the different program and activities developed by the Penitentiary Administration in 2014-2015. More than 6000 activities for the ‘penitentiary clients’ (in ordinary and open regime) are carried out by volunteers²¹.

Collaborating entities are all those non-governmental organizations (NGOs), associations and organizations, public and private, that develop one or more intervention programs in the penitentiary administration – close or open regime - aimed at the rehabilitation and social reintegration of inmates, the conditional released (released on parole), and the persons sentenced to alternative measures to the imprisonment. These actions of the collaborating institutions are an effective instrument to ensure social intervention in the penitentiary centers and social insertion centers established by the Spanish legislation. They are conducting a vast and valuable way, and its scope extends to the participation and collaboration of the Third Sector –aiming at the social support and assistance after release- in the formulation and development of correctional policies for social reintegration.

²¹ According with the data provided by the General Secretariat of penitentiary Institution, available on: <http://www.institucionpenitenciaria.es/web/portal/Reeducacion/entidadesColaboradoras.html>

This collaboration has been developed according to the catalog of intervention programs presented by Instruction 2/2012, in the following areas: employment, social integration activities with specific groups, health programs and drug addicts, training and educational programs, awareness programs and communication society prisons and other programs.

The collaborating entities play also an important role in the development of the alternative sentences and measures²², providing an important support in the implementation of the community service (offering all kind of jobs, works and workshop of public utility) and some program as the drugs-related treatment, implemented, in many cases, in therapeutic communities and external unities for drug addicts (depending of collaborating entities).

Also these organization collaborate actively in the accommodation and assistance of the conditional released (especially those without foster or social links, like foreigners, or with special needs like drugs-addicts or ill persons and AIDS patients). These organizations are financed through public subsidies granted by the SGPMA.

4. The organization of Probation Services

4.1 Main characteristics

The Ministry of Interior²³ is in charge of the management of the prison policy which is implemented by the Penitentiary Administration. These competences can be assumed by the Autonomous Communities, but only have been transferred to Catalonia. The basic organizational characteristic of the Spanish Penitentiary System, to which the open regime and the alternative measures belong, is a strong centralization in the planning and design of prison policies, along with a big decentralization on the execution of these services. The Penitentiary Administration is divided into technical and functional units with different administrative levels, as well as into a network of peripheral services, being made up of prisons and Social Insertion Centers.

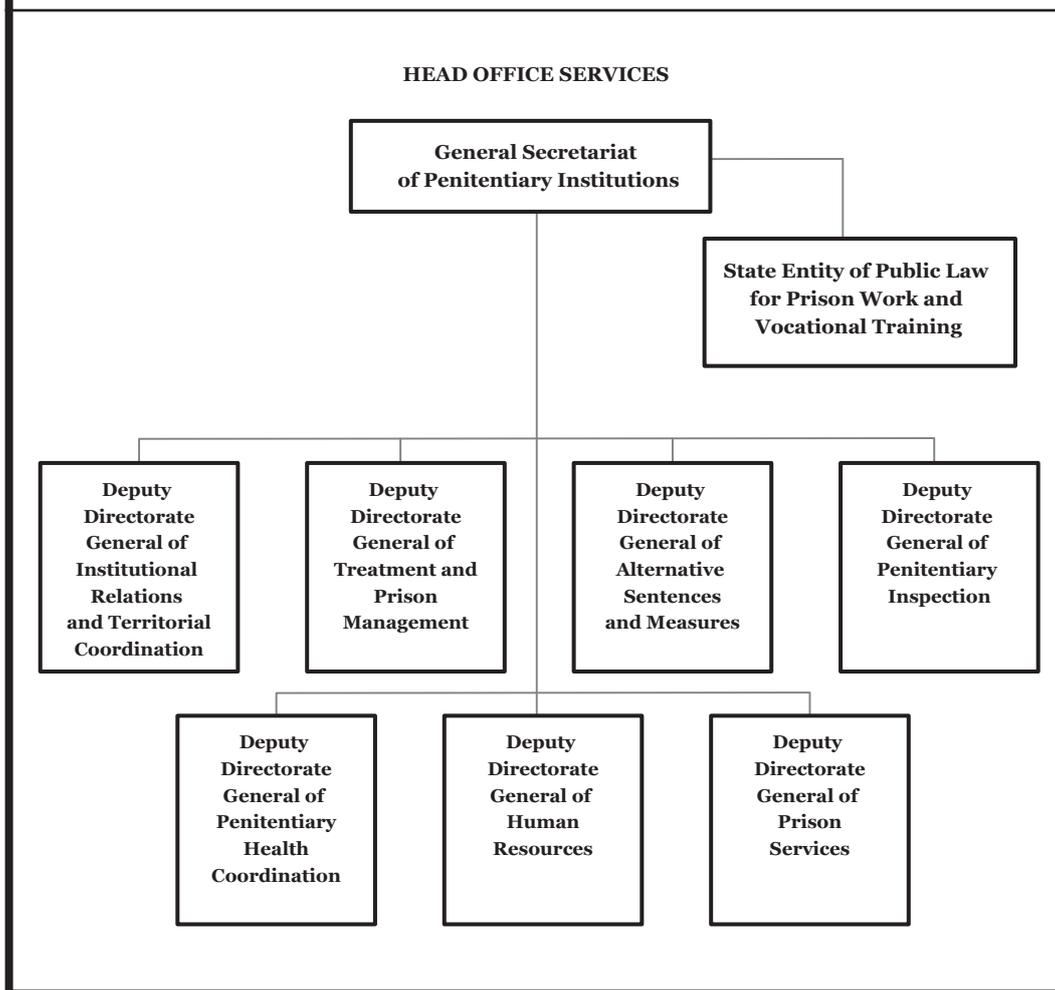
Concerning the central services, the General Secretariat of Penitentiary Institutions (the Penitentiary Administration) is composed of seven General Deputy Directorate; the 'probation system', divided in the 'open regime' and the 'alternative sentences and measures' (which include all modalities of suspension of the sentences), is the competence of two General Deputy Directorates: the implementation, organisation and supervision of the 'open regime' is the competence of the SGTGP - Deputy Directorate General of Treatment and Prison Management - and the alternatives sanctions and the conditional release are competences of SGPMA - Deputy Directorate General of Alternative Sentences and Measures.

22 Manual/handbook on suspension and substitutions of sentence for NGOs and collaborating entities available on: http://www.institucionpenitenciaria.es/web/export/sites/default/datos/descargables/estadpm/manual_suspensiones ONGS.pdf

Manual/handbook on Community Service for NGOs and collaborating entities available on: http://www.institucionpenitenciaria.es/web/export/sites/default/datos/descargables/estadpm/manual_tbc_entidades.pdf

23 From 1994 to 1996 the Ministry of Interior was unified with that of Justice. In 1996, the Popular Party won the National General elections in Spain, and the Ministry of Interior and Justice is again divided in two Ministries. Because of problems related to the terrorism, which were one of the most important in that moment, the Government decided to leave the management of the Penitentiary Institutions under the direction of the Ministry of Interior (together with the law enforcement agencies).

Figure 4.1 : The organisation-chart of the General Secretariat of Penitentiary Institutions



Source: General Secretariat of Penitentiary Institutions (2014), *The Spanish Prison System*, Ministry of Interior, p. 17²⁴.

The central services are located in Madrid. The peripheral services are disseminated across all Spain, excluding Catalonia. The General State Administration coordinates 68 regular prisons, 2 Psychiatric Centers, 32 Social Insertion Centers, 21 Open Sections, 3 Mothers Units and 14 Dependent Units. One can say that this is a modern, efficient and functional prison system based on the self-sufficiency of each penitentiary center, which conducts itself like a kind of village.

The custodial sentences imposed by the judge (in a closed environment) are served in regular prisons, until the inmates get the third degree; at that moment they are transferred to the Social Insertion Centres. Sometimes, in the cases of inmates with particular conditions and special personal circumstances, the Penitentiary Administration can authorize certain forms of execution of the sentence in an open environment, in places known as Dependent Units. These Units are, like the Social Insertion Centres, meant for the enforcement of sentences in an open environment.

24 Available on: http://www.institucionpenitenciaria.es/web/export/sites/default/datos/descargables/publicaciones/SIS_PENITENCIARIO_2014_ING_acc_2.pdf

As seen, they are residential facilities located outside of prisons in urban areas, integrated in the community, promoting the use of community resources. The main objective of these units is to complement the rehabilitation work already started in the penitentiary center, promoting personal development, responsibility and the values of coexistence. By this way, the inmates acquire and reinforce their family links and work habits. These facilities, managed, preferentially and directly, by associations and collaborating NGOs under the supervision of the Penitentiary Administration, are mainly aimed at persons without family ties and mothers with children.

The penitentiary Psychiatric Hospitals are special facilities for the execution of custodial security measures by inmates diagnosed with mental disorders. The Mothers Units are aimed at mothers with children until they are three years old, in order to allow the children live in prisons with their mothers, while they are serving their sentences.

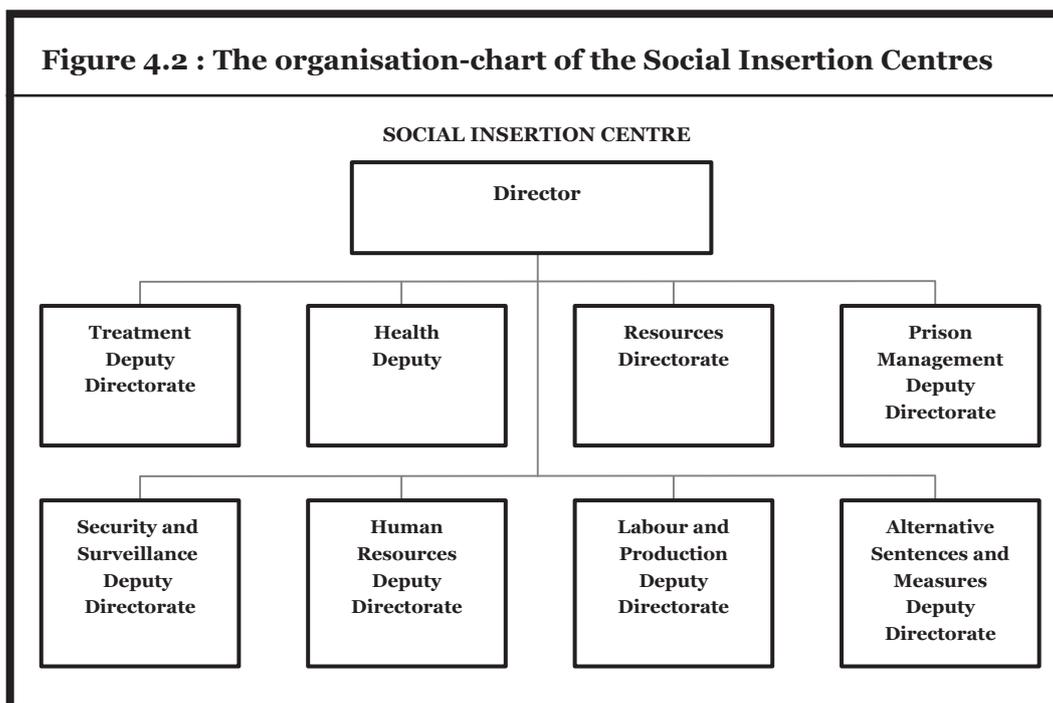
The open section, as its name indicates, are open departments which belong to the penitentiary centers (regular prison) but host inmates placed in open regime. These sections have the normal functions of a Social Insertion Centre²⁵.

The Spanish Penitentiary system has 55 administrative units of the Management Services of Alternative Sentences and Measures. These Administrative Units are in charge of the execution of penalties and alternative measures, and are dependent on a penitentiary establishment (a Social Insertion Centre) structurally and functionally.

4.2 Internal Organization

The Social Insertion Centres follows a similar organization as the penitentiary centres. Therefore, in each Social Integration Centre one can find different areas (see Figure 2): treatment, health, human resources, prison management (economic and administrative administration), security and surveillance, labour and production and alternative sentences and measures management. The last area can be found under the administrative units managed by the Social Insertion Centres but sometimes also under some administrative departments that are located in the city centres. This is mainly to make them more accessible to the clients.

