



# **Probation in Europe**

## **Serbia**

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The European Organisation  
for Probation

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## Serbia

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# 1. Introduction

## 1.1 Probation organization(s)

In the Republic of Serbia, probation is under the jurisdiction of the Department for Treatment and Alternative Sanctions, which functions within the auspices of the Ministry of Justice and Public Administration. Direct implementation of probation and offender supervision is conducted by Probation officers, who operate in Probation Offices within the Department for Treatment and Alternative Sanctions. The main activity of the Department for treatment and alternative sanctions is carried out through a continuous contact with the directors of penitentiary facilities and prison staff. The treatment officers are required to constantly use questionnaires for the convicted persons serving up to three-year prison sentence as well as the questionnaire for the convicted persons serving prison sentence that lasts more than three years, by which the implementation of the House Rules in the detention facilities and district prisons and the Rulebook on treatment, treatment program, classification and re-classification of convicts is facilitated.

As a part of their regular job, probation officers perform several tasks and are not specialized for some specific aspects and activities of alternative sentencing or probation.

The probation officers supervise the offenders on which conditional sentence with protective supervision is imposed, and monitor whether the obligations that are a part of conditional sentence are fulfilled regularly and appropriately by the convicted persons. They also supervise the fulfillment of obligations imposed on the convicts that have been released from prison before the execution of the entire prison sentence, i.e. cases of conditional release upon court's decision.

Moreover, the Probation Service carries out the application of supervision (with or without electronic surveillance) provided that the enforcement of prison sentence within the premises where the convicted person lives is imposed, as well as the implementation of supervision of the accused in cases where this measure is ordered instead of regular custody in the pre-trial or trial part of the criminal procedure. Besides, the probation officers are also in charge of implementing and supervising the enforcement of community service, as an important alternative sanction that has been introduced to Serbian legislation on January 1<sup>st</sup> 2006, when current Criminal Code came into force.

Although current legislative framework allows and enhances the cooperation between the Administration for Treatment and Alternative Sanctions and civil sector representatives (such as non-governmental organizations providing services of post-penal treatment or other similar services), there have not been any attempts to establish this type of collaboration until recently. Namely, only one NGO (Centre for Crime Prevention and Post-penal Treatment –NEOSTART) is providing services of post-penal treatment in cooperation with penitentiary institutions and other state bodies. Unfortunately, this team of young experts in the field of crime prevention and treatment of conduct disorders has not managed to obtain financial support for their project activities and are practically operating on a voluntary basis.

### **1.2 Probation activities in a nutshell**

Numerous and various activities of the entire Department for Treatment and Alternative Sanctions are regulated by Law on the Execution of Criminal Sanctions (Official Gazette of the Republic of Serbia, no. 85/2005, 72/2009 and 31/2011). These activities include the following:

1. Supervision of conditionally sentenced offenders, and the fulfillment of their obligations and establishment and maintenance of cooperation with the police, medical institutions, social welfare services, employers and other relevant institutions, organizations and associations throughout the course of enforcement of conditional sentence. This also includes the supervision of the application of measure of electronic surveillance;
2. Supervision of convicted persons on conditional release and the fulfillment of obligations that have been imposed on them;
3. Supervision of the implementation of community service, writing reports on the course of the enforcement of community service and delivering these reports to court and Administration as well as informing these entities about the circumstances that represent obstacles for further implementation of this sanction;
4. Supervision of “house arrest” i.e. detention of the accused in the premises where he lives during the course of criminal procedure;
5. Designing and supervising the implementation of “house prison” enforcement program i.e. program for the enforcement of prison sentence in the premises where the accused person lives, with or without electronic surveillance;
6. Providing assistance and support as a part of the pre-release process or preparation of the prisoner for release and life outside the prison;
7. Controlling the application of ban to leave the premises where the accused person lives, provided that such measure has been imposed in the criminal procedure as a means to guarantee that the accused person will be present and attend the trials.

### **1.3 General remarks about the implementation of Probation Rules**

Although normative preconditions for the enforcement of alternative or community sanctions in our country were created in the period between 2006 and 2011, the Republic of Serbia is about to face another legislative reform in the field of execution of criminal sentences and post-penal treatment in order to achieve harmonization with the European standards and enable full and proper implementation of Recommendation CM/ Rec (2010) 1 of the Committee of Ministers to member states on the Council of Europe Probation Rules, adopted on 20 January 2010. Accordingly, four draft versions of documents have been designed and are about to be adopted: 1) Strategy of the development of the system of execution of criminal sentences in the Republic of Serbia in the period between 2013 and 2020; 2) Law on the Execution of Criminal Sanctions; 3) Law on the probation of execution of non-custodial sanctions

and measures (i.e. Law on Probation) and 4) Strategy for social reintegration and acceptance of sentenced persons for the period between 2012 and 2015. All these draft documents dedicate significant amount of attention to the issue of offender supervision through the course of enforcement of various alternative or community sentences and measures, as well as during the application of post-penal treatment.

When it comes to the monitoring of the implementation of international standards in the field of execution of criminal sanctions, the only relevant activities that have been performed in our country are those conducted by the Ombudsperson within the scope of his regular and extraordinary monitoring visits to prison facilities. Apart from that, some non-governmental organizations have been visiting penitentiary facilities and monitoring the treatment of prisoners, particularly in the context of human rights respect and prevention of torture.

In general, the legislation of the Republic of Serbia that regulates the issues of probation, enforcement of criminal sanctions and offender supervision is harmonized with European standards established by the European Prison Rules. However, a series of significant normative and practical steps need to be taken in order to achieve harmonization with the Europe Probation Rules. That is the reason why legal experts are currently we are currently working the above mentioned legislative reform and expecting the adoption of new legal sources dedicated to this matter. Furthermore, lack of financial support still represents a serious obstacle to establish an effective, wide-spread, well-organized and fully equipped system of probation offices with a sufficient number of probation officers who possess appropriate professional and expert knowledge and skills. More financial resources are also required in order to provide adequate. Finally, the cooperation with the civil sector, particularly with the non-governmental organizations that provide post-penal treatment of offenders has to be improved.

## **2. Historical Development of the Probation System**

### **2.1. History from the origins to 2006**

The evolution of Serbian penal system can be divided in several developmental stages, all of which represent one continuous process. The first period lasted from the middle ages until 1930, and its characteristics are strict punishments, frequent application of corporal punishments, imprisonment and death penalty. However it should be emphasized that some forms of alternative sanctions were prescribed even by one of the oldest written legal sources of medieval Serbia, The Code of Stephan Dushan dating from 1349. These include fine and confiscation of illegally obtained property, as well as some specific measures such as exile and loss of honor. Although Criminal Code of 1804 and Criminal Code of 1807 were both adopted during the fight against Turkish reign and are considered severe military legal acts, they were familiar with two forms of fine (collective, paid by the entire village and individual, paid by the offender himself). One of the most significant written historical legal sources in Serbia was the Criminal Code of 1860, which had been in force until 1930. This Code prescribed eleven types of punishment, which it categorized as main (death penalty, imprisonment with hard labor, imprisonment, detention, deprivation of a title, fine and corporal punishment) and secondary (loss of citizen's honor, confiscation of

objects, prohibition to perform certain activities and exile). It is of note to mention that the legislator explicitly emphasized that the prisoners should be treated in the manner that is convenient and appropriate to contribute to their moral development and improvement, i.e. re-socialization and social reintegration. As one of the means to enhance their motivation for improvement, well-behaved and obedient prisoners were allowed to participate in the management of their departments as well as to move and work without supervision during the enforcement of prison sentence. Conditional release was introduced to Serbian legal system in 1869, and it could be applied on prisoners who had served more than two years of imprisonment and one half or two thirds of the sentence, provided that his behavior had been decent.

The second period in the development of Serbian penal system lasted from 1930 until the beginning of World War II. Criminal Code of the Kingdom of Yugoslavia was adopted in 1930 and one of its features is the fact that it introduced Irish progressive system in Serbian prisons. An important characteristic of this system was the establishment of separate departments for physically disabled and mentally disordered prisoners. Conditional release was applied in this historical phase too, with regard to prisoner's behavior and prognosis for his improvement and re-socialization.