25 Focusing on the regular open regime, as seen (section 1.1), the Social Insertion Centers are conceived like centers for inmates who are serving their sentence in open regime, or who are in an advanced process of reintegration. These kinds of centers manage also non-custodial alternative measures, including community service, the conditional suspension of the execution of the sentences, the monitoring of the conditional releases and the “permanent localization”. The Social Insertion Centers are usually located in urban or semi-urban areas to facilitate the reintegration into the society and to promote, in the inmates, the use of the community resources, placing them near to their families and the social networks. A lot of kind of treatments and programs are implemented in these centers. They are also equipped with telematics control systems, for controlling remotely the mobility of certain inmates (there are means available like the bracelet or anklet linked to a telephone detector, the personal locator via GPS, the alcohol ingestion analyzer with a face viewer, or the personal identification voice detectors, to control the inmates from a distance allowing, at the same time, a high level of freedom).



Source: General Secretariat of Penitentiary Institutions (2014), p. 17²⁶.

4.2.1 Probation workers

Employees working in the prison system play a crucial role in the development of the prison policy and in the implementation of rehabilitation programs for inmates²⁷.

Figure 4.3 : Prison State Employees (at 31/12/2013)

Departments	
Management	384
Treatment	1.358
Health	949
Surveillance	15.422
Administration	4.260
Civil Servants	22.373
Contract Staff	2.097
Total	24.470
Staff from the State Entity TPFE	
Civil Servants	401
Contract Staff	44
Total	445
Total Personal	24.915

Source: General Secretariat of Penitentiary Institutions (2014), p. 18²⁸.

²⁶ Op. cit. note 26.

²⁷ The Probation workers are employees of the Penitentiary Administration, since "Probation" takes part of the penitentiary system (all services, including probation and management services of alternative sentences and measures, conform the Penitentiary administration).

²⁸ Op. cit. note 26.

The activity in Social Insertion Centres is delivered by a technical team – which belongs to the treatment area of the Social Integration Centre (Treatment Deputy Directorate area) - composed by jurists (prison lawyers), psychologists, educators and social workers. This team plans and monitors the execution of the sentences in “open regime”, adapting the treatment program and the follow-up measures to each convict. Thus, in case of special offenders (foreigners, mental-ill persons, etc.), the probation officers adapt the plans according to their needs. The professionals of the Social Insertion Centres are also responsible for supervising conditional releases.

Concerning the social assistance, in every penitentiary centers (therefore, also in every Social Insertion Centres) there are Social Work Departments (sp. *Departamentos de Trabajo Social*), with a social workers team coordinated by a social work coordinator. These departments are in charge with the social intervention with the convicts. The social workers are part of the Technical team and also, are members of the Treatment Board (*Junta de Tratamiento*). The number of social workers in each penitentiary facility depends on its size (ranging from 1 to 14). The social worker focuses his work on the social assistance to inmates and their families, making technical reports and collaborating in every aspect of the treatment. They play also a fundamental role in the alternative sentences and measures units.

As described above, there are 55 units of alternative measures where different prison professionals are working on the implementation, planning and implementing alternatives sentences and measures: psychologists, pedagogics, administrative staff, social workers and other kinds of technical officers. The professionals working in these units, especially the social workers, attend the appointments with the clients, make the plan of the execution of the alternative sentences adapting it to the needs of the convict, monitoring of the sentence execution making every reports required by the competent authorities, informing them about any violation of the conditions. The treatment programs, like the gender based violence program or the above-mentioned Road Safety Program, are implemented by the psychologists.

4.2.2 Education, training requirements and opportunities

According with the EPR, there are different types of professionals working for the open regime and SGPMA. They are civil servants, state officials, admitted into public service through a special selection process. Thus, staff selection is made in accordance with the Public Employment Offer, through the public announcement of the selection examinations, guarantying the principles of equality, merit, ability and publicity. The Penitentiary Institutions have specialized staff subject to administrative contract and civil service status; “through a structure of bodies and professional categories, the system guarantee the coverage of experts in criminal law, psychology, sociology, pedagogy, medicine, nursing, social work, surveillance and custody, financial and administrative management, production workshops management, vocational training and employment guidance, among others”

(Annual report of the General Secretariat of Penitentiary Institutions, 2014, p. 19²⁹). Prison staff is completed with contract workers who develop their work in the areas of health and intervention³⁰.

Each speciality requires the appropriate qualification. Depending on the assigned tasks, a different education and training is required: high school diploma for administrative tasks, bachelors' degree for counsellors, Social Insertion Centers coordinators, heads of Social Services, etc. The social workers must hold a university degree in social work and a masters' degree is required for psychologists and penitentiary lawyers.

Once the candidates are successful in the public selection process, they have to attend an initial training program in the Penitentiary Studies School (depend of each speciality, several weeks) and after that they have at least one year of training period, normally in a penitentiary centre (prison or Social Insertion Center). New challenges and technological and treatment advances (new legislations, new treatment programs, etc.) require continuous updating of knowledge and staff training. This task is carried out by the Training Department of the Deputy Direction General of Human Resources, which has the competences for developing training programs for new staff, implementing specialization and updating courses for different professional teams and staff categories involved in the penitentiary administration, and delivering training and professional updating courses for the promotion of the staff. Every year several updating courses are delivered to probation officers³¹.

The 2015 Spanish Budget Act has assigned to training and development of the staff belonging to Penitentiary Institutions 152.550 €.

As seen, the EPR concerning the organization of probation services, staff and training (specially Rules 22 to 29), are quite closely followed by the Spanish Penitentiary system.

4.2.3 Other organizations involved in probation work

The NGOs and non-lucrative association and foundations play an important role on the implementation of the alternatives sentences and measures, especially of the community service. Following the EPR (especially Rule 12), the Penitentiary Administration has signed many collaboration agreements with several public and private organizations for the enforcement of alternative sentences, since the task of the penitentiary administration in this area is the coordination between the judicial system and the community resources. The penitentiary administration must supervise and control the execution of sentences, while organizations are in charge of providing tasks and places.

29 All annual reports of the General Secretariat of Penitentiary Institutions are available on: <http://www.institucionpenitenciaria.es/web/portal/documentos/publicaciones.html>

30 Also the Health and education services are integrated into the public standard system or network, normally managed by the Autonomous Communities.

31 Every year specialized and updating courses are delivered to educator, jurists, psychologist, heads of security services, social workers and others professionals. They are delivered in the Penitentiary Studies School, in Madrid.

In 2014, 790 ONGs were active in the Penitentiary Institutions, performing 9.293 collaborations (activities and treatment programs). Only in the open regime approximately 307 NGOs and collaborating entities have been involved during 2014.

The community services jobs will be provided by the state, regional or local administration (authority) that, to this end, shall establish appropriate agreements among themselves or with public or private entities that perform activities of public utility to submit monthly to the Prison Administration the relationship of places available in your territory. The own convict can also propose a placement on community services, in a entity (NGOs or some association) subject to the conditions for being of public interest and not remunerated. The Penitentiary Administration has a Collaboration Agreement signed with the Spanish Federation of Local and Provincial Administrations (*Federación Española de Municipios y Provincias: FEMP*), which develops an important task in the promotion and coordination with local administrations in order to provide places of work for implementing the community service sentences.

The regional or local administrations can also collaborate in the implementation of activities and programs in the open regime or alternative measures areas, or providing accommodation for the ex-convicts and conditional releases, and in some cases, the local and regional services assume also the care of certain groups of convicts and ex-convict with specific problems (addictions problems, young and old persons, foreigner etc.) in special centres, day-care centres, therapeutic communities, etc.

We must highlight the role of some organisations in the assistance of the probation service on the accommodation of convicts, the follow-up of the conditional releases and social-labour insertion for convicts placed in open regime. Thus, for the accommodations of foreigners, drug addicts, AIDs patients and ill persons, as well as some groups without housing or specific problems, the probation services cooperate with associations³² like UNAD (Union of Associations and Institutions of Care for Drug Addicts), Cruz Roja (Red Cross), Basida (for the convicts and ex-convict AIDs patients), Domus Pacis Casal de la Pau (for the assistance of ill-persons and AIDs patients), FEAPS (Spanish Confederation of Organizations for Persons with Intellectual Disabilities), Siloé, Fundación Apip-Acam (for the assistance to the conditional releases), Caritas³³ - etc. A lot of associations are just focused in the social insertion or in the labour insertion of the convicts and ex-convicts. Some of them work with specific groups of offenders like women or foreigners³⁴.

4.3 Probation and offenders abroad

The Penitentiary Law establishes a general principle of no discrimination: all inmates can enjoy all the rights recognized by the legal system, except from those rights not affected by the sentence (for example, the right to liberty or to freedom of

32 Treatment programs subsidized by the Ministry of Health, social services and equality, for the convict and ex-convict groups. Last call available on: <http://www.boe.es/boe/dias/2015/03/31/pdfs/BOE-A-2015-3501.pdf>.

33 Information available on: <http://www.caritas.es/>

34 For example, associations like “Andalucía Acoge” or some sections of the “Fundación Diagrama” are focused on the foreigners groups.

movement). According to this legislation, the penitentiary activity will be executed without any difference based on race, political opinions, religious beliefs, social status or any other circumstances of a similar nature (art. 3 of the Penitentiary Law).

There are specific provisions about foreigners in the Spanish legislation in order to meet their special needs. They all apply to both prisoners and probationers:

- the right to communicate to the appropriate diplomatic or consular authorities his entering to a penitentiary facility
- the right to organize the communications and visits in order to meet their special needs,
- to provide them of a translator or interpreter when necessary,
- to inform the foreign convicts about their rights and duties, the penitentiary center internal rules, disciplinary rules, prison regulations, the means to make petitions, to make request, complaint and appeals etc. in his tongue language,
- to plan and program the activities in the penitentiary administrations taking into account the special needs of the foreign convicts etc. Special programs for the foreigners are implemented in the ordinary and open regime.

The Prison Rules provide for the conditional release of foreigners in the original country in order to promote the real social reinsertion, establishing a control measures –in collaboration with other states and administrations and through the Spanish embassy and consulates- which allow the follow-up of the foreigner convicts from a distance. The plan of execution of the conditional released is made by the technical teams of the penitentiary administration, playing an important role the social departments of the open regime.

The special needs of the foreign nationals are also taken into account for implementing the alternative measures, since an individualized plan based on voluntary withdrawal, trust and cooperation and coordination, is made by the officer and the sentenced person.

On the other hand, the Penitentiary Administration is just partially involved in the process of transfer of foreign sentenced persons to her country of residence. Law 23/2014 implements the *Framework Decision 2008/909, on the application of the principle of mutual recognition to judgements in criminal matters imposing custodial sentences or measures involving deprivation of liberty for the purpose of their enforcement in the European Union*, in Spain, and establishes a judicial process to perform the transfer process.

The main function of the Penitentiary Administration, when the implementation of the sentence has already started or the sentenced person has been in pre-trial detention, is to inform the competent authorities about the social situation of the sentenced person in order to provide them useful information for making the assessment regarding the social reinsertion in the original country. In the same vein, the *Framework Decision 2008/947 on the application of the principle of mutual recognition to judgments and probation decisions with a view to the supervision of probation measures and alternative sanctions*, also partially implemented in Spain through the Law 23/2014, establishes a judicial procedure for taking place the supervised liberty (probation) in the case of foreigner

belonging to a EU countries, in which execution may be involved the Penitentiary Administration.

In conclusion, we can say the Spanish Penitentiary Administration follows the guidelines established by the EPR concerning foreigners and nationals abroad (Rules 63 to 64), since the penitentiary services –including “probation services”- are accessible to offenders of foreign nationality and national offenders abroad; nevertheless, the contact and support to nationals sanctioned abroad by the probation services recommended in the EPR (Rule 65) should be further developed, since nothing is established in the penitentiary legislation.

5. Different Stages of the Criminal Justice Process

5.1 Pre-trial stage

The Penitentiary administrations, especially the social workers and other probation staff, are not involved in the pre-trial stage of the criminal justice process. Departing from the principle of ‘presumption of innocence’, when a person is in pre-trial detention the penitentiary administration just ensures that the person does not suffer the consequence of the prison placing it in a separated department from the convicts and providing him or her of activities and workshop (even remunerated job). Generally, the probation system (the ‘open regime’ and the services of alternative sentences) does not play thus any role in the pre-trial stage justice process³⁵. In this respect, the Spanish probation system does not follow the recommendations of the EPR concerning the involvement of the probation services in the pre-trial stage (Rules 42 to 44), since usually there is no pre-sentence report written by the probation service.

5.2 Enforcement stage

There are several ways of getting the probation services in Spain. Offenders can be sentenced directly to an alternative measure, like the community services, or a treatment program etc. In this case, the person will be supervised by the Service of alternatives sentences and measures (the administrative units ascribed to a Social Insertion Center). In addition, offenders may be sentenced to a custodial sentence. The execution of this sentence can be suspended from the beginning (total suspension of the enforcement of the sentences), or during the enforcement of the sentence (partial suspension of the sentences, known as the conditional release). In the case of total suspension of the custody sentence, the suspension can be accompanied by control measures, which in many cases are supervised by the Penitentiary Administration. In the case of total suspension of the custody sentence by the imposition of an alternative sentences or measure (community services, treatment program etc.) the management service of the alternative sentences and measure (belonging to the Penitentiary Administration) becomes responsible for implementing this sentence. In the case of partial suspension of the custody sentence, this is, the conditional release, the penitentiary administration, through the social

35 Only in very exceptional cases the competent authorities require information or rapport about the people placed in pre-trial detention, but this is not regulated by the Spanish legislation. There is just one reference in the art. 184 of the Prison Rules about the possibility of requiring a rapport by the competent authority in the case of people place in pre-trail detention in a Penitentiary Psychiatric hospitals.

services of the Social Integration Centre is responsible for supervising conditionally released inmates.

Articles 80 and following of the Penal Code regulate the suspension of the sentences. The suspension can be granted by the judge or the court when the custody sentence is not exceeding two years and it is reasonable to consider that the execution of the sentences is not necessary for avoiding the future commission of new offences. The judges must take into account the circumstances of the crime, the personal circumstances of the offender, the criminal records, his/her behaviour after the criminal facts, particularly his/her effort in order to repair the damage, the family and social circumstances, and the expected effects/ or results of the suspension of the sentences and of the compliance of the imposed measures. Usually the suspension is awarded for first-time offenders³⁶, when the length of the sentence is not more than two years and the convicted person has paid the civil liability³⁷.

Exceptionally the judge or the court can also granted the suspension of the execution of the sentences longer than two years, when personal circumstances of the offender, the nature of the facts, his/her behaviour and, in particular, the effort made in order to repair the damage caused to the victim, make this decision advisable. In this case, the suspension will take place under some conditions, in all cases the effective restitution or compensation for the damage caused to the victim/s according to his/her physical and economic opportunities, and, if that is the case, the compliance with the agreement reached by the parties through mediation, the payment of the fine determined by the judge or the performance of a community services.

The judge or the court will also grant the suspension of the sentences, without any condition, when the convict is suffering from a serious illness with incurable symptoms, unless at the time of the crime, he/she had got already another suspended sentence for the same reason.

Finally, the judge or the court may order the suspension of the execution of imprisonment sentences not exceeding five years for the convicts who had committed the crime because of their addiction. In such cases, the suspension can be conditioned to the participation in a drug treatment program.

In the case of offences which can be only prosecuted upon complaint by the victim, the judge or the court will hear the victim before granting the benefits of the suspension of execution of sentence.

The period of suspension shall be two to five years if the imprisonment is not exceeding two years, and from three months to one year for minor penalties; this period will be fixed by the judge or the court taking into account the circumstances of each case. In the case of suspensions of sentences not exceeding 5 years (as seen, for the drug-addicts cases), the suspension period will be three to five years.

36 The judge will take into account the relevant criminal records, leaving aside the light sentences or the offences that, for its nature and its circumstances, are irrelevant in assessing the likelihood of committing future crimes.

37 If the convict person cannot pay the civil liability, this condition will be considered fulfilled when the offender sign a payment commitment in order to satisfy his economics responsibilities according to their economic capacity.

The judge or the court may make the suspension dependent on the fulfilment of the following prohibitions and duties when it is necessary to avoid the risk of committing new offences (art. 83 of the Penal Code):

1. Prohibition of approaching the victim or those of relatives or other persons determined by the judge or Tribunal, their homes, their workplaces or other places usually frequented by them, or communicating with them by any means.
2. Prohibition of contact with certain persons or members of a particular group, if there are indications that allow a reasonable expectation that such subjects can provide the opportunity to commit new crimes or incite to.
3. To keep the place of residence in a particular place, forbidden to leave or temporarily absent without authorization of the court or tribunal place.
4. Prohibition to reside in a particular place or come to it, when they can find the occasion or reason to commit new crimes.
5. To personally appear with periodicity to be determined before the judge or court, police premises or in the Administration to be determined, to report his/her activities and justify them.
6. To participate in educational, occupational, cultural, education road programs , or in programs on sexual behaviour, defence of the environment, protection of animals, equal treatment and non-discrimination, or any other program of that type..
7. Prohibition to drive motor vehicles that do not have technological devices that can determine or check the physical conditions of the drivers behaviour, when the subject has been convicted for a traffic offence and the measure is necessary to prevent the possible commission of new crimes.
8. To comply with other duties which the judge or the court consider appropriate for the social rehabilitation of the offender, provided that they do not violate their personal dignity.

In the case of crimes committed against a woman who is or has been the spouse of the offender, even without living together, the judge or the court always imposes prohibitions and duties stated in the 1st, 4th and 6th of the above conditions.

The imposition of any of the prohibitions or duties mentioned in article 83 , paragraph 1, under 1, 2, 3, or 4 shall be communicated to the Forces and Bodies of State Security, that shall ensure their implementation. Any possible breach or circumstances relevant for assessing the dangerousness of the offender and the possibility of committing new crimes, shall be immediately communicated to the public prosecutor's office and to the judge or the court. The control of the fulfilment of the duties referred to in the same article 1 , under 6, 7and 8 corresponds to alternative penalties and measures management services of the prison administration. These services shall report to the judge or the court on compliance with a periodicity of at least quarterly, in the case of the rules, 6th and 8th, and bi-annually, in the case of the 7th and, in any case, to its conclusion.

Also the judge or the court can make the suspension of the enforcement of the sentence dependent on the following conditions: compliance with the agreement reached by the parties through mediation, payment of the fine determined by the judge or the court and the performance of work for the benefit of the community (a community service).

Concerning the conditional release, once considered the last phase of the enforcement of the custody sentence, today it is regulated as a 'suspension of the execution of the

sentence' The general conditions for the conditional release are: to be classified in third penitentiary degree, to have served three quarters of the custody sentence and to have a good behaviour. The judges will take into account the same circumstances as in the others cases of the suspension as referred above. It is necessary to have paid the civil liability or to sign a payment commitment in order to satisfy this responsibility. In case of very good behaviour (when the convict has developed continuously labor, cultural and occupational activities) the conditional release can be given after the two thirds of the sentence has been served³⁸. The new regulation of this figure -of July 2015- provides for the possibility of getting the conditional release after half of the sentence for a convict serving his first custody sentences of no more than 3 years of imprisonment and he fulfils the others general conditions (to be in third degree, to have a good conduct and also, in this case, to develop continuously labour, cultural and occupational activities).

The legislation provides for special cases like the old persons (being older 70 years old) and convicts suffering from serious illness, the possibility of the conditional release with less or without conditions. There are also specifics provisions for the cases of offenders belonging to criminal organisation or sentenced for especially serious crimes, where the judge can impose stricter and harder conditions³⁹.

According to the Prison Rules (art. 200), in order to supervise the conditional release, the offender will be allocated to the penitentiary centre or the Social Integration Centre nearest to their domicile. The supervision of the conditional released prisoners is carried out by the penitentiary social services of the centre where the inmate is allocated, according to the guidelines established by the treatment board. To this end, the treatment board will draw up an individualised program to implement the monitoring of the conditional release, they will be enforced by the social services. The Penitentiary Surveillance Judge (sp. *Juez de Vigilancia Penitenciaria*) is the competent authority to grant the conditional release⁴⁰ and this authority can impose one or several 'rules of conduct' (sp. *reglas de conducta*). These rules of conduct are, on one side, the prohibitions and duties that can be imposed in the cases of total suspension of the sentence (above-mentioned), and on the other side, according with art. 195 of the Prison Rules - on the proceeding of granting conditional release - some of the rules referred in art 105 of the Penal Code which regulates the no-custodial security measures These are: supervised freedom, family custody, deprivation of the right to possess and carry weapons and deprivation of the right to drive motor vehicles and motorcycles.

The rules, prohibitions and duties, imposed by the Penitentiary Surveillance Judge for the follow-up plan of the conditional release, have to be taken into account in the individualised program of the convict. The penitentiary social services will perform all rapports required by the competent authorities concerning the conditional released. The alternative sentences to imprisonment can be imposed directly, as a sentence, or in the case of suspension of the enforcement of a custody sentence (like a substitution

38 Even before when the inmate has an exceptional behavior, after the half of the sentence and calculated on the two thirds of the sentences, it's possible to bring forward the data of the conditional release 90 days for each year effectively served of the sentence.

39 See art. 90 and followings of the Penal Code. There are also specifics provisions for the "revisable permanent prison sentence", a kind of "revisable life imprisonment" which has been introduced in the Spanish Legislation though the above-mentioned Organic law 1/2015.

40 See art 76 of the Penitentiary Law, which establishes the competences of the Penitentiary Surveillance Judge; among them, we find the granting of the conditional release.

of the custody sentence). These alternative sentences are regulated by the Penal Code, where all penalties – custody sentences, disqualifications and alternative sentences and measures - are divided into three levels: severe penalties, less severe penalties and light sentences. Among the ‘less severe penalties’ we find - leaving aside the disqualifications like the prohibition of approaching of the victim or the deprivation of the right to drive motor vehicles etc. - the (day) fine of more than three months, the proportional fine (whatever its amount), and the Community Service from 31 days to one year. Among the ‘light penalties’ we find the (day) fine until three months, the ‘permanent location’ from one day to three months (which can be executed in other places than a prison, f. ex. at home, like the before regulated house arrest).

Concerning the pardon, Spanish Constitution forbids general amnesties (Art. 62). The Act of 18 June 1870, established the rules for the exercise of pardon: the individual pardons are a gracious measure granted to sentenced convicts by the King. The Ministry of Justice has to make the formal proposal after a previous deliberation of the Cabinet of Ministers. This benefit is requested by the convict, or anyone on his behalf. The Prison Rules foresee the granting of individual pardon as a penitentiary benefit for certain convicts (art. 206), when the inmate has had a good conduct, has performed a normal work activity, either in the establishment or outside, that can be considered useful in his preparation for life in freedom and who has participated in the activities of rehabilitation and social reintegration, during a minimum period of time of two years, continuously. In these cases, the Treatment Board makes a formal petition to the penitentiary surveillance judge, which will make the processing of the individual pardon, if appropriate.

Normally, when the convict (or his lawyer) asks for an individual pardon directly to the sentencing court, without the prior intervention of the Penitentiary Administration, the Court requests from the penitentiary centre (regular prison or Social Integration Centre) a rapport about the behaviour of the sentenced person. Finally, in the case of mentally-illness, or different pathologies, disabilities etc. the author of the offence will not be held criminally responsible for the offence, or he will be partially considered as responsible. For these cases the Penal Code establishes the possibility to apply a security measure.

The security measures, regulated by the Penal Code (art. 95 and followings) can be custodial and non-custodial. The custodial measures are the detention in psychiatric facility, the internment in a centre for the treatment of addictions and the placement in special education centre. The non-custodial measures are the professional disqualification, the expulsion from the country (for foreigners not legally residing in Spain), the supervised freedom, the family custody (which is the competence of the Penitentiary Surveillance Judge and who can request the collaboration of the Penitentiary Administration, through the penitentiary social departments), the deprivation of the right to drive motor vehicles and mopeds and the deprivation of the right to possess and carry weapons.