The roots of modern Serbian criminal legislation were established during the anti-fascistic fight, together with the forming of the new state – Socialistic Federal Republic of Yugoslavia. The most important legal documents of this period were: Law on the Execution of Punishments of 1948, Criminal Code which regulated general and special part of Criminal Law of 1951, Law on the Enforcement of Punishments, Safety Measures and Educational Measures of 1951, which dedicated significant attention to the issue of re-socialization, as the fundamental purpose of the execution of criminal sanctions. The Amendments of Criminal Code made in 1959 enabled the implementation of Standard Minimal Rules for the Treatment of Prisoners of 1955, which were adopted by Serbia. Furthermore, Law on the Enforcement of Criminal Sanctions adopted in 1961 brought some specific innovations including open departments in prisons, scientific examination of prisoners upon their arrival to the prison facility and their classification in accordance with the results of these analyses, as well as the application of work-therapy with the intention to make prisoners capable of living outside the prison walls after the release.

Federal Criminal Code, which was adopted in 1976, led to the unification of some punishments, and reduced the number of punishments to only four - death penalty, imprisonment, fine and confiscation of property. Death penalty was eliminated in 2001 on federal and in 2002 on republic level. More detailed provisions on the execution of punishments were parts of republic legislative systems, and had their own course of development after the civil war and the dissolution of Yugoslavia during the 90s.

## **2.2 Recent history from 2006 to 2014**

The historical development of Serbian probation system can be observed as a two phased process. The first period would include all the legislative solutions that had been in force before January 1<sup>st</sup> 2006, whereas the second encompasses the solutions that have been adopted after that date. However, it would not be exaggerated to

say that, in spite of normative framework, genuine system of alternative sanctions in our country has been established very recently due to the lack of financial and organizational preconditions.

Some forms of alternative sanctions for adult offenders such as: judicial admonition, confiscation of driving license, fine and conditional sentence had been a part of Serbian penal legislation even before the adoption of current Criminal Code, and they are still applied. However, it can be said that normative frame work establishing necessary prerequisites for a modern system of community or alternative sanctions was set in 2006, when punishment of community service was introduced.

Another important step towards the improvement of alternative sentencing in Serbia was made in 2009 when amendments of Law on Execution of Criminal Sanctions and of the Criminal Code were made. After the adoption of the Strategy on the minimization of over-population of institutions for the execution of criminal sanctions in the Republic of Serbia for the period between 2010 and 2015, practical implementation of alternative sanctions was further upgraded. The reason for that was the fact that the Strategy strongly recommended the application of alternative sanctions as one of the most efficient means to decrease the number of inmates and resolve the issue of overcrowded prisons.

The most innovative of these sanctions actually represents a specific modality of execution of prison sentence – in the premises where the convicted person lives (so called house prison), with or without electronic surveillance, was introduced to Serbian legislation in 2009. But, the practical implementation of this form of execution of imprisonment started two years later (in 2011) when all necessary legislative and practical preconditions and requirements for its execution were fulfilled.

### **3. Legislative Basis of the Probation System**

#### **Relevant Probation Rules**

Although alternative sanctions and the entire concept of probation represent an innovation in the penal system of the Republic of Serbia, the majority of normative solutions are in accordance with European Prison Rules. In order to upgrade their practical implementation as well as in attempt to harmonize them with the European Probation Rules, the above mentioned draft documents are expected to be adopted in due time. Until then, the functioning of probation system has to be performed in the manner prescribed by current Criminal Code, Code of Criminal Procedure, Law on Execution of Criminal Sanctions, Regulation on the Execution of Community Service, Regulation on the Execution of Conditional Sentence with Protective Supervision and the aims enumerated in the Strategy to Reduce Overcrowding in Penitentiary Institutions.

Existing normative framework gives enough space for cooperation between relevant state bodies as well as between state bodies and NGOs, so it can be said that it is in accordance with European Probation Rules. Also, it appears that victims' rights and needs are protected in a purely formal manner without genuine application

of restorative justice principles. This particularly refers to children and juveniles who appear in the role of victims of serious criminal offences. In the majority of cases, providing psychological, psychosocial and even legal support for victims and protection of their rights, needs and interests is left to the NGO sector. This especially refers to the victims of human trafficking, various forms of sexual abuse, family violence and discrimination.

### **3.1. Legislative Basis**

Normative framework that regulates the organization and functioning of probation system in the Republic of Serbia comprises the provisions of several legal and sublegal acts. These are: 1) Criminal Code of the Republic of Serbia, 2) Law on the Execution of Criminal Sanctions, 3) Regulation on the Execution of Community Service and 4) Regulation on the Execution of Conditional Sentence with Protective Supervision. Some provisions of the Code of Criminal Procedure are also significant for the procedural aspects of the implementation of probation.

Paragraph 52 of Criminal Code of the Republic of Serbia prescribes that community service may be imposed on the offenders who committed criminal offences for which imprisonment up to three years or a fine are prescribed. It defines community service as any kind of socially acceptable and useful work that does not offend human dignity and that is not performed with the intention to obtain material (financial) benefits. The duration of this punishment cannot be shorter than 60 hours and may not exceed the period of 360 hours. On a monthly basis, the duration of community service must not exceed 60 hours' period and it has to be conducted in the term between one and six months. When deciding whether to impose this punishment, the court is obliged to take into account the purpose of punishment (i.e. general and special prevention), the type of committed criminal offence, the personality of the offender and his readiness to perform community service. It is important to mention that community service cannot be imposed on the offender without his consent. If the offender fails to fulfill all the obligations imposed within the punishment of community service, the court is entitled to replace this punishment with imprisonment. Every initiated eight hours of community service are to be replaced with one day of imprisonment. On the other hand, if the offender fulfills all of his obligations correctly and regularly, the court may reduce the duration of community service for one quarter. More detailed provisions on the execution of community service can be found in Paragraphs 181 – 184 of Law on the Execution of Criminal Sanctions and Regulation on the Enforcement of Community Service.

Conditional Sentence is regulated in paragraphs 65 to 70 of Criminal Code, whereas Conditional Sentence with protective Supervision is described in Paragraphs 71-76. The purpose of conditional sentence is to avoid the implementation of institutional punishment whenever it is possible to deter the offender from committing criminal offences in such manner. The court determines the type and the measure of punishment on the offender, but at the same time, declares that the punishment will not be executed if the offender does not commit a new criminal offence within the so called "check term", which cannot be shorter than one year or exceed a five years' period. Moreover, when imposing conditional sentence, the court is entitled to declare that the previously determined punishment will be also executed if the offender fails to: 1) return material benefit obtained through the commission of

criminal offence; 2) compensate the damage caused by his offence or 3) fulfill other obligations prescribed by provisions of criminal law. The term within which these obligations are supposed to be fulfilled is determined by the court. The court is entitled to revoke conditional sentence if during the probation period the offender commits one or more criminal offences for which punishment of 2 years of imprisonment or a more severe punishment is imposed. Another reason for the revocation of conditional sentence can be offender's failure to fulfill the obligations imposed on him together with conditional sentence.

Conditional sentence with protective supervision represents a specific, optional modality of the enforcement of ordinary conditional sentence, which is applied if the court estimates that such surveillance is useful or necessary and includes various measures of assistance, guidance, surveillance and protection. The duration of measures of protective supervision is determined within the check-period defined in the conditional sentence and these measures are revoked together with the revocation of conditional sentence.

When defining the punishment of imprisonment in Paragraph 45, Criminal Code of the Republic of Serbia mentions that this punishment may also be executed in the premises where the offender lives provided that it does not last for more than one year and that his personality, previous life, behavior after the commission of criminal offence, degree of guilt and other relevant circumstances suggest that the purpose of punishment can be accomplished in that way. This modality of execution of prison sentence cannot be applied on the offender who committed criminal offence against marriage and family if the offender and the victim live in the same household.

### **3.2 Mission and Mission statement**

The general mission of Service for Treatment and Alternative Sanctions, within which Probation Offices are functioning, is to enhance crime prevention and suppression through the application of community i.e. alternative sanctions instead of institutional punishments. Although the Law does not explicitly define it as such, the mission of this service is derived from legal provisions that regulate its organization and functioning. According to Article 19 of Law on the Execution of criminal Sanctions, the Treatment Service implements methods and procedures that are suitable to deter the offenders from further commission of criminal offences. The Service determines the program of offender's treatment and manages the activities of other services and participants.

Besides, the Service is also expected to contribute to the achievement of another important goal, which has been set in the Strategy for the Minimization of Prison Overpopulation. Namely, the application of alternative, i.e. non-custodial sanctions is also aimed to facilitate execution of punishment outside the prison walls but with the same or at least similar effects on offender's behavioral pattern. In that way, the number of inmates is reduced and, at the same time, the purpose of punishment, particularly the punishment of imprisonment (to influence the offender to embrace socially acceptable values and become a law abiding citizen) is achieved.

Primary activity of the Treatment and Alternative Sanctions Service is realized through continual contacts with Governors and Treatment staff. Continual activities

towards the promotion of alternative types of punishment in the Republic of Serbia are intense. In order to enhance the promotion of these sanctions the Service organizes seminars and meetings at different levels, attended by proponents of judiciary functions, especially in towns where new offices for alternative sanctions have been established.

### **3.3 Crime Prevention**

Legal provisions pertinent to the issues of criminal law and criminal sanctions in Serbia unanimously declare that the purpose of punishment is crime prevention and suppression, which includes both general as well as special prevention. General prevention, i.e. the prevention of commission of all criminal offences refers to all citizens and is accomplished through incrimination of criminal behavior by the provisions of Criminal Code and prescribing sanctions for their perpetrators. Special prevention represents the prevention of re-offending i.e. repeated commission of criminal offences by a specific offender. The purpose of special prevention is achieved through appropriate selection of type and measure of punishment by the court in each individual case and through the application of various treatments and programs throughout the course of its enforcement. These goals are clearly prescribed in Serbian legislative framework. According to Article 4 of the Criminal Code of the Republic of Serbia, the general purpose of prescription and imposing of criminal sanctions is to suppress acts that violate or endanger the values protected by criminal legislation. Moreover, Law on the Execution of Criminal Sanctions prescribes that the purpose of the enforcement of imprisonment is to impact the convicted person to accept socially acceptable values through the application of appropriate treatment programs during the enforcement of punishment, in order to facilitate his re-entering into regular life courses after having served his sentence and prevent further re-offending.

### **3.4 Victim assistance**

Legislative framework of the Republic of Serbia does not dedicate enough attention to the protection of rights and interests of victims of criminal offense. However, some efforts have been made to protect some particular categories of victims – victims of human trafficking and victims who are children or juveniles. When it comes to the protection of human trafficking victims, Center for Protection of Trafficking Victims has been established. It is an institution of social protection system that conducts comprehensive protection of trafficking victims through identification and status confirmation of victims. The Center is responsible for the overall coordination of all parties at the national level and activities related to the protection of the rights and interests of trafficking victims.

The Center coordinates the activities of providing social services to the victims of human trafficking, cooperates with the centers for social welfare, institutions for the accommodation of victims, police departments, public prosecutors' offices, courts, NGOs and other agencies and organizations in order to provide the best interest and safety of victims. It also informs the community about its activities and promotes its work through annual reports, using the web site, brochures and organizes conferences and seminars to improve the protection of trafficking victims. The Centre for Protection of Trafficking Victims is operating through two organizational units: The Agency for Coordination of Protection of Trafficking Victims and Shelter

for Victims of Human Trafficking. They operate with mutual relations based on the principles of cooperation, accountability, timely informing, to the harmonization of professional practices, approaches and procedures in dealing with users.

When the protection of juveniles as victims of criminal offences is concerned it is worth mentioning that The Law on Juvenile Criminal Offenders and Criminal Protection of Juveniles contains particular provisions on protection of children and juveniles as victims in criminal proceedings, especially if children are victims of serious criminal offences against life or bodily integrity, sexual offences or family violence. The aim of these rules is to avoid the so called “secondary victimization” of children. These rules oblige some participants in the criminal procedure (judges, public prosecutors, lawyers) where juveniles and children are victims to own special knowledge on child’s rights and sometimes require the presence of special experts (psychologists, social workers etc.) in cases of juvenile’s examination and witnessing.

### **3.5 Volunteers involvement**

Volunteers’ involvements in the activities that are intended to contribute to the re-socialization of offenders are conducted only by the aforementioned NGO „NEOSTART“, whereas the protection of victims is performed by several other NGOs in Serbia. The most important of these are: Victimology Society of Serbia, Astra and Atina. All of these organizations involve volunteers in their activities. For example, the volunteers attend trials in order to monitor whether the rights of the victims are respected, they write reports on these issues, they participate in various research activities such as interviews and questionnaires, reviewing statistics and in some cases, providing psychological support via SOS emergency phone line or through direct contact. The cooperation between state representatives and these NGOs exists, but it should be improved and raised on a much higher level, particularly when it comes to harmonization, joint performance of some activities, interventions, mutual trust, exchange of experience and knowledge.

## **4. The Organization of Probation Services**

### **Relevant Probation Rules**

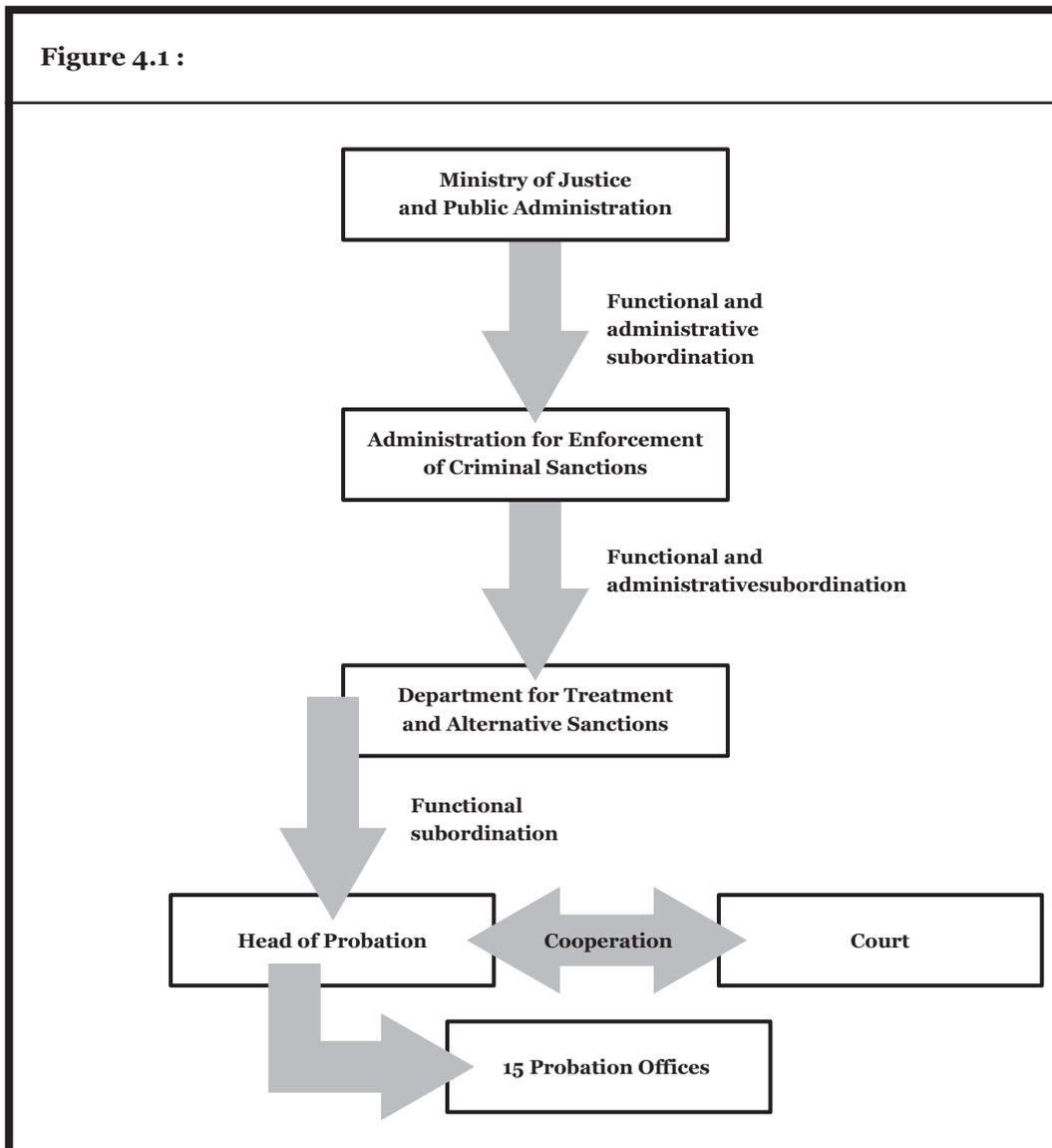
Normative framework in the Republic of Serbia is in accordance with the European Probation Rules and a few additional changes are expected to be made and some new legislative provisions are about to be adopted in order to achieve even better harmonization with the European standards in this field. Paragraph 191a of the Law on the Execution of Criminal Sanctions prescribes that recruitment and duties of probation officers are regulated by a special sub-legal act adopted by the Minister of Justice and Public Administration. The recruitment of the staff members is based upon their formal education, professional skills and personal integrity. Professional training, further education and development of the staff are provided during their career, including various lectures, courses and seminars. It is of note that at the moment no formal specialization of staff working with some specific types of offenders is provided. Unfortunately, the number of probation officers is insufficient to handle all the cases of probation and they cannot dedicate their working hours only to offenders on probation or only to victims of criminal offences because they also have other duties and administrative obligations. Namely, the majority of probation

officers are employed within the prison facilities and they perform their probation work as an additional obligation beside their regular working routine. Probation Services cooperate with other state bodies and institutions such as: courts, police, social welfare services as well as with NGOs. However, it should be highlighted that the cooperation with the civil sector has to be improved. In the cases when criminal legislation of the Republic of Serbia is applied on offenders of foreign nationality, there is no obstacle for the enforcement of alternative sanctions in the same way as they are provided for Serbian offenders. This means that foreign offenders have equal rights and obligations as the local ones, including those pertinent to the enforcement of alternative sanctions.