The Royal Decree 840/2011 of June 17th (art. 20 and followings) establishes that the Penitentiary administration is competent for implementing the custody security measures when they take place in a penitentiary psychiatric unit or penitentiary psychiatric establishment⁴¹ and for the supervised freedom when it is imposed following a security measure.

41 As seen in the section 4.1, the Spanish Penitentiary Administration counts with two Penitentiary Psychiatric Hospitals.

Table 1. Sanctioning system and probation involvement in the enforcement stage

Sanctions/ Measures/ Penalties/ Conditions attached to a conditional sentence	Provided in your legislation?	Is Probation Service involved?	Main characteristics of the probation activity.
Imprisonment	X	X	Implementation, supervision, coordination, reporting, referral, help & support activities.
Suspended sentence	X	X (the penitentiary administration make the follow-up of some of the conditions which can be imposed)	Implementation and supervision of some of the conditions imposed by the judge.
Conditional sentence	X	X	Design and implementation of the follow-up plan, supervision, reporting, referral, help & support activities.
Affidamento in prova	X	According with the measures above- mentioned, this measure can be implemented in the Spanish Penitentiary System. But is not regulated as such.	As seen, the judge can impose alternatively to the prison the fulfilment of some kinds of measures, among which we find the duty of appearing in person with the frequency determined by the judge, before the court, police stations or administration service designed, to report their activities and justify them. Thus, it's possible to be compelled to visit the penitentiary social services during the suspension period. In these cases, the main activity would be the supervision and follow-up of the convicted, and reporting to the court some incidence.

Sanctions/ Measures/ Penalties/ Conditions attached to a conditional sentence	Provided in your legislation?	Is Probation Service involved?	Main characteristics of the probation activity.
House arrest	X (now called “permanent location”	X (the Peniten- tiary admin- istration only make the im- plementation of the “permanent location” when its enforcement takes place in a penitentiary institution -reg- ular prison or CIS-).	Implementation, planning, supervision, reporting, help & support. Competence assigned to the SGTGP, implement in a regular prison or in a CIS.
Electronic monitoring	x	X	Implementation, supervision, coordination with others involved entities or agencies, reporting, help & support.
Community service as sanction	x	x	Planning, supervision, coordination with the collaborating entities and NGOs, reporting, help & support.
Semi-liberty	x	X (it is a modality of the open regime)	Planning, supervision, coordination, reporting, referral, help & support..
Semi-detention Which the difference with the semi-liberty?	X –the same that the semi- liberty	x	Supervision, coordination, reporting, referral, help & support..
Treatment order	x	x	Implementation, by the own penitentiary institution or through the collaboration which others entities, and supervision, reporting, help & support.
Training/learning order	x	x	Implementation, by the own penitentiary institution or through the collaboration which others entities, supervision, reporting, help&support.

Sanctions/ Measures/ Penalties/ Conditions attached to a conditional sentence	Provided in your legislation?	Is Probation Service involved?	Main characteristics of the probation activity.
Drug/alcohol treatment program	x	x	Implementation, by the own penitentiary institution or through the collaboration with other entities, supervision, reporting, help&support.
Educational measures	x	x	Implementation, by the own penitentiary institution or through the collaboration with other entities, supervision, reporting, help&support.
Compensation to the victim (economically)	x	X –Normally it is paid directly to the bank account provided by the court. But when the convict is enforcing a custody sentence the penitentiary administration promote and supervise the payment of the civil liability.	As seen, the payment of the civil liability is a condition for getting a lot of kinds of alternative to the closed prison: the suspension of the sentence, the third degree and the conditional release. The non-payment of the civil liability remains a reason for refusing these benefits. The penitentiary administration take into account if the convict has paid this responsibility, informing the convict, promoting the payment and supervising it (normally through the social departments, which verify the payment through the bank receipts provided by the convict), also, reporting to the competent authorities and providing help & support.
Mediation	x	no	no
Attending a day centre	x	x	Through the collaboration with other collaborating entities, planning, supervision, reporting, help&support.

Sanctions/ Measures/ Penalties/ Conditions attached to a conditional sentence	Provided in your legislation?	Is Probation Service involved?	Main characteristics of the probation activity.
Interdiction to leave the country	X (art. 83 of the Penal Code, monitored by the Forces and Bodies of State Security)	X (only participation when imposed by the judge as condition for the conditional release)	As seen, the follow-up of the conditional releases is made by the penitentiary social services, if this measure is imposed at this end, in this case the penitentiary social services are involved in the supervision, monitoring, reporting and referral to the judge.
Interdiction to enter different cities/ places	X (art. 83 of the Penal Code, monitored by the Forces and Bodies of State Security)	X (only participation when imposed by the judge as condition for the conditional release)	As seen, the follow-up of the conditional releases is made by the penitentiary social services, if this measure is imposed at this end, in this case the penitentiary social services are involved in the supervision, monitoring, reporting and referral to the judge.
Interdiction to carry out different activities	X (art. 83 of the Penal Code, monitored by the Forces and Bodies of State Security)	X (only participation when imposed by the judge as condition for the conditional release)	As seen, the follow-up of the conditional releases is made by the penitentiary social services, if this measure is imposed at this end, in this case the penitentiary social services are involved in the supervision, monitoring, reporting and referral to the judge.
Interdiction to contact certain persons	X (art. 83 of the Penal Code , monitored by the Forces and Bodies of State Security)	X (only participation when imposed by the judge as condition for the conditional release)	As seen, the follow-up of the conditional releases is made by the penitentiary social services, if this measure is imposed at this end, in this case the penitentiary social services are involved in the supervision, monitoring, reporting and referral to the judge.

Sanctions/ Measures/ Penalties/ Conditions attached to a conditional sentence	Provided in your legislation?	Is Probation Service involved?	Main characteristics of the probation activity.
Fine	x	NO	Information and help to the convict, if he is serving another sentence (alternative or custody sentence) being implemented by the Penitentiary Administration.
Day fine	x	NO	Information and help to the convict, if he is serving another sentence (alternative or custody sentence) being implemented by the Penitentiary Administration.
Other financial penalties	x	NO	Information and help to the convict, if he is serving another sentence (alternative or custody sentence) being implemented by the Penitentiary Administration.
In/out patient order (psychiatric treatment)	x	X	Supervision, coordination, reporting, referral, help&support.
Security measures	x	X (only in the case of custody security measures, see above)	Supervision, coordination, reporting, referral, help&support. Art 20 and following of the Royas Decree 840/2011.
Combined order	no	no	
Community punishment	no	no	
Conditional release / Parole	x	x	Proposal, supervision, coordination, reporting, referral, help & support..
Automatic release	no		
Open prison	x	x	Implementation, supervision, coordination, reporting, referral, help & support.

Sanctions/ Measures/ Penalties/ Conditions attached to a conditional sentence	Provided in your legislation?	Is Probation Service involved?	Main characteristics of the probation activity.
Penitentiary program outside the prison	x	x	Supervision, planning, implementation or coordination with other collaborating entities to implement the program, coordination with external resources, reporting, referral, help & support..
Other sanctions/ measures etc. Please name and describe them.	X Art.83.7 of the Penal Code (above). Telematic control of the motor vehicle.	X Task assigned to the Penitentiary Administration by the Penal Code	Supervision, control, coordination, reporting, referral, help & support. Art.83.7 of the Penal Code: Prohibition to drive motor vehicles that do not have technological devices that determine its on or check of the physical conditions of the driver operation, when the subject has been convicted for an offence against the road safety and the measure is necessary to prevent the possible Commission of new crimes.

Table 2. Other probation activities in the enforcement stage

<p>Providing support to the families of the offenders/detainees</p>	<p>Yes, art. 74 of the Penitentiary Law.</p> <p>The Ministry of Justice, through the Commission for Social Welfare Agency under the General Directorate of penitentiary institutions, whose structure and functions shall be determined in the organic regulations of the Department, will provide inmates, conditional or definitive freed and some relatives and other social assistance.</p> <p>Article 2 of the Prison Rules. Purpose of the prison activity. <i>Prison activity is primary aimed at re-education and social rehabilitation of the sentenced to punishment and custodial safety measures of freedom, as well as the retention and custody of detainees, prisoners and convicts and welfare of inmates released and their families.</i></p> <p>Article 228 of the Prison Rules.</p> <p>The prison administration will promote the coordination of prison social services with public social assistance networks and foster access of the classified in third grade and the final and conditional released convicts and their families the incomes of inclusion established by the different autonomous communities, as well as other social services and performance of public administrations. 227-229, Chapter 2, title 9)</p>
<p>Coordinating volunteer prison visitors</p>	<p>Yes. (see. 3.5 and 4.2.3., above mentioned)</p>
<p>Preparing offenders for (conditional) release</p>	<p>Yes, this is the main objective for the penitentiary Institution since the beginning. As seen until here, the individualized treatment programs, the leaves permits, and a lot of kinds of activities and contacts with the outside, are just focused on the preparation for the life in freedom.</p>
<p>Preparing prisoners for home leave and/or providing support during home leave</p>	<p>Yes. Though the treatment programs (the Penitentiary Administration comprises even a special program for preparing the inmates for the first leave permits).</p>
<p>Providing support to persons that have been pardoned or amnestied</p>	<p>Depends on if he has served his sentence or not, if he has completed worth privative of freedom (in regime regular or open) will have the same benefits, aid and possible follow-up to others. If does not have contact with the prison administration, not.</p>
<p>Providing advisory report with respect to amnesty or pardon</p>	<p>Yes, in the proceeding of granting the pardon the penitentiary administration is required by the judge or the court for providing a report about the conduct (or behaviour) of the convict.</p>
<p>Other tasks that are not included here. Please add to this list and explain.</p>	

5.3 Care and after-care outside the criminal justice system

Spanish system provides for post-penitentiary assistance. The Penitentiary Law (art. 73, 74 and 75) establishes the obligation of the Penitentiary Administration of providing social assistance for the inmates, conditionally or definitively released persons and their families, instituting the Social Assistance Commission to this end. Art. 227 of the Prison Rules and following establish the objectives of the 'Penitentiary social action', which provides fully assistance (help and support) addressed to the convict and releases (ex-convict) and the families of both. The main task of the social action is to resolve the problems arising from the imprisonment.

The penitentiary administration have to promote the coordination between the penitentiary social services with the public resources of social assistance in order to facilitate the access of the inmates and releases and their families to the public social networks, including the access to the public aid subsidies and grants. In this regard, there are some kinds of financial supports and contributions envisaged for the convicts without economical means; the Penitentiary Administration must in these cases facilitate the necessary financial resources to the inmate to get his residence and support the first expenses (art. 30 of the Prison Rules)⁴².

In the case of mentally ill persons, the penitentiary administration will request the necessary collaboration to the other public administrations with competences in the psychiatry area, with the main objective of ensuring the continuation of the psychiatric treatment of the inmate after release (art.185 of the Prison Rules).

As seen, in this regard, Spanish Penitentiary Administration takes partially charge of the care of offenders after the implementation of the sentence, but only during the first period following the release. Beyond these initial provisions, probation agencies do not continue to offer aftercare services to ex-offenders, contrary to the recommendations established in the EPR (Rule 62).

6. Probation Methodology

Although the features of Probation Service in Spain are quite peculiar, its compliance with the European Probation Rules is quite high.

A person can be allocated to open regime after being sentenced to imprisonment, as follows:

- Before the implementation of the sentence:
 - when there is a suspension of the execution of the sentence but the judge has imposed some measure that belongs to the competence of the Penitentiary Administration.

42 The Penitentiary Administration facilitates the necessary financial resources to the convict to get his residence by public transport (bus, train etc.) and, when necessary, in private transport. Also, the administration provides the convict with food or financial resources at this end (depending of the place of the residence). The social worker department helps and supports the convict for requesting the public allowances (public subsidies) before the end of the sentence, in order to prevent the convict has financial means, and work in order to ensure the convict has a place for living (the social workers contact long time in advance with the convict's family and relatives -partner, friends..- or search with the convict an adequate place for being housed) and working (the social workers can derivate any person to a one of the labor insertions program).