#### **4.1 Main characteristics**

Probation officers function as integral parts of the Department for Treatment and Alternative Sanctions within the Administration for the Enforcement of Criminal Sanctions under the auspices of the Ministry of Justice and Public Administration. The Administration for the Enforcement of criminal sanction organizes, enforces and supervises the execution of imprisonment, juvenile imprisonment, community sentence, conditional sentence with protective surveillance, security measures of compulsory psychiatric treatment and remand in psychiatric institutions, compulsory treatment of drug addicts and alcohol abusers, as well as educational measures of committal to correctional institution for juveniles. The Administration functions as a special administrative body within the Ministry of Justice and Public Administration and, as such, keeps unique records with relevant data about the offenders on which criminal sanctions are applied. Among other professional activities, the Administration provides constant education professional development of its employees, which are performed in its Centre for training and professional education. Moreover, the Administration establishes and maintains cooperation with other institutions, associations and organizations dealing with the issue of the enforcement of criminal sanctions. Internal organization and jurisdiction of organizational units within the administration is regulated by a special sub-legal act adopted by the Government of the Republic of Serbia.

Figure 4.1 :



#### 4.2. Internal organization

At the moment, there are 15 probation offices. They are distributed throughout the country with the intention to provide a sufficient number of probation officers for each region and have seats in the following towns: Beograd, Subotica, Sombor, Novi Sad, Nis, Valjevo, Kragujevac, Sremska Mitrovica, Pancevo, Cacak, Uzice, Leskovac, Zrenjanin, Pozarevac and Sabac. However, actual data show that the entire territory of our country is not equally covered with the offices. Probation officers are selected by the Director of the Administration for the Enforcement of Criminal Sanctions upon the proposal of the Head of the Department for Treatment and Alternative Sanctions. When making a proposal, the Head takes into account the needs and characteristics of the offender. The Officer has got some empowerments that primarily include establishing and maintaining the contact with the offender. Besides, the probation officers are obliged to cooperate with the court, police, employer and other institutions, organizations and associations. The Probation officer is also entitled to require certain relevant data and inspect official records and other documents significant for the enforcement of conditional sentence and community service.

#### 4.2.1. Probation workers

Recruitment, conditions for employment and other rights and obligations of probation officers (in Serbian: *poverenici za probaciju*) are not regulated by any specific legal or sublegal act, but fall under the scope of Law on Labor (Official Gazette of the Republic of Serbia, No. 24/2005, 61/2005, 54/2009 i 32/2013). Although there are no any specific rules regarding this category of employees, it is generally accepted that only persons who have obtained faculty degree in humanities (such as psychology, special education and rehabilitation, special pedagogy, andragogy and other similar scientific disciplines) can be employed as probation officers. They do not have to pass any specific educational training before applying for that working place but obtain necessary knowledge and professional skills via additional trainings, seminars and workshops along with their working routine. Of course, the nature of probation officer's job requires that only persons of high moral and personal integrity are employed and kept on that working place.

**Table 1. The staff number in Service for Treatment and Alternative Sanctions**

Type of Service	Full-time	Fixed term
<i>Treatment and Alternative sanction service</i>	240	73
<i>Other services<sup>1</sup></i>	3.655	260
<i>Total</i>	3.895	333

#### 4.2.2. Education, training requirements and opportunities

As it has been mentioned previously, persons who are employed as probation officers have faculty education in the field of social science and humanities such as: psychology, sociology, special education and rehabilitation, andragogy, special pedagogy and social work. The Department for Treatment and Alternative Sanctions has not established cooperation with universities or other educational and research institutions in order to adapt the educational curricula and research projects at these institutions to meet the requirements of probation officer's profession and provide future probation officers with necessary knowledge and other expert skills. Hence, there is no any particular specialized academic course that would enable students to gain knowledge and skills that are necessary exclusively for the job of probation officer. Namely, graduated students of the abovementioned faculties who have already started working as probation officers receive the necessary knowledge throughout their professional career only via diverse seminars, trainings and courses organized by the Administration for the Enforcement of Criminal Sanctions. These trainings refer to general topics linked to main activities conducted within probation such as: writing reports, evaluating the offenders' behavior, performing supervision, providing assistance and support to persons on probation. However, they do not

<sup>1</sup> Other services that function within prison system, apart from Service for Treatment and Alternative Sanctions include: 1) security service, 2) service for professional training and recruitment of staff members, 3) service for health protection of convicted persons and 4) service for general (primarily administrative) tasks.

attend specialized trainings and courses that would enable them to work with some particular types of offenders (such as for example drug addicts, alcohol abusers) or with offenders who have committed some specific kinds of criminal offences (for example, sex offenders or offenders who have committed family violence). It is noteworthy to mention that some of the trainings were organized in collaboration with foreign partners from the Netherlands and Belgium and financially supported by international institutions. As a part of the training study visits to these countries and their probation services were made.

#### **4.2.3. Other organizations involved in probation work**

Probation officers are obliged to cooperate with several other subjects throughout the enforcement of any alternative sanction, including the court, the police, the social welfare centre on the territory of offender's permanent or temporary residence, as well as with the NGO representatives. At the moment, there are no any professional associations of probation officers. Apart from state bodies, no other organizations are involved in the enforcement of probation. The law allows some activities relevant for post penal treatment to be performed by NGOs (the aforementioned NGO NEOSTART is the only one providing them), but the enforcement of alternative sanctions can be conducted only by the Department. On the other hand, there are several NGOs who provide assistance, support and even accommodation for victims of criminal offences, particularly women and children who are victims of family violence and human trafficking.

#### **4.3. Probation and offenders abroad**

The status, right, obligations and treatment of Serbian citizens abroad is regulated either by international conventions (bilateral or multi-lateral) or, if there are no such conventions, by Law on International Assistance in Matters of Criminal Law (Official Gazette of the Republic of Serbia, No. 20/2009). According to this law, international legal assistance includes: delivering the accused or the convicted person, continuing criminal prosecution, enforcement of judgment and other forms of legal assistance on international level. Although the Law does not explicitly mention the enforcement of alternative sanctions there is no obstacle to provide its general provisions on the enforcement of judgments made in criminal matters abroad on those judgments by which alternative sanctions are imposed. International legal assistance in criminal matters is provided by judiciary bodies (courts and public prosecutors) under the auspices of the Ministry of Justice, Ministry of Foreign Affairs and Ministry of Internal Affairs in accordance with the procedure that is prescribed by the aforementioned Law. International legal assistance is provided under the condition of mutuality, the presence of which is assumed. The enforcement of criminal sanction imposed by the judgment of a Serbian court can be performed abroad upon the request submitted by that court to the relevant state body of the other country. Judgment of the domestic court can be enforced abroad if one of the following conditions is met: 1) if the convicted person is a foreign citizen; 2) if the convicted person has got permanent or temporary residence in another state; 3) if the convicted person is already serving prison or other custodial sentence abroad on the grounds of previous judgment. The decision on the initialization of procedure for the enforcement of judgment made by national court is adopted by the national court that has made that judgment in the first degree. On that occasion, the court must take into consideration the opinion

of the public prosecutor as well. If the other state accepts to enforce the judgment made by the domestic court, the enforcement of the judgment in our country has to be stopped. On the other hand, if the other state fails to overtake the enforcement of domestic court decision or if the convicted person manages to avoid the enforcement of the imposed sanction abroad, domestic court will proceed with the process of enforcement in Serbia. Ministry of Justice and Public Administration is obliged to inform foreign bodies on any court decision or decision of other state body that has an impact on the enforcement of domestic judgment abroad.

## **5. Different Stages of the Criminal Justice Process Relevant Probation Rules**

Current Criminal Procedure Code of the Republic of Serbia, which came into force in 2011 but has been applied in the courts of all jurisdictions since October 2013, is familiar with the possibility of conditional delay of criminal procedure as well as with the option of plea bargain. The first option is applied only in the pre-trial phase, whereas the second may be applied throughout the course of criminal procedure, starting from the investigation until the moment of trial, i.e. interrogation of the accused person during the “main hearing”. Both of the institutions may include the application of probation and offender supervision by the probation officer.