- when he/she has to serve an alternative sentence (e. g. to follow a treatment program, to perform a community service etc.): he must appear before the competent penitentiary services.
- From the beginning of the implementation of the sentence: when he/she is directly classified in third degree because the offender fulfils some criteria.
- During the implementation of the sentence: when he is progressed to the third degree based on his/her good evolution and behaviour.

Thus, when the inmate serving a custody sentence is classified in the third penitentiary degree he is placed normally in a Social Integration Centre -a penitentiary centre of 'open regime'-, where a technical team composed by a jurist, a psychologist, an educator and a social worker are going to study his case.

According with the EPR (66 to 71), the technical team will make an individualised treatment program, a plan to prepare the inmate for his/her life in freedom, taking into account the factors which have led to offending. The first step for all professionals is to have an interview with the inmate, in order to know him, to identify his needs, problems, preferences etc. and to stimulate the inmate to be involved in his own treatment program. Since the 'treatment' in the penitentiary system is voluntary, the convict has to consent to the treatment program proposed by the technical team and is willing to participate in the planning of this program. An assessment of the behaviour and evolution of each inmate is made by the technical team periodically, and the treatment board revises all cases every six months. These evaluations are implemented through the periodical interviews with the inmate and through the results of the programs and activities executed by the inmate. All resolutions of the Treatment Board are notified to the inmate and he is aware about his treatment program and his evolution at any time.

Following the EPR (72 to 75) the same methodology is used when the convict is sentenced to an alternative sanction or measure (below). As seen, a multidisciplinary team establishes a work plan, agreed with the offender, based on an initial assessment, setting out the interventions to be implemented. The work plan will be revised periodically and, in any case when necessary.

Electronic monitoring or the telematic control can be used for those in the third degree. This technology offers a good option of controlling remotely the mobility of prisoners. The electronic bracelet or anklet linked to a telephone detector and the personal locator via GPS, combined with others kinds of telematics control measures as the alcohol intake analyzer with a face viewer, or the personal identification voice detectors, allow a safe control of the inmates from a distance. These electronic monitoring systems can also provide movement restrictions when appropriate, depending on each individual case, to support social integration and public safety. The conditions, rules and ways for implementing this modality of third degree and all kind of possible restrictions will be provided for in the above-mentioned individualized treatment program proposed by the technical team.

As established in the EPR (76 to 80) there are important programs promoting the re-education and social reinsertion, as well as the desistance: The Penitentiary Administration offer different programs for the people placed in the open regime,

where the diversity of the population requires to adapt the interventions and to develop specific treatment programs which can respond to outstanding problems in an open environment. Since the main goal is to integrate and facilitate the full participation in a normalised family, social and work life, in the open regime we find different programs with this purpose, as:

- Employment Programs (occupational and employment training, occupational workshop, career counselling, job search techniques, etc.).
- Social integration programs (personal and legal advice, care for people with physical and/ or sensory disabilities, socio-educational care for children, mediation programs, family support, preparation for life in freedom program, approach to community resources, etc.).
- Programs aimed at specific groups (foreigners, ethnic groups, women, children living in prisons and Units of Mothers, young and old people, violence against women and domestic environment programs, sex offenders programs, addiction programs -gambling, cyber addiction etc.).
- Mental health and drug addiction programs, including alcohol abuse.
- Training and educational programs (training programs in languages - as Spanish language for foreigners, promoting reading, writing workshop, study techniques, information technology, environmental education, health and road, occupational activities, etc. - cultural programs – as cinema, theatre, music, exhibitions, conferences, cultural outings, etc-, sports programs - recreational sports (football, basketball, etc.), competitive sport (federated sport championships), training and sports motivation (sports schools), relaxation / meditation (yoga, zen, tai-chi, meditation, etc.)-, programs with fun activities, entertainment and leisure time).
- Other kinds of programs, as education in values and social life, coexistence in religious and popular festivals, etc.
- Intervention Programs: the various criminal typologies require intervention programs to be developed by the SGPMA -through their own resources or though the community external resource -.

The most common treatment programs implemented by the service of alternative sentences and measures (as alternative sanctions) are:

- Drug addiction programs
- Programs Alcoholism
- Mental Health Programs
- Training / employment programs
- Programs to control sexual assault
- Domestic violence programs
- Filio-parental violence programs (for intervention in cases of violence between parents and children)
- Road safety workshop.

It is important to mention different workshops like: “TASEVAL”, on sensibilization and awareness on road safety (for crimes against traffic safety), “PRIA”, specific program for intervention in gender violence offenders, and SEX OFFENDER PROGRAM, for sexual crimes. Two new programs have been started in the recent years: ‘Prosocial Thinking Program’ for different crimes, aiming at respecting the

rules of coexistence and Road Safety Program, for more serious traffic crimes.

As seen, these programs and activities could not be achieved without a close coordination and cooperation with all agencies and public and private institutions (NGOs, associations and collaborators) which work in the reintegration area. The main areas of intervention are: health area, education and job training. The evaluations, opinion and suggestions made by the professional of the collaborating entities are also taken into account in order to assess the evolution of the inmate (since they are transmitted to the professionals of the Penitentiary Administration, normally, those of the Social Insertion Centres).

One of the most important alternative sentences is Community Service. As seen (1.2, above), these jobs for the benefit of the community are a disqualification (deprivation of right), and their enforcement requires the consent of the sentenced person; the condemned to 'work for the benefit of the community' must pay his penalty through an unpaid job, implementing certain activities of public utility. The community service is a complementary activity which does not replace jobs or compete with the labour market. In addition, this kind of penalty has also a restorative, punitive and integrative purpose. They may include repairs on damage, or work in support and assistance to victims; or in the participation of the sentenced person in workshops or training and re-education, labour, cultural, traffic, sexual education and similar programs.

To this end, Article 49 of the Penal Code, under the legal reform operated by The Organic Law 5/2010 authorizes the execution of the sentence of community service through the participation of the sentenced person in workshops, or training or rehabilitation programs, including the driver education program, i.e. the aforementioned TASEVAL.

Thus, the management services of alternative sentences and measures of the place where the convict has his/her residence, once the judicial order establishing the conditions of the enforcement of the community service has been received, starts the proceeding to implement the alternative sentence, always following the European standards, as outlined below.

The community service placement will be provided by the state, regional or local authority, which, in order to fulfil this purpose, may establish appropriate agreements among themselves or with public or private entities which develop activities of public utility. Every month these authorities send to the Penitentiary Administration the catalogue of available places in each territory, which will monitor their actions and will provide the support and assistance necessary for the efficient development of the community services, through SGPMA. The sentenced person can propose a concrete work as community service that will be assessed by the Penitentiary Administration and brought to the attention of Penitentiary Surveillance Judge.

Along the same lines as the EPR (especially Rules 81 to 86) professionals of the SGPMA will interview the sentenced person, informing him/her about the available places, the task of each work, the timetable, etc. or studying with the convict the work proposed by him/her, in order to assess if it accomplishes the conditions to be

considered as community service. If advisable, attending the specific characteristic of the offence or to the person, the professionals of the SGPMA can propose to the convict to accomplish the community service through a formative, cultural, educative or labor program or workshop. In the citation to the convict, the SGPMA will warn him about the consequences of the failure to appear, and if it happens, the SGPMA will bring this circumstance to the attention of the competent authority. After the assessment, the professionals of the SGPMA, in collaboration with the convict and taking into account his needs and personal, familiar, social and labor circumstances will elaborate the 'execution plan', which will be sent to the Penitentiary Surveillance Judge. The execution of these alternative sentences are governed by the principle of 'flexibility' in order to facilitate the normal development of the daily activities carried out by the convict (to comply with the familial, work and other kind of obligations). During the enforcement of this sentence the convict is insured, ascribed to the General Social Security System, which covers all kind of risks derived of the work. Periodical evaluations take place during the plan execution and the convict is informed about each evaluation. Once the implementation of the plan has finished, management service of alternative sentences and measures will make a final evaluation, submitting a final report to the surveillance penitentiary judge and the sentencing judicial authority.

On the other hand, the SGPMA is also in charge of the suspension of the enforcement of the custody sentences. The process will be similar to the community service procedure. Once the judicial order containing the conditions of the suspension (the measures imposed by the judges) is received by SGPMA, an individualized plan of execution will be made, taking into account the needs, circumstances and the opinion of the convict. This execution plan will be sent to the judicial competent authority to implement the enforcement of the measures imposed. Through the coordination with the public and private entities collaborating with the penitentiary administration, the execution plan will be sent to the corresponding services or centers in order to start and implement the treatment or program established for the convict. During the suspension period the SGPMA will make the follow up and the control of the execution plan. The SGPMA will inform to the judicial competent authority about all issues related to the sentenced person behavior. When the personal circumstances of the convict change, or in case of some breach or failure, the SGPMA will also communicate this information to the competent authority in order to change or adapt the execution plan, or, to revoke the suspension of the custody sentence. Once the inmate is in third degree and fulfils the condition required to benefit from the conditional release, the Treatment Board of the penitentiary center (regular center, or, usually, a Social Insertion Centre) propose to the Penitentiary Surveillance Judge the conditional release of the convict. The conditional release file of each inmate must contain a report concerning the good behavior of the inmate, an individualized program of conditional release -adapted to the particular situation of the convict - a housing commitment⁴³ -verified by the social workers department - as well as a residence - fixed domicile where the released will be during the conditional release- and some kind of job -or the financial resources with which the released

43 The conditional released should be hosted by some person or entity: family, partners, friends or some associations, NGOs or entities which take in charge the hostage of the conditional releases, as it's the case, for example, of some foreigners without social ties. Sometime, the own conditional released can ensure his hostage, if he has a domicile, financial resources etc.

counts to face the habitual expenses-. The informed consent of the inmate, accepting the control and custody by the penitentiary social services, is also part of the conditional release file.

The Treatment Board can propose to the Penitentiary Surveillance Judge the control and follow-up measures that are considered as appropriate on a case-by-case basis, for example, to visit the penitentiary social services regularly, with the frequency considered appropriate, to be subjected to drug-test every few days, follow a specific treatment program, telematics control, etc. Thus, the Penitentiary Surveillance Judge grants the conditional release establishing some rules of conduct that the inmate must follow. In case of non-compliance the judge may revoke the conditional release.

According to the Prison Rules, the social work departments of each penitentiary center are responsible for supervising conditional release, monitoring the rules and measures imposed by the judge. As seen, the frequency of the visits depends of each case. Normally, the conditional released visits regularly the penitentiary social services of the penitentiary center (regular centre o Social Insertion Centre) to which he or she is allocated. The social workers are in contact with the inmate and also with the convict's families, contacting and interviewing them when necessary. The incidents happening during the conditional release must be brought to the attention of the Penitentiary Surveillance Judge, either to revoke the conditional release, or to change the conditional release plan.

On the other hand, and following the EPR concerning the enforcement and compliance of the alternative measures (85 to 87) and those related to the recording, information and confidentiality (88 to 92), the SGPMA carries out several kind of activities in order to monitor the rules of conduct imposed by the judge in case of suspension of the enforcement of the sentence and in order to implement the alternative penalties or measures. Also, this Service implements the conditional release –though the penitentiary social services. The convict has to follow the instructions received by the judge, by the professional of the SGPMA and the guidelines of the entity providing the public utility work during the enforcement of the 'execution plan'. The public administration or private entity that undertakes the public interest activities facilitating the work of the convict, will inform periodically the SGPMA about the activity delivered by the convict and the relevant incidents. Some incidents or changes in the circumstances of the convict will be taken into account by the professionals of the SGPMA, in order to change or adapt the execution plan to the new circumstances or interests of the convict. As seen before, once the community service is finalized, the SGPMA elaborates a final report for the Penitentiary Surveillance Judge and the competent authority for the execution (the judge or the court).

The penitentiary administration will record all information related to the alternative measures, and, when necessary, will provide to the judicial and fiscal authorities and law schools such information, always respecting the Protection Data Legislation.

It is therefore remarkable that this system is based on an individual study of the personality, psychology, conditions and familial, social and educational characteristics of each convict. All kinds of measures implemented in the open regime

and the alternative sentences services are developed and implemented taking into account the opinion of the inmate and in accordance with his/her needs, preferences and circumstances. Finally, just to add that the treatment programs referred in this section can be implemented individually or in a group. As seen before (in the section 4.2.1, above) the professional working in the penitentiary institutions, especially in open regime are trained in order to conduct the interviews and work with the inmates. Training courses are organized at the beginning of career but also periodically (e.g. social skills, resolution of conflict, prosocial thinking etc.⁴⁴).

7. Finances, Accounting, Registration Systems and Evaluation Procedures

7.1 Finances

All the institutions belonging to the Spanish public administration are financed by the General State Budget, which is managed by the Ministry of Finance. This financing is fully public and is divided by the different segments of the General Administration of the State. The open regime and the management service of alternative sentences and measures described in this chapter are financed within the General Directorate of Penitentiary Institutions annual budget. The total budget for the General Directorate in 2015 was 1.124.663.950 €. The budget allocated to human resources was of 812.609.370 €. There is no difference between the two different budget concepts of open regime and alternative measures management and closed environment management.

7.2 Accounting

Only in the chapter IV, concerning the prison expenses (called ‘current transfers’), some special budget lines can be identified. Indeed, NGOs and private organizations that provide aid to conditionally released persons and mothers in prison and that are involved in the enforcement of non-custodial measures, sentence suspension and community services are entitled to be paid from the General Directorate of Penitentiary Institutions annual budget. To give some examples:

- Societies, public entrepreneurial entities, foundations and other public bodies (which collaborate with the education and the training of the inmates)..... 12.581.520 €.
- Local Institution..... 611.000 €
- Families and non-profit organisations 2.645.820 €, among them:
 - Transfer to Episcopal commission 309.500€
 - For inmates, families and released attentions 664.000 €
 - AIDS patients, kids social integration, Gender violence programs, and others 302.350 €
- To the Spanish municipalities and province federation in favor of community and weekend penalties 6.000 €
- Awards concerning imprisonment research 2.250 €

44 Depend on the courses offered each year by the Penitentiary Study Center and the Trade Unions, which offer also all kind of courses -*properly homologated and certified* in accordance with applicable national and international terms- for its affiliates.

- To the persons who have been sentenced to the community service⁴⁵ 1.286.770 €
- Cost related to the religious assistant to inmates belonging to minority religion..... 3.930 €
- To the Red Cross for the fulfilment of the community service works...43.820 €
- To Spanish Caritas to facilitate the implementation of programs with non-custodial sentences 27.200 €

The accounting of economic resources for open environment and the management service of alternatives sentences and measures is the same as the accounting of the rest of the public administration services.

Depending on the authority which executes the control over the finances, there are two different approaches:

- Internal: Control executed by ‘The General Intervention of the State’ (*Intervención General del Estado*), a specialized entity belonging to the public administration and focused on the compliance with the legality and efficiency.
- External: Control executed by an entity which does not belong to the controlled authority. The main Spanish body focused on the external control is ‘The Court of Auditor’ (*Tribunal de Cuentas*).

7.3 Registration Systems and Evaluation Procedures

The Penitentiary Administration has a registration system – IT system called ‘Penitentiary computer system’ (sp. *Sistema Informático Penitenciario*, hereinafter SIP) - which includes all data about the inmates at national level⁴⁶. The registration starts from the moment the convict has the first contact with the penitentiary services (when the inmate enters in a penitentiary center).

This national database ensures the collection of personal and criminal information (sentences, civil liabilities, court orders, offences, etc.), as well as all information about the allocation of the resources used during the enforcement of the sentence. In all penitentiary centers (open or ordinary centers) there are administrative departments which are responsible for registration of all data concerning each inmate. The SIP provides several monthly reports, statistical information, individual and general reports etc. All kind of information can be extracted from the SIP, even individuals reports of each inmates containing all information – penal, procedural and penitentiary - in PDF, excel and word format.

This database is for internal managerial use but is also used for research. This system provides actual information about the prison population at national level but is also useful to organize and design the penitentiary policies. The General Secretariat publishes every year an annual general report on the Penitentiary Administration (sp. *Informe General de la Administración Penitenciaria*)

45 The community service is no remunerated; this budget is for covering different types of costs for the people who has been sentenced to this kind of penalty.

46 Only Catalonia has a different IT system, because is the only Autonomous Community executing the penitentiary competences.

containing all data about all services, including the ‘open environment’ and the alternative sentences and measures⁴⁷.

On the other hand there is a different IT system for managing the alternative sentences called SISPE-A, available in all penitentiary centers, where is registered all information concerning the alternative sentences and measures. It is a national database also. All information about each inmate and about each sentence is collected, in a very comprehensive way. Important information like the existence of restraining orders or approach ban certain places are also registered in the IT systems, allowing a good assessment of the possible risks in the case of leave exits, programmed exits etc.⁴⁸. Through the analysis of all these information we can assess the evolution and the functioning of the SGPMA. This database has thus a lot of uses, like the SIP. The information of the SISPE is also reflected in the annual general report of the Penitentiary Administration, which shows a very good evolution and proliferation of the alternative measures (see section 10, below). Using the data collected by the penitentiaries systems the SGPMA published in 2010 a research study about the profile of community services sentenced, available in the Penitentiary Administration site web⁴⁹.

The registration of all data in the SIP and in the SISPE-A is obligatory.

There are also, but rather for internal managerial use, a guide and database with all collaborating entities and NGO working in the open environment, as well as all programs implemented by them, managed and updated by the SGTGP.

Also, the Penitentiary Central Observatory (*Central Penitenciaria de Observación*, art. 70 of the Penitentiary Law), which belongs to the Penitentiary Administration is responsible for providing support to the technical teams of the penitentiary centers and has also a research task, in order to study and test some issues related with the prison population. Relevant information is published in the Penitentiary Administration web site⁵⁰.

The Penitentiary Administration publishes also annually a Penitentiary Journal (*Revista de Estudios Penitenciarios*) with all research and articles concerning this issues. In 2011 a handbook about the interventions in ‘Open regime’ has been published by the SGIIPP⁵¹.

47 Available on: <http://www.institucionpenitenciaria.es/web/portal/documentos/publicaciones.html>

48 When there is a restraining order –normally in the case of GBV- the Penitentiary Administration communicate to the police the eventual exits of the convict, where the convict is going to go and others information important for the protection of the victim. The Penitentiary Administration has at this end access to the IT System “Biogen”, the network manages *comprehensively* all GBV cases at national level.

49 Available on: http://www.iipp.es/web/portal/datos/descargables/estadpm/Estudio_TBC___SGPMA_2010.pdf

50 Available on: <http://www.institucionpenitenciaria.es/web/portal/documentos/publicaciones.html>

51 Available on: http://www.institucionpenitenciaria.es/web/export/sites/default/datos/descargables/publicaciones/Intervencxn_Medio_Abierto_PDF_accesible.pdf

In 2012 a recidivism research has been carried out showing a recidivism rate of approximately 31%⁵².

The information of these databases is protected by the Protection data Law (sp. *Ley de protección de datos*), so, can be used (in addition to internal managerial use) for statistical purposes, by others Public Administration for the research but only with previous authorisation of the Penitentiary Administration and fulfilling the conditions established by the Protection data Law. This database is only accessible for Penitentiary Institutions. The offenders have not access to the database, but they can request the information about their case (anyway, all kind of administrative and judicial resolution are notified to the inmate, who has always actual information about his case).

8. Societal Support and Clients' Views

In line with the EPR (especially 17, 106, 107 y 108) the Penitentiary Administration informs regularly the media and the general public about all issues related with the penitentiary activity, on its Official Website: <http://www.institucionpenitenciaria.es>. In this web page, we can find also the news concerning the prison activity. The press office publishes often press releases concerning the Penitentiary Institutions, in the Medias and in the Official Website. Everyone can get access to all general information concerning Penitentiary Institutions, since on the Website of Penitentiary Institutions is published all statistical data, addresses and organisation of each penitentiary centres, goals and objectives of the Penitentiary Administration, treatment programs and activities in close and open regime, all issues related to the functioning of the alternative sentences and measures, all information about and for collaborations entities, all contacts of the central and peripheral services, all researches and publications in this area, etc. This website is publicly accessible.

As showed above, the Penitentiary Administration publishes also annually a General Report with all data concerning each area of the General Secretariat, which analyses the prison population, its evolution, the alternative sentences and measures, the open regime etc. The reports are publicly accessible and can be downloaded on the following page : <http://www.institucionpenitenciaria.es/web/portal/documentos/publicaciones.html> . In this web page one can also find all other reports published by the Penitentiary Administration, relevant documentation, publications and significant researches on this topic.

52 This research examines the recidivism understood as re-imprisonment rate. The study analyzes the general recidivism (when the offender comes back to prison for a new offence of any kind) and the specific recidivism (when the offender comes back to the prison for the same type of offence), on a sample of 811 people of 33 penitentiary centers from all over Spain. It was a retrospective study, therefore the reference period was 40 years, from 1970 to 2009 (practically, all life of studied subjects). The general recidivism was of 31%, the specific recidivism varies according to the type of offence. . Research available on: http://www.institucionpenitenciaria.es/web/export/sites/default/datos/descargables/publicaciones/Evaluacixn_del_Riesgo_de_reincidencia_delictiva_acc.pdf

Concerning particularly the alternative measures and sentences (suspensions of the sentences, conditional release, etc.) all data are available on: <http://www.institucionpenitenciaria.es/web/portal/PenasyMedidasAlternativas>, where we can find specific and wide information about the Community services, for all users, both collaborating entities as probation's clients (see <http://www.institucionpenitenciaria.es/web/portal/PenasyMedidasAlternativas/tbc.html>).

It is not possible to have access to the data on the client views, but there is system that allows suspects and offenders to express their opinion about the probation. This system is organised by the so called 'Charter of Services 2015-2018'. According to it, the offender has the right to propose an activity or task as alternative measure (e.g. he/she can suggest a community service in a specific place) for implementing his/her sentence, this proposal will be evaluated by the Penitentiary Administration. The most important advance consists on the possibility of submitting complaints and suggestions to the SGPMA, that will be evaluated by the department involved. Within 20 days, the department has to respond and inform about the action has taken regarding the question. If it doesn't happen, the offender has the right to inform the Penitentiary General Inspection that has to explain the absence of response and establish the measures to adopt. Of course, the Probation activity, as part of the penitentiary activity, is always under the supervision of the courts and ombudsmen⁵³. All these mechanisms are in line with the EPR concerning the complaint procedures (see in particular EPR from 99 to 103). This Charter of Services represents a quality insurance mechanism, a connecting link between the offender and the Administration that ensures the right of the offender to be heard. It contains important quality commitments such as: 1. to ensure that the summonses for interviews will be conducted no later than two months from the receipt of the judicial resolution, 2. to ensure that interviews be held no later than two months from the summon, 3. in case of community services: its implementation will begin no later than two months from the interview with the convict and to keep the number of spaces at least one place for every three or four inmates per year. It also regulates indicators of quality of services, such as number and percentage of the interviews held within the standard period, percentage of sentences initiated within the standard period, percentage of compliance etc. ⁵⁴.

9. Probation Clients' Rights

The rights of the people placed in the 'open regime' are the same as for the whole prison population, since the open environment and the close environment belong to the Penitentiary Administration and are regulated by the same law.

Thus, the Spanish Constitution, in its Article 25.2, establishes that a person sentenced to prison shall enjoy during the imprisonment the fundamental rights contained in the Chapter about 'Fundamental rights and civil liberties', except those expressly limited by the terms of the sentence, the purpose of the punishment and the penal law. In any case, he or she shall be entitled to paid employment and to the

53 In Spain there are regional and national ombudsmen. Therefore, an offender can appeal to the ombudsman of his/her autonomous community and to the national ombudsman.