In general, it can be said that the provisions of Criminal Procedure Code regulating the application of probation in various stages of the criminal justice process are harmonized with European Probation Rules. Accordingly, the interventions that are applied before the guilt of the accused person has been finally established require that the offender has been previously informed and given his consent. Moreover, these interventions are implemented without the prejudice to the presumption of innocence. However, when it comes to cooperation between Probation Service and other public or private organizations and local communities in the field of promoting the social inclusion of offenders, some improvements could be made. In that context, it should be emphasized that current Criminal Procedure Code represents a relatively new legislative solution. It has been applied since 2011 but only by courts of special jurisdiction (in the cases of organized and high tech crime). But, the application of Criminal Procedure Code by the rest of the courts i.e. courts of general jurisdiction started in October 2013. Since that day, numerous efforts including meetings, seminars, media announcements and conferences, have been made to promote the coordinated and complementary inter-agency and inter-disciplinary work, which is necessary to meet the often complex needs of offenders and to enhance community safety. These efforts are also directed towards the broader community in order to increase the awareness of the society on the importance and the potentials of probation in the field of crime prevention and suppression.

When the involvement of the alleged offenders in the preparation of the report, and inclusion of their opinion are concerned, it should be mentioned that the plea bargain agreement and the decision on conditional delay of criminal procedure cannot be made without his consent. Prior to signing the agreement the alleged offender and his legal representative must be communicated the text of these documents.

In Serbian legal system Probation officers are entitled to write reports on the fulfillment of obligations throughout the course of enforcement of community service and conditional sentence with intense supervision provided that it is accompanied by

special obligations as well as on the enforcement of obligations imposed on the basis of Plea bargain agreement and conditional delay of criminal procedure. Probation officers are also obliged to inform the court and the police of the accused or the convicted person fails to respect the restrictions set as a part of the aforementioned sanctions or measures as well as of the cases of violation of restrictions set within the ban to leave the apartment i.e. “house arrest”. However, when it comes to writing reports on the feasibility of the offender, on offender’s early release from prison etc., the law says that these documents are prepared by expert teams of prison staff members. Having in mind the structure of prison staff and the fact that some of the staff of departments for treatment and alternative sanctions within penitentiary institutions also perform the duties of probation officers, some of the expert team members might be probation officers as well.

When it comes to community service, as a special alternative sanction, that was introduced to Serbian legislation in 2006, when current Criminal Code came into force, it should be noted that its imposing and enforcement are completely harmonized with the standards prescribed by the European Probation Rules. As it has already been mentioned, community service represents a community sanction which involves unpaid labor for the benefit of the community as real or symbolic reparation for the harm caused by an offender. The organization and the supervision of community service fall under the jurisdiction of Probation Service and are performed by Probation officers. The law is strict about the character and contents of community service and insists that this sanction must not be of a stigmatizing nature and should include humanitarian work or other similar socially acceptable and useful activities. Furthermore, the Probation Service is encouraged to seek to identify and implement working tasks which are appropriate to contribute to the development of offender’s personal and professional skills and improve his social inclusion. It is also highlighted that community service must not be undertaken with the intention to bring profit to probation agencies, their staff or for commercial profit. Probation agencies are developing community service schemes that comprise a range of tasks suitable to the different skills and needs of offenders, including the work that is suitable for female offenders, offenders with disabilities, young adult offenders and elderly offenders. The offenders are consulted about the type of work they are willing and capable to undertake. More detailed explanations on imposing, organization, enforcement and contents of community service are provided in section six, dedicated to Probation Methodology.

Although the European Probation Rules proclaim that supervision should not be perceived only as a controlling task, but also as a means of advising, assisting and motivating offenders, it seems that more efforts should be made in order to achieve this standard in Serbia. The supervision should be combined with other interventions which may be delivered by probation or other agencies, such as training, skills development, employment opportunities and treatment, but, apart from ordinary interviews during the meetings between the offender and the probation officer, these activities are not yet being implemented. The same refers to the support, advice and information to offenders’ families that are supposed to be offered by Probation Service to the offenders’ families. The only organization providing support and assistance to the families of the offenders, with particular focus on former prisoners and offenders who are former drug abusers is NGO NEOSTART that functions as a volunteer organization and cooperates with

relevant state bodies such as prison administration and social welfare service. In general, electronic monitoring in Serbia is harmonized with the standards set by the latest Recommendation on Electronic Monitoring, adopted by European Committee on Crime Problems and Council for Penological Cooperation. However, there are still some issues that need to be improved. For example, the number of staff members who are in charge of this type of supervision is still insufficient and the application of electronic monitoring is not accompanied by any other interventions designed to bring about rehabilitation and to support desistance. The Probation officers visit the offenders who are under electronic surveillance in the places of their permanent or temporary residence but, apart from ordinary interviews, they do not apply any specific methods or interventions aimed to deter the offender from returning to criminal behavioral pattern. In spite of the fact that current legislative framework is familiar with the institution of post-penal treatment, it is not implemented to the extent in which it should be, particularly not by state bodies. The only organization providing post-penal treatment is NGO NEOSTART. As said, they function as a pioneer organization predominantly on a voluntary basis and in cooperation with prison authorities but, apart from providing psycho social support, counseling and advice for the offender and the members of his family, they are not entitled to offer any other kind of post-penal assistance.

#### **5.1 Pre-trial/remand/trial stage**

Criminal Procedure Code of the Republic of Serbia is familiar with several measures designed to ensure the presence of the accused person during the course of criminal procedure. These measures include: invitation, arrest, a ban to meet or communicate with particular persons, ban to leave the place of permanent or temporary residence, a ban to leave the apartment, bail and detention. Hence, the so called “house arrest” with electronic surveillance represents a specific measure the aim of which is to provide that the accused person will not leave the place of his temporary or permanent residence during the course of criminal procedure. As it can be expected, the Organizational Unit for Treatment and Alternative Sanctions is involved with the enforcement of ban to leave the apartment provided that the court decides to implement electronic surveillance as a method to control whether the accused person obeys this ban. In such case, the locating device – emitter is set on accused person’s wrist or ankle by the expert technician, who is also obliged to provide the accused person with detailed instructions on the use of that device. The other part of the device – the receiver is used for remote tracking and controlled by a special expert. The enforcement of this measure is regulated in Paragraph 250 and 250 b of the Law on Execution of Criminal Sanctions. According to these legal provisions, if the court decides that electronic surveillance of the accused person will be performed by the Administration for the Enforcement of Criminal Sanctions, the Organizational Unit for Treatment and Alternative Sanctions within the Administration for the Enforcement of Criminal Sanctions is entitled to control whether the accused person respects the restrictions set by court’s order. In that case, the supervision of the accused person is performed by a Probation officer. When controlling the respect of restrictions set by court’s order, the Organizational Unit for Treatment and Alternative Sanctions within the Administration for the Enforcement of Criminal Sanctions has to cooperate with the police, Security Information Agency and other state bodies. The equipment that is necessary for electronic surveillance is activated as soon as the court’s order on the application of this measure is delivered. If the

accused person violates the restrictions set by court's decision, the Organizational Unit for Treatment and Alternative Sanctions within the Administration for the Enforcement of Criminal Sanctions has to inform the court and the police about that without delay.

Current Criminal Procedure Code of the Republic of Serbia, which came into force in 2011 but had not been applied in the courts of all jurisdictions until October 2013, is familiar with the possibility of conditional delay of criminal procedure as well as with the option of plea bargain. The first option is applied only in the pre-trial phase, whereas the second may be applied throughout the course of criminal procedure, starting from the investigation until the moment of trial, i.e. interrogation of the accused person during the "main hearing". Both of the institutions may include the application of probation and offender supervision by the probation officer.

Conditional Delay of Criminal Prosecution represents an example of the application of the principle of opportunity of criminal prosecution. It is applied in the so-called pre-trial phase of criminal procedure. According to paragraph 283 of Criminal Procedure Code, the Public Prosecutor may delay criminal procedure in case of criminal offences for which a fine or prison of maximum 5 years' period is prescribed if the accused person agrees to fulfill one of the following obligations: 1) to remove harmful consequences of the offence or compensate the damage; 2) to pay a certain amount of money for the benefit of a humanitarian organization, fund or public institution; 3) to conduct certain community service or other humanitarian work; 4) to pay alimention; 5) to undergo alcohol or drug abuse treatment; 6) to undergo appropriate psycho-social treatment to eliminate violent behavior; 7) to fulfill certain obligations or bans.