54 http://www.institucionpenitenciaria.es/web/export/sites/default/datos/descargables/publicaciones/Carta_Servicios_SGPMA__definitivo_acc.pdf

appropriate social security benefits, as well as to access to cultural opportunities and the overall development of his or her personality.”

According with the Penitentiary Law (art. 1), the Penitentiary Administration is responsible for providing assistance and care to prisoners and conditionally released persons. Art. 3 of the Penitentiary Law establishes the rights of the convicts: “The penitentiary activity shall be exercised respecting, in any case, the human personality of inmates and their rights and legal interests that are not affected by the sentence, without distinction whatsoever on grounds of race, political opinions, religious beliefs, social status or any other circumstance of a similar nature”. Therefore:

1. Inmates shall be able to exercise their civil, political, social, economic and cultural rights, including the right to vote, unless they are incompatible with the object of their detention or the execution of the sentence.
2. Measures shall be taken to ensure that inmates and their families retain their entitlement to social security benefits, acquired before entering prison.
3. Under no circumstances shall inmates be prevented from continuing the procedures that were pending at the time of their imprisonment and from initiating new lawsuits.
4. The Prison Administration shall safeguard inmates’ life, integrity and health.
5. Inmates have the right to be called by their own name.”

In addition art. 6 of the Penitentiary Law states that “no inmate shall be subjected to ill treatment by word or deed”.

This rights are described also by the Prison Rules, which establishes the following rights (art. 4)⁵⁵:

- The right for their life, integrity and health to be safeguarded by the Penitentiary Administration, without being, under any circumstances, subject to torture, ill-treatment by word or deed, or to unnecessary severity in the implementation of rules.
- The right to dignity and privacy to be preserved, without prejudice to the measures that have to be taken for an ordered life within prison. In this sense, they are entitled to be designated by their name and to have their circumstances kept from third parties.
- The right to exercise civil, political, social, economic and cultural rights, except when they were incompatible with their arrest and the execution of the sentence.
- The freedom of religion and worship is ensured by agreements signed with the main religions.

55 Concerning the foreigner, as seen (section 4.3), there are specific provisions about them in the Spanish legislation in order to meet the special needs for the foreigners: the right of the foreign inmates to be communicated to the appropriate diplomatic or consular authorities his entering to prison, to organize the communications and visits in order to meet the special needs of the foreigner inmates, providing them of a translator or interpreter when necessary, to inform the foreign convicts about their rights and duties, the penitentiary center internal rules, disciplinary rules, prison regulations, the means to make petitions, to make request, complaint and appeals etc. in his tongue language, to plan and program the activities in the penitentiary administrations taking into account the special needs of the foreign inmates etc.

- The right to a penitentiary treatment and to the adequate programmed measures to ensure its success.
- The right to keep the communications with the exterior that the law contemplates⁵⁶.
- The right to paid employment, within the existing availability of the Penitentiary Administration.
- The right to access and enjoy the public subsidies that may apply, including the unemployment benefit derived from prison labor contributions.
- The right to the penitentiary benefits provided by the law (as the advancement of the conditional release or individual pardon).
- The right to participate in prison activities.
- The right to make requests and submit complaints to the prison authorities, judicial organs, Ombudsman and Public Prosecutor, as well as to contact relevant authorities and to use the necessary means for defending their rights and interests.
- The right to receive updated personal information about their procedural and penitentiary situation”.

All inmates in open and close regime can make an appeal to the Penitentiary Surveillance Judge, who has to deal with complaints from inmates. This judge attends all kind of suggestions, complaints and appeals of the inmates. The Penitentiary Law reinforces thus the control of the prison activity by the Judge, establishing the Penitentiary Surveillance Judge as the competent authority for the resolution of any issues that may emerge in the field of criminal execution, this is, the control of the execution of sentences and the protection of the rights of the people placed in a Penitentiary Institution. There is also a Public Prosecutor assigned to the ‘Penitentiary Surveillance’, who is responsible for the defense of legality in criminal execution and the protection of the rights of citizens and the public interest.

Also the Ombudsman ensures and guarantees the fundamental rights of people entrusted to the Penitentiary Institution, being also the High Commissioner of Parliament for the protection of fundamental rights and civil liberties in the Administration. The Ombudsman exercises control of the prison activity, ex officio or upon request, when some person affected by the penitentiary activity makes a complaint. The Ombudsman has access to the prisons, can conduct interviews, request reports and documents, and the Penitentiary Administration is legally obliged to cooperate and assist him or her.

⁵⁶ These may take the form of:

- Oral, telephone or video-conference communications, complying in any case with the required conditions.
- Personal communications, with the partner or family.

According to the Charter of Services described by paragraph 8, the clients of probation system, and in the context of the community service measures, will have the following rights⁵⁷:

- The assigned public utility task may not affect the human dignity.
- He/she may propose an activity / concrete task (to be implemented as community service job) to be valued by the Penitentiary Administration (by the SGPMA).
- The task (to be implemented as the community service) will be facilitated by the (national, regional or local) government.
- The sentenced person shall enjoy the protection provided by the penitentiary legislation on social security.
- The assignment will not make an economic profit.

10. Developments to be expected

10.1 Developments in coming years

In recent years the ‘open environment’ has had a high-growth, especially in the area of alternative sentences and measures. As seen above (section 2) the last years all legal reforms pointed to a proliferation of the open environment and alternative measures to the close prison. The new legal reform modifying the Penal Code operated by the Organic Law 1/2015 (above mentioned) extends the cases of suspension of the sentences and develops new possibilities of conditional release. Analyzing the last General Annual Report of the Penitentiary Administration of 2014⁵⁸, one can observe an increase from December 2008 from 6.513 offenders in open environment to 7.572 offenders in December 2014. That is an increase of 1059 persons.

The actual objective of the SGTGP is to promote and develop the community sanctions and measures sector, to increase the number of people in third degree, especially, the third degree with telematics control. Currently, nearly 30% of people in third degree are under telematics control.

Concerning the collaboration of the NGOs and other collaborating entities in open regime, the last years has shown an increase of the number of collaborations of these entities, of the number of program developed by them in the open environment, of the number of activities and interventions, and also, an growth of the number of intervention in the health area with the drug-addicted. Following the trend, it suggests that in the next years there will be also a proliferation of this kind of collaborations.

57 http://www.institucionpenitenciaria.es/web/export/sites/default/datos/descargables/publicaciones/Carta_Servicios_SGPMA__definitivo_acc.pdf

58 The last report available. See on: http://www.institucionpenitenciaria.es/web/export/sites/default/datos/descargables/publicaciones/Informe_General_2014_def_acc.pdf

According with the Centres Amortization and Creation Plan⁵⁹ (sp. Plan de Amortización y Creación de Centros) in the recent years new Social Integration Centres has been opened, having today in total in Spain 32 Social Integration Centres. The tendency to promote the open environment can suggest that in the following years new establishments of this type and new management units of alternatives sentences and measures will be opened.

Concerning the alternative measures, the data provided by the SGIIPP shows a huge development of this kind of measures (Table 3).

Table 3. Evolution of the alternative measures since 2000

Stock de Mandamientos de Medidas Alternativas desde 2000 (a 31 de diciembre)	
2000	812
2001	1.027
2002	1.049
2003	1.068
2004	2.304
2005 ¹	8.143
2006	16.929
2007	28.578
2008 ²	60.405
2009	185.476
2010 ³	234.935
2011	181.128
2012	148.284
2013	160.804
2014	144.479

Source: Information provided by the General Annual Report of 2014/Penitentiary Administration.

59 The Penitentiary Centers Amortization and Creation Plan, launched in 1991, aims at closing and the reuse of old penitentiary centers, as well as the establishment of more modern facilities (new centers) adapted to the new penitentiary needs. One of its objectives was the establishment of Social Integration Centers for inmates classified in 3rd degree, close to the urban centers, in order to promote the social inclusion.

table 1 On 28 January 2005, entered into force of the organic law 1/2004 of 28 December on measures of Integral Protection against gender-based violence.

table 2 On December 2 entered into force law 15/2007 of 30 November, amending the organic law 10/1995 of 23 November, of the criminal code in the area of road safety.

table 3 Law 5/2010 of 22 June, amending the organic law 10/1995 of 23 November, of the criminal code. Among other innovations affecting penalties and alternative measures, and in particular to the punishment of offences relating to road safety, is regulated by its article 379.1 fine of six to twelve months as one of the three alternatives that the judicial authority can impose on the offender of this criminal type (speeding offences) and not as a penalty added to work in benefit of the community - as it was up to the reform-. This circumstance has meant a remarkable drop in the volume of judgments to manage from that date.

Particularity, the community services sentences increased from 1 in 1996 to 124.18 in 2014, and the suspension and substitutions of the prison sentences increased from 114 in 2000 to 20.061 in 2014.

Concerning the treatment programs, an important development of new intervention programs by the SGPMA is foreseen. As seen, this Management Services is focused in the execution of alternative measures. While under the alternative sentence, the offender is expected to carry out some psycho-educational activities. The GBV and road safe offences are the ones which generate the highest number of these programs. The professionals belonging to SGPMA have specialized in working with these kinds of convicts in the last 10 years. However, progressively, the judges are imposing – as alternative measure to the prison or condition for the suspension of the sentence- the implementation of treatment programs about psycho-educational intervention in other kind of offences, such as sexual, related with child pornography, environmental, animal abuse and involving domestic violence. Therefore, it has been necessary to elaborate new intervention proposals for professional of SGPMA to have right guidelines in order to respond to these needs. SGPMA has organized 5 working groups in order to elaborate new intervention programs. The members of these groups are mainly psychologists of the Penitentiary Institution, members of collaborating entities and professionals belonging to the Deputy Directorate General (SGPMA). The programs in the process of being implemented are:

1. **Domestic Violence**
2. **Child pornography on internet**
3. **Prosocial program / Crime prevention:** A prevention program focused in the most common criminal factors such as solving problem, social abilities, empathy, etc.
4. **Sexual offenders and child molester**
5. **Road Safety program, called PROSEVAL:** This is an awareness program in the field of road safety which is aimed for those convicts with community service sentence lower than 60 days.

In conclusion, the European Probation Rules are widely followed by the Spanish Penitentiary System, which tend to the enlargement of the alternative measures and community ways to serve the sentences, paying special attention in the safeguard of the convict's rights, individualised attention and individualised planning of the enforcement of the sentence, professionalization of the prison staff and implementation of new technologies and new treatment programs. The European legislation has a strong influence on the Spanish legislation, since the last legal reform of the Penal Code is based, among others reasons, on the need of implementing several European Directives and Framework Decisions⁶⁰.

Finally, in December 2014, it was published in Spain the Law 23/2014, on mutual recognition of penal judgement in the European Union, which incorporate several Framework Decisions (and some European Directives) related with this subject to the Spanish legal System, among which we can highlight the Framework Decision 2008/909, on the application of the principle of mutual recognition to judgements in criminal matters imposing custodial sentences or measures involving deprivation of liberty for the purpose of their enforcement in the European Union, and the Framework Decision 2008/947 on the application of the principle of mutual recognition to judgments and probation decisions with a view to the supervision of probation measures and alternative sanctions.

10.2 Implementation of EU Framework Decision 947

Framework Decision 947 has been implemented in Spain by Law 23/2014, of 20 November, on Mutual Recognition of Criminal Judgments in the European Union (hereinafter, Mutual Recognition Law), from article 96 to 108 (Title IV). In general terms, its content fulfils the requirement established by the Commission in the Report from the Commission to the European Parliament and the Council on the implementation by the Member States of the Framework Decisions 2008/909/JHA, 2008/947/JHA and 2009/829/JHA on the mutual recognition of judicial decisions on custodial sentences or measures involving deprivation of liberty, on probation decisions and alternative sanctions and on supervision measures as an alternative to provisional detention:

60 COUNCIL FRAMEWORK DECISION 2008/913/JHA of 28 November 2008 on combating certain forms and expressions of racism and xenophobia by means of criminal law ; DIRECTIVE 2009/52/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 18 June 2009 providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals DIRECTIVE 2011/92/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography, and replacing Council Framework Decision 2004/68/JHA, DIRECTIVE 2011/36/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA, DIRECTIVE 2013/40/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 12 August 2013 on attacks against information systems and replacing Council Framework Decision 2005/222/JHA, DIRECTIVE 2014/42/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 3 April 2014 on the freezing and confiscation of instrumentalities and proceeds of crime in the European Union; **Council Directive 2002/90/EC of 28 November 2002 defining the facilitation of unauthorised entry, transit and residence** It also introduces the possibility of including profiles of convicted in the DNA database, to comply with the requirements of the Council of Europe Convention for the protection of children against exploitation and sexual, made abuse in Lanzarote on 25 October 2007 and are incorporated into our standard-setting criminal behaviours described in the Convention of the Council of Europe of 28 April 2014 on counterfeiting of medical products and other similar crimes that pose a threat to public health.