The public prosecutor determines the time frame for the fulfillment of these obligations in the order on the conditional delay of criminal prosecution. This time frame cannot exceed one year. The supervision of the enforcement of the obligations imposed in public prosecutor's order is conducted by the probation officer. If the suspect on whom one or more of the abovementioned obligations have been imposed fulfills that obligation in due time, the public prosecutor will reject criminal charges and inform the damaged party (i.e. the victim) on this decision. So, if the suspect manages to fulfill these obligations, the damaged party will not be able to submit the complaint to a superior public prosecutor.

Plea bargain agreement can be made in the pre-trial (investigative) as well as in the trial phase of criminal procedure. It is regulated in paragraphs 313-319 of Criminal Procedure Code. Paragraph 313 defines the Plea bargain agreement and sets preconditions for its making. According to this legal provision, Plea bargain agreement is a specific agreement that can be made between the accused person and the public prosecutor starting from the moment of the initialization of the investigation (the investigation is initialized on the grounds of Public Prosecutor's Order) until the moment of the Accused Person's hearing at the trial. On the occasion of making the plea bargain agreement, the accused person has to be provided a legal representative i.e. a lawyer. This represents one of the cases of obligatory presence of an expert or professional legal representative.

Until the moment of the confirmation of the accusation act, the Agreement is submitted to the judge for preceding procedure, whereas after the confirmation the Agreement is submitted to the President of court chamber. If the plea bargain agreement has been signed prior to the raising of accusation, public prosecutor will submit the accusation act to the court, together with the agreement. In such cases, the accusation act is treated as a part of this agreement. The plea bargain agreement is accepted by court's judgment in which the accused person is declared guilty. The court may refuse to accept the plea bargain agreement in two cases. The first refers to circumstances which lead to the closure of criminal procedure. The other case in refers to the lack of necessary conditions enumerated in paragraph 317. If the court refuses the agreement, the procedure is drawn back to the phase in which the agreement was made.

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

Sanctions/Measures/ Penalties/Conditions attached to a conditional decision or sentence	Provision in legislation	Probation service involvement	Main characteristics of the probation activity
Unconditional waiver by the public prosecutor			
Conditional waiver by the public prosecutor	+	+	supervision, coordination, reporting,
Conditional suspension of the pre-trial/remand detention			
Pre-trial/remand detention	+		
Police custody	+		
Bail	+		
Caution	+		
Surety			
House arrest	+	+	supervision, coordination, reporting,
Electronic monitoring	+	+	supervision, coordination, reporting,
Community service	+	+	supervision, coordination, reporting,
Treatment order	+	+	supervision, coordination, reporting,
Training/learning order	+	+	supervision, coordination, reporting,
Drug/alcohol treatment program	+	+	supervision, coordination, reporting,

Sanctions/Measures/ Penalties/Conditions attached to a conditional decision or sentence	Provision in legislation	Probation service involvement	Main characteristics of the probation activity
Compensation to the victim	+	+	supervision, coordination, reporting,
Mediation			
Semi-detention			
Attending a day centre			
Liberty under judicial control			
Interdiction to leave the country	+		
Interdiction to enter different cities/places	+	+	supervision, coordination, reporting,
Interdiction to carry out different activities	+	+	supervision, coordination, reporting,
Interdiction to contact certain persons	+	+	supervision, coordination, reporting,
Psychiatric treatment			
Deferment of sentence			
Fine			
Other financial sanctions			

### 5.1.1 Pre-trial/pre-sentence report

In Serbian legal system probation officers are entitled to write reports on the fulfillment of obligations throughout the course of enforcement of community service and conditional sentence with intense supervision provided that it is accompanied by special obligations as well as on the enforcement of obligations imposed on the basis of plea bargain agreement and conditional delay of criminal procedure. Probation officers are also obliged to inform the court and the police of the accused or the convicted person fails to respect the restrictions set as a part of the aforementioned sanctions or measures as well as of the cases of violation of restrictions set within the ban to leave the apartment i.e. "house arrest". However, when it comes to writing reports on the feasibility of the offender, on offender's early release from prison etc., the law says that these documents are prepared by expert teams of prison staff members. Having in mind the structure of prison staff and the fact that some of the staff of departments for treatment and alternative sanctions within penitentiary institutions also performs the duties of probation officers, some of the expert team members might be probation officers as well. So, the probation officers are not entitled to write any kind of pre sentence reports. Accordingly, these reports are written neither for domestic nor for foreign citizens.

## **5.2 Enforcement stage**

In the enforcement stage or phase i.e. the second stage or the stage during which the definitive sentences passed by the court are enforced (as it is defined for the purpose of this paper), the Probation Service and Probation officers have important role during the execution of community service, conditional sentence and execution of imprisonment in the place of offender-s permanent or temporary residence.

Community service can be imposed on the offenders who committed criminal offences for punishment of imprisonment that cannot last longer than 3 years or a fine are prescribed. Community service may consist of any kind of acceptable and useful work that does not offend human dignity and that is not performed with the intention to obtain financial benefits. This punishment cannot last less than 60 hours and cannot exceed the maximum of 360 hours. The duration of community service may not exceed 60 hours per month and it has to be completed in the term between one and six months. When deciding on imposing this punishment, the court has to consider the purpose of punishment (i.e. general and special prevention), the type of committed criminal offence, the personality of the offender and his readiness to perform community service. It is important to mention that community service cannot be imposed on the offender without his consent. If the offender fails to fulfill his community service obligations, this punishment may be replaced with imprisonment. The rule is that eight hours of community service are treated as one day of imprisonment. But, if the offender completes all community service obligations in an adequate and prompt manner, the total duration of community service may be reduced for one quarter by the court.

The enforcement of community service is regulated in details in Paragraphs 181 – 184 of Law on the Execution of Criminal Sanctions as well as in the special sublegal act entitled as Regulation on the Enforcement of Community Service and will be further explained in the section dedicated to probation methodology. The court that made the judgment in the first degree is in charge of initiating the execution of community service, by addressing the appropriate organizational unit within the Administration for Treatment and Alternative Sanctions. This court also has to send the judgment together with other relevant data on offender's personality to this organizational unit. Supervision and other activities related to the enforcement of community service represent the duties of probation officer, nominated by a special decision signed by the Director of the Administration.

Community Service is performed in a social institution or a humanitarian, ecological or other similar institutions or organizations. The probation officer chooses the institution, the type of job and creates offender's working program. Afterwards, an agreement is made and a contract is signed between the Director of the Administration and the chosen institution. The contract represents an individual agreement that refers to that specific offender and regulates offender's as well as employer's rights and obligations related to community service. The probation officer has got numerous duties in the process of enforcement of community service. He is obliged to act in cooperation with the offender, the court, the Employment Service, Social Welfare Service, Bodies of local self-government and the police.

The officer must inform the court and the Administration on the outcomes of community service application at least twice throughout the course of its execution. Besides, the probation officer has the opportunity to suggest the changes of the initial version of the community service enforcement program. He also has to inform the court and the Administration if any unpredicted obstacles emerge throughout the enforcement of community service. If the probation officer sees that the offender fulfills all community service obligations, he may suggest to the court to shorten the community service for one quarter.

During the enforcement phase, Probation officers also play an important role in the execution of Conditional Sentence and Conditional Sentence with protective Supervision. It is well known that the purpose of conditional sentence is avoiding the institutional punishment. It is applied if it can be expected that the offender will be deterred from further commission of criminal offences even if a non-custodial punishment is imposed. In Serbian legal system, conditional sentence is imposed in the following manner: the court determines the type and the measure of punishment on the offender, but at the same time, declares that the punishment will not be executed if the offender does not commit a new criminal offence within the so called "check-term" that lasts between one and five years. When imposing conditional sentence, the court is entitled to declare that the previously determined punishment will be executed if the offender fails to: 1) return material benefit obtained through the commission of criminal offence; 2) compensate the damage caused by his offence or 3) fulfill other obligations prescribed by provisions of criminal law. The term within which these obligations are supposed to be fulfilled is determined by the court.

Conditional sentence can be imposed only if the punishment that has been previously determined by the court does not exceed a two years' period, and it cannot be imposed for criminal offences for which a punishment of more than 10 years of imprisonment or a more serious punishment is prescribed. Conditional sentence cannot be imposed if less than five years have passed after the judgment by which the offender was sentenced to prison for a crime committed with premeditation obtained legal force. When deciding whether to impose conditional sentence, the court is guided by the purpose of this criminal sanction, the personality of the offender, his life prior to the commission of criminal offence, his behavior after the commission of criminal offence, the degree of offender's guilt and other circumstances under which the offence has been committed. If both – fine and prison sentence are imposed on the offender, conditional sentence can be imposed only for prison sentence.

Conditional sentence with protective supervision is actually a special modality of the enforcement of ordinary conditional sentence, which may be applied if the court estimates that such surveillance is appropriate or indispensable. It comprises different measures of assistance, guidance, surveillance and protection such as: 1) regular contact with probation officer; 2) obtaining certain professional qualifications; 3) accepting the job in accordance with offender's abilities; 4) fulfilling the duties that the offender has for his family members (financial support, taking care of children and other family obligations); 5) not visiting certain places, buildings or events if that could generate an opportunity or enhancement for repeated commission of criminal offences; 6) regular reporting about the change of residence, address or work place; 7) avoiding the consummation of drugs or alcohol; 8) undergoing medical treatments

in an appropriate medical facility; 9) visiting adequate institutions for professional and other types of counseling and acting in accordance with their directions and 10) reparation or minimization of damage caused by criminal offence. When deciding which of these measures to impose, the court must take into consideration the following circumstances: offender's age, his medical condition, interests, habits, motives for offending, behavior after the commission of criminal offence, offender's life style, personal and family circumstances and other circumstances related to his personality.

Execution of prison sentence in the premises of offender's permanent or temporary residence also represents a situation in the enforcement phase in which probation officers have a significant role. The punishment of imprisonment can be executed in the premises of offender's permanent or temporary residence if it does not last for more than one year and provided that his personality, previous life, behavior after the commission of criminal offence, degree of guilt and other relevant circumstances confirm that the purpose of punishment can be accomplished in such manner. The offender may leave the premises of his residence only in the cases enumerated in the law. If the offender fails to obey this ban, the execution of the punishment will be continued in the penitentiary institution.

There are two cases in which the sentenced person may be released from prison although the punishment has not yet been fully served. The first situation refers to the application of conditional release, which is regulated by Criminal Code and the second to the institution of early release from prison, which is regulated by Law on the Execution of Criminal Sanctions.

Early release from prison may be granted as a special award for proper behavior and results accomplished during the application of treatment programs. The decision on early release is made by the Director of the Administration for the Enforcement of Criminal Sanctions upon the suggestion of the Prison Manager. A prisoner can be released from prison if there are no more than three months left for his punishment to be completely served and provided that he has served at least nine tenths of the punishment. The Prison Manager is allowed to propose early release to the Director and his proposal has to be based upon the opinions given by the expert team of prison staff members.

On the other hand, conditional release can be implemented if the prisoner has served two thirds of punishment provided that his behavior has improved during the enforcement of punishment to the extent that makes it reasonable to expect that he will conduct properly after the release and that he will not re-offend, particularly in the period before the punishment is served. Other circumstances suggesting that the purpose of punishment has been accomplished are also taken into consideration. The prisoner who attempted or managed to escape from prison cannot be granted conditional release. The decision on conditional release is made by the court. When deciding upon conditional release, the court takes into account the following circumstances: behavior of the prisoner during the enforcement of prison sentence, fulfillment of his working obligations depending on his capability as well as other circumstances showing that the purpose of punishment has been achieved. In the decision on conditional release, the court may order the offender to fulfill some other

obligations, such as those referring to conditional sentence with intense supervision. If the court does not revoke conditional release, it will be considered that the offender has served his punishment in total.

The court may revoke conditional release if the conditionally released prisoner commits one or more criminal offences for which punishment of more than 6 months is imposed. The court may also revoke conditional release if the conditionally released person commits one or more criminal offences for which a less severe punishment is imposed or fails to fulfill some of the imposed obligations. When deciding on the revocation of conditional release, the court takes in consideration the similarity between the committed criminal offences, motivation for re/offending and other circumstances suggesting that revocation is acceptable and reasonable.

Amnesty and pardon are regulated by paragraphs 109, 110 and 111 of Criminal Code of the Republic of Serbia. Persons under amnesty shall be released from prosecution and granted full or partial remittance of punishment, the pronounced penalty replaced by a lighter penalty, rehabilitation granted or particular or all legal consequences of conviction revoked. Amnesty may repeal the following security measures: prohibition to practice a profession, business activity or duty, prohibition to drive a motor vehicle and expulsion of foreigner from the country. Pardon shall release a specifically named person from criminal prosecution and grant full or partial remittance of punishment, replace the pronounced penalty by a lighter penalty or suspended sentence, grant rehabilitation, order shorter duration of legal consequences of conviction or repeal particular or all legal consequences of conviction. Pardon may repeal or order shorter duration of security measure of prohibition to practice a profession, business activity or duty, prohibition to drive a motor vehicle and expulsion of foreigner from the country. Granting of amnesty or pardon shall not prejudice any rights of third parties deriving from the conviction.

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

Sanctions/Measures/ Penalties/Conditions attached to a conditional sentence	Provision in legislation	Probation service involvement	Main characteristics of the probation activity
Imprisonment			
Suspended sentence	+	+	supervision, coordination, reporting
Conditional sentence	+	+	supervision, coordination, reporting
Affidamento in prova			
House arrest	+	+	supervision, coordination, reporting
Electronic monitoring	+	+	supervision, coordination, reporting

Sanctions/Measures/ Penalties/Conditions attached to a conditional sentence	Provision in legislation	Probation service involvement	Main characteristics of the probation activity
Community service as sanction	+	+	supervision, coordination, reporting
Semi-liberty			
Semi-detention			
Treatment order	+	+	supervision, coordination, reporting
Training/learning order	+	+	supervision, coordination, reporting
Drug/alcohol treatment program	+	+	supervision, coordination, reporting
Educational measures	Only for juvenile offenders (between 14 and 18 years old) and young adult offenders (between 21 and 18 years old)		
Compensation to the victim	+	+	supervision, coordination, reporting
Mediation			
Attending a day centre	Only for juvenile offenders (between 14 and 18 years old)		
Interdiction to leave the country	+	+	supervision, coordination, reporting
Interdiction to enter different cities/places	+	+	supervision, coordination, reporting
Interdiction to carry out different activities	+	+	supervision, coordination, reporting
Interdiction to contact certain persons	+	+	supervision, coordination, reporting
Fine	+		
Day fine	+		

Sanctions/Measures/ Penalties/Conditions attached to a conditional sentence	Provision in legislation	Probation service involvement	Main characteristics of the probation activity
Other financial penalties			
In/out patient order (psychiatric treatment)	+		
Security measures	+		
Combined order			
Community punishment	+	+	supervision, coordination, reporting
Conditional release / Parole	+	+	supervision, coordination, reporting
Automatic release			
Open prison			
Penitentiary program outside the prison			

Custodial sanctions are implemented within three types of prisons: open, semi-open and closed. There is also a special maximum security prison facility in which the most serious offenders are placed. Depending on the degree of security and types of restrictions, each type of facility may contain three different departments: open, semi-open or closed (i.e. maximum security department). The inmates can be transferred from one department to another depending on their attitude and behavior during the enforcement of prison sentence. The actions of probation services during the enforcement of custodial sanctions i.e. imprisonment include the application of in-prison treatment programs, evaluation of offender's behavior, assessment on the risk of re-offending, assessing the preconditions for the classification and re-classification of offenders preparation of the offender for leaving the prison facility due to regular or early release etc. In practice, very few in-prison treatment programs are implemented. They are supposed to be based upon group and individual treatment and regular contact between the inmates and the probation service staff. However, insufficient number of staff members and the fact that they are also obliged to perform other tasks, caused the reduction of in-prison interventions of this kind to minimum.

**Table 4. Other probation activities in the enforcement stage**

Providing support to the families of the offenders/detainees	No
Coordinating volunteer prison visitors	No
Preparing offenders for (conditional) release	Yes
Preparing prisoners for home leave and/or providing support during home leave	Yes

Providing support to persons that have been pardoned or amnestied	No
Providing advisory report with respect to amnesty or pardon	No
Other tasks that are not included here. Please add to this list and explain.	No

### **5.3 Care and after-care outside the criminal justice system**

Although legislation in force is familiar with the institution of post-penal treatment, it is not implemented to the extent in which it should be, particularly not by state bodies. The only organization providing post-penal treatment is NGO NEOSTART. As said, they function as a pioneer organization predominantly on a voluntary basis and in cooperation with prison authorities but, apart from providing psycho social support, counseling and advice for the offender and the members of his family, they are not entitled to offer any other kind of post-penal assistance.