- i. Competent authorities: According to article 95, it is necessary to distinguish between:
 - A. Spain as the issuing State; the judge or tribunal in charge of the enforcement of the sentence is competent: In the case of young offenders (under 18) the competent authority is the Juvenile Court (sp. Juez de Menores) or the Central Juvenile Court (sp. Juez Central de Menores: there is just one) for certain types of crimes (as terrorism or drug trafficking offences related to organized crime). In the case of adult offenders, the competent authority varies depending on the circumstances: the Penitentiary Surveillance Judge with jurisdiction on the prison centre, Criminal Courts (sp. Juzgados de lo Penal), Criminal Chamber of the Provincial Courts (sp. Secciones Penales de las Audiencias Provinciales: 90); Mixed Divisions of the Provincial Courts (sp. Secciones Mixtas de las Audiencias Provinciales: 44), among others.
 - B. As the executing State, the competent courts for recognition of criminal judgments are the Central Juvenile Court or the Central Criminal Court depending on the age of the offender at the time of the crime.
- ii. Principle of mutual trust: according to article 104.1 in the case that the measure contained in the resolution of probation, for its duration or nature, is incompatible with the legal Spanish system the Central Criminal Court will adapt it. The adaptation may not aggravate or extend the measure imposed in the issuing State. As the Commission establishes in its Report: “It is important to find the right balance between respect of the sentence originally imposed and the legal traditions of Member States so that conflicts that could adversely affect the functioning of the Framework Decisions do not arise”.
- iii. Spanish grounds for non-recognition and non-enforcement are broadly the same as those established by article 11 of the FD (articles 32, 33 and 105 of the Mutual Recognition Law). Despite this, as the Commission has emphasized in its report, the Spanish law seems to establish in certain cases a mandatory refusal for the Court and not just an option, depending on the case.
- iv. It’s important to mention that the Spanish law has not reproduced the article 6.6. of the FD. 947: *“If the competent authority of the executing State is not known to the competent authority of the issuing State, the latter shall make all necessary inquiries, including via the contact points of the European Judicial Network created by Council Joint Action 98/428/JHA (1), in order to obtain the information from the executing State”*e.

11. Important Publications

CID, J. (2010), *La política criminal europea en materia de sanciones alternativas a la prisión y la realidad española: una brecha que debe superarse (European criminal policy regarding Probation and the Spanish reality: a gap that must be overcome)*, Estudios Penales y Criminológicos, vol. XXX (2010), Santiago de Compostela.

This paper discusses whether the Spanish penal system respects the principles of the European policy on alternatives to prison. The starting point is that harmonisation among European penal systems should be based on the principles of the European policy because this is a human rights matter. The paper presents the two main principles of the European policy: using prison as a last resort and having an effective system of alternative sanctions to deal with offenders. Then the paper proceeds showing the gap between those principles and the Spanish penal system and makes proposals to amend these failures.

CANO PAÑOS, M. Á., (2014), *Las medidas alternativas a la pena de prisión en el ámbito del derecho comparado, Probation in comparative law*, Revista Internacional de Doctrina y Jurisprudencia.

Given the ongoing criticism that since decades undergo imprisonment, especially concerning the short prison sentences, there are few proposals which mainly aim to provide punitive solutions outside the prison environment. In the context of comparative law, there are several mechanisms that even have a consolidated legal support in recent years. The aim of this paper is to present a number of alternatives to imprisonment contained in the German, Austrian and Swiss criminal law, paying particular attention to the suspension of prisons sentences, community service and diversion programs.

GONZÁLEZ TASCÓN, M. M., (2013), *Estudio teórico y práctico de la pena de trabajos en beneficio de la Comunidad, (Theoretical and practical study of the Community Service)*, Ministerio del Interior, Secretaría General de Instituciones Penitenciarias, Madrid.

This research work makes a comparative analysis of the community service in Europe and studies its regulation in a wide number of countries. It also dedicates its second part to the study of the community service from a theoretical and practical point of view.

CHAVES PEDRÓN, C., (2014), *La suspensión de la pena de prisión para drogodependientes, (The suspension of the prison sentence for drug addicts)*, Revista española de drogodependencias, nº. 1, 2014.

The alternative to prison for addicts included in our criminal legislation currently revolves around the concept of the suspension of prison sentences. This is subject to a series of requirements which have to be met to be able to allow suspension. A stay in prison is not the most appropriate way to overcome the problem of addiction, so avoiding prison terms must be ensured in all cases in which this is possible. Granting or refusing this legal concept must be based on a motivation that avoids the loss of a fundamental right such as freedom. The idea of dangerousness would

be the only obstacle to preventing admission to prison, and determining such dangerousness is precisely one of the issues to be addressed in this paper.

MONTERO PÉREZ DE TUDELA, E., NISTAL BURÓN, J. (2015), *La evolución de la población penitenciaria en España entre 1996-2014. Algunas causas explicativas*, *The evolution of the prison population in Spain between 1996-2014. Some explanatory causes*, , Cuadernos de Política Criminal 116.

Over recent years – since 2010 – there has been a significant decline of the prison population in Spain. This article studies the possible causes which may have influenced these fluctuations, among which we can mention some of the legislative reforms, the considerable increase of alternatives sentences, demographic factors etc.

12. Main Addresses, Phone & Fax Numbers, E-mail Addresses, Home Pages. (2 pages)

Secretaría General de Instituciones Penitenciarias	Dirección: C/ Alcalá, 38-40, 28014, Madrid (Madrid) Teléfono: 913354700 Fax: 913354052
Subdirección General de Tratamiento y Gestión Penitenciaria	Dirección: C/ Alcalá, 38-40, 28014, Madrid (Madrid) Teléfono: 913355070 Fax: 913355053 Email: sggp@dgip.mir.es
Subdirección General de Recursos Humanos	Dirección: C/ Alcalá, 38-40, 28014, Madrid (Madrid) Teléfono: 913354821 Fax: 913354060
Subdirección General de Penas y Medidas Alternativas	Dirección: C/ Alcalá, 38-40, 28014, Madrid (Madrid) Teléfono: 913354983 Fax: 913354063 Email: sgpma@dgip.mir.es
Subdirección General de Inspección Penitenciaria	Dirección: C/ Alcalá, 38-40, 28014, Madrid (Madrid) Teléfono: 913354934 Fax: 913354067 Email: sgip@dgip.mir.es
Subdirección General de Relaciones Institucionales y Coordinación Territorial	Dirección: C/ Alcalá, 38-40, 28014, Madrid (Madrid) Teléfono: 913354964 913354985 913355068 913354794 Fax: 913354050 Email: sgrelacionesinstitucionales@dgip.mir.es

Subdirección General
de Servicios Penitenciarios

Dirección: C/ Alcalá, 38-40, 28014, Madrid
(Madrid)

Teléfono: 913354777 / 75

Fax: 913354054

Email: sgpsp@dgip.mir.es

Subdirección General
de Coordinación de Sanidad
Penitenciaria

Dirección: C/ Alcalá, 38-40, 28014, Madrid
(Madrid)

Teléfono: 913354845

Fax: 913354992

Email: sgsp@dgip.mir.es

Location of the prisons

<http://www.institucionpenitenciaria.es/web/portal/centrosPenitenciarios>

<http://www.institucionpenitenciaria.es/web/portal/centrosPenitenciarios/localizacion.html>

Location of the CIS

<http://www.institucionpenitenciaria.es/web/portal/cumplimientoMedioAbierto/centrosInsercionSocial.html>



General Information

- Number of inhabitants: 46.423.064 inhabitants (at 1st July 2015, data provided by Statistical National Institute, INE: <http://www.ine.es>)
- Prison population rate per 100,000 inhabitants: 133 (at January 2016)
- Link to Probation Service (link to Penitentiary Administration): <http://www.institucionpenitenciaria.es>
- Links to websites: <http://www.institucionpenitenciaria.es>
- Member of the CEP

Characteristics of the Probation Service

It belongs to the Spanish Penitentiary System and comprises ‘open regime’, management service of alternative sentences and measures and conditional release. It is an individualized and scientific system, aiming at being flexible and adapted to the needs of each inmate.

Tasks

Probation in Spain includes the open regime, for those inmates who are subject to the ‘third degree’ treatment and live in open centres, intended for the enforcement of the sentence; the management service of alternative sentences and measures, concerning not only the people sentenced to an alternative penalty or measure but also those who get the suspension of the sentence, either since the beginning before the enforcement of the sentence (total suspension), or during it (partial suspension), and require follow-up and the conditional release, once considered as the last phase of enforcement of the sentence, today it is a modality of suspension of the sentence.

Thus, the ‘open regime’ of the Spanish Penitentiary system –‘Probation’- is in charge of:

- Implementation and enforcement of the sentences in open regime (open environment)
- Treatment programs and activities in open regime
- Following-up and monitoring of conditional released, inmates in third degree, with or without telematic control.
- Implementation and enforcement of alternative measures and sentences.
- Implementation of some rules of conduct in the case of suspension of the execution of the sentence (including conditional release), like treatment programs, educational workshops, etc.

Number of staff (average numbers at 31st December 2015)

- Penitentiary Administration Officers: 21.817
- Penitentiary Administration Managers, all grades: 375
- Administrative support staff, all grades (administration 4.258 and surveillance 14.964): 19.222
- Community Service Supervisors: -data not available

Total: 23.877 (adding contract staff: 2.060).

- Daily average number of offenders dealt with:
 1. Total prison population at 31 December 2014: 65.017
 2. Total prison population at 31 December 2015: 61.614
 3. Total prison population in “open regime” in 2014: 12.014 resolutions (administrative and judicial resolutions) of 3rd degree were held in 2014, and at 31 December 2014 there were 7.572 persons in 3rd degree.
 4. Total client of SGPMA in 2014: 144.479 sentences of alternative measures and penalties managed during 2014 (of which 51.750 were already at 1st January 2014 and 92.729 orders to alternative sentences were received during 2014).

Flow of Alternative measure sentences in 2014	
Stock at 1 st January 2013	51.750
New commandments / Orders (sentences to alternative measures) received during 2013	92.729
Total Flow of orders	144.479

New developments

The recent legal reforms in Spain aim at the implementation of the European Rules, Frameworks Decisions and Directives and the promotion of the open environment (probation). These reforms support the alternatives to the imprisonment, the implementation and use of the alternative sentences and the suspension of the enforcement of the custody sentences. For years now, the Management Services of alternative sentences and measures has undergone a considerable development. Nowadays, a wide range of treatment programs are being implemented. (in process).

Probation during the different stages of the criminal procedure

	Pre-Trial Phase	Trial and Enforcement Phase	Post Release Phase
Preparing pre-sanction report	no	x	no
Supervising etc. sanction of probation	no	x	no
Supervising etc. conditional sentence	no	x	no
Supervising etc. special measures drug addicts	no	x	X (in some way)
Supervising etc. community service	no	x	no
Supervising training or learning projects	no	x	no
Interventions with young offenders	no	x	no
Supervising etc. suspended sentence	no	x	no
Assistance/support of offenders in prison/detention	X (if detained, in remand prison)	x	no
Preparing pre-release reports, prisoners	no	x	no
Supervising conditional release/parole	no	x	no
Supervising post custody, sex offenders	no	x	X (there are some types of surveillances measures)
Preparing victim impact reports	no	X (just in specific treatment programs on going; the actions are rather oriented to the protection and compensation to the victims)	no