## **6. Probation methodology**

### **Relevant Probation Rules**

The main motive for the introduction of alternative sanctions in the system of criminal law of the Republic of Serbia was to minimize the application of institutional sanctions and avoid all the negative consequences of imprisonment, including overcrowded institutions, deprivations and budget expenses. Of course, another important motivational factor was the effort to harmonize our legislation in this field with the standards proclaimed on universal and European level in the sphere of enforcement of criminal sanctions, probation and human rights protection. The philosophy upon which the probation system dwells is the concept of special prevention and restorative justice. However, there is no dominant theoretical paradigm such as cognitive-behavioral, transactional analysis or gestalt theory that would be applied when working with offenders. There are neither group based programs of interventions nor accreditation system for specialization for dealing with specific types of offenders on probation. The reason for the lack of these programs is the fact that alternative sanctions and the concept of probation represent an innovation in the Serbian legal system. Therefore, more time is needed to adjust all the parts of the probation system and process to the requirements for the implementation of these programs (education of probation officers, opening the sufficient number of well-equipped probation offices, providing enough staff members etc.). As it may be expected from previous description, no clear distinction between supervision and assistance can be made. They are conducted at the same time, by the same probation officer on the basis of individual contacts and meetings with the offender. The working activities of probation officers are monitored by the Administration for the Enforcement of Criminal Sanctions. The exact methodology of probation can be observed through the procedures for the enforcement of alternative sanctions including community service, enforcement of imprisonment in the premises of offender's permanent or temporary residence and conditional sentence with protective supervision.

***Execution of imprisonment in the premises where the sentence person has got permanent or temporary residence***

The judgment in which the imprisonment that is executed in the premises of offender's permanent or temporary residence is imposed is delivered to the Administration for the Enforcement of Criminal Sanctions. After the judgment has been delivered and upon the proposal of the Head of the Department for Treatment and Alternative Sanctions, the Director of the Administration determines the probation officer who will be in charge of supervising the application of alternative sanctions in the following period. After that, a special individual sublegal administrative act (order) by which the probation officer is named and the judgment are delivered to that particular probation officer via Administration for the Enforcement of Criminal Sanctions. The probation officer is obliged to study the contents of the judgment thoroughly and invite the sentenced person in order to arrange all the necessary details regarding the enforcement of his punishment. The invitation is delivered to the sentenced person via Administration for the Enforcement of Criminal Sanctions. Also, the probation officer has got the opportunity to phone the offender to make the agreement on the details about the beginning of the execution of his punishment. The first contact and communication between the probation officer and the convicted person is arranged in the probation office. In Serbia, some probation officers are still working within the prison institutions full time, whereas the others have been transferred to the Probation Offices. After the Punishment of „house prison“ has been imposed, the contact between the convicted person and the Probation officer is maintained in Probation Offices.

After the convicted person has arrived to Probation Office, the initial interview is conducted in order to gather all relevant data. The data is systematized within a special form. Apart from personal data, the form contains information about the committed criminal offence, the imposed criminal sanction, offender's professional and educational duties and obligations, his living circumstances and financial situation, family relations, health condition, organization of his leisure time, drug and alcohol abuse, emotional state and cognitive pattern and attitude towards the punishment. At the end of the form, the data about the probation officer who is in charge of supervising that offender is provided.

After the initial interview, the convicted person signs a special statement called *Statement on Rights and Obligations*. This Statement refers to proper handling of the electronic surveillance ankle bracelet and emitter, offender's obligation to visit the officer and his behavior in extraordinary situations. The statement also covers the obligations that refer to the behavior of convicted person in emergency and unpredicted situations such as: urgent medical intervention of the offender or his family member, fire, floods etc. due to which he is forced to leave the premises of his permanent or temporary residence for the period that may not exceed 48 hours. The Statement declares that for all other situations that can be planned and previously arranged, the offender has to address the Officer by submitting a special Appeal. The offender is obliged to submit appropriate written documentation about extraordinary and previously arranged situations in which he had to leave the premises. Moreover, the Statement contains a part regulating technical conditions such as the presence of phone line that is used only by the offender's household, lack of internet connection

and written consent of the apartment's owner in case that the offender lives in a rented apartment. The Statement is signed by the convicted person. The probation officer has to inform the organizational unit, the court and the police administration in the place of offender's permanent or temporary residence if the offender fails to behave in accordance with the obligations, rights, arrangements and limitations prescribed in the statement. Setting the bracelet represents a technical part of the enforcement of this type of punishment and includes the visit of the probation officer and of an expert technician the offender's apartment in order to determine the scope of the area in which the offender will be allowed to move freely. After the interview with the convicted offender, both – the report on the setting of electronic surveillance and the announcement about the initialization of the enforcement of "house prison" are delivered to the court. Moreover, the report and the announcement on the initiation of the execution of punishment are submitted to police administration and the executive department of the court.

### ***Application of Enforcement Program***

After the probation officer has studied the judgment and met the convicted person, he prepares the Program for the Enforcement of Punishment. The Program also covers the time for the realization some activities about which that the offender himself talks to the officer. The Program is signed by the Convicted offender. The Officer is obliged to regularly keep records (called the Tracking List) on the activities through which the Program is implemented and deliver them at the beginning and at the middle of each month to the Administration for the Enforcement of Criminal Sanctions. The Tracking List has to include all the activities conducted within the enforcement period, starting from the first contact with the convicted person, the time when the bracelet was set, offender's phone calls etc. The Officer is also obliged to keep records on all regular and extraordinary activities and events that are directly linked to the offender.

Visits to the convicted offender are made in accordance with the plan and program composed by the Officer, most commonly once a week. The probation officer visits the offender in the premises of his permanent or temporary residence or at his workplace without previous announcement or notification. The Convicted person is obliged to allow the probation officer to access these premises. If necessary, on the occasion of these visits, the probation officer may also take the necessary documentation in order to allow the offender to finish or initiate the activities that include leaving of the premises. The appeals of the offender regarding his leaving of the premises are sent to the Director of the Administration for the Enforcement of Criminal Sanctions. In the majority of cases, the Director allows the convicted offenders to leave the premises if this appears to be necessary. All relevant documents as well as the appeals of the offender are kept in his records at probation office. After the punishment has been served, the records are sent to the Department for Treatment and Alternative Sanctions.

If this modality of execution of prison sentence is abused by the offender, the Officer is obliged to send adequate reports on these extraordinary events to the Department for Treatment and Alternative Sanctions and to the court. The probation officer is informed about the cases of offender's irregular leaving of the premises via SMS notification. In such cases, the offender has to explain to the Officer why he has left

the premises, whereas the Officer has to warn him about the consequences of such behavior. However, in the case of more serious and more frequent abuses of „house prison“ this alternative modality of the execution of sanction can be replaced with regular imprisonment.

### ***Enforcement of Community Service***

Enforcement, organization and supervision of community service is performed by the Department for Treatment and Alternative Sanctions within the Administration for the Enforcement of criminal Sanctions. The Department has to cooperate with other state bodies such as the Ministry of Justice and Public Administration, the Ministry of Health, the Ministry of Labor, Employment and Social Policy as well as with other organizations and bodies of state administration and local self-government.

Community service is performed at the company that has sent an application after the announcement of regular open competition. The community service is arranged in the contract which is made for each individual offender and signed by the employer and the Ministry of Justice and Public Administration. In the contract, special attention is dedicated to the issue of compensation of damage that can be caused to the convicted person or other persons. Records are kept on these contracts. The jobs that can be performed by the convicted person are usually of humanitarian character. They must not damage or endanger the offender's health. The employer supervises offender's work, informs the Officer about all relevant circumstances regarding his job and behavior. General legal acts regulating the issue of employment are applied on offenders on community service.

The probation officer invites the Convicted Person within the period of three days after receiving the court decision and the job that he is going to do is chosen within a period of 15 days. The enforcement of community service is arranged in accordance with time frames set in court decision, personal characteristics of the offender, his social position, medical condition, abilities, competences and other circumstances. All the arrangements between the Officer and the offender have to be made in form of a written statement. After the statement has been signed, the probation officer has to inform the court, the Department for Treatment and Alternative Sanctions and the convicted person about the initialization of the enforcement of community service.

Community service may be imposed on both – employed and unemployed offenders. The employed ones are obliged to perform community service after their working hours, whereas the unemployed ones may serve this punishment at any time. The minimum duration of community service is 60 and the maximum is 360 hours and the term for the enforcement of this punishment is between one and six months.

The probation officer takes the offender to meet the employer. The officer has to be discreet about the information about the committed criminal offence, personal and family situation of the offender. If some circumstances that disturb the enforcement of community service such as illness or other extraordinary conditions emerge, the probation officer has to inform the court and the Department for Treatment and Alternative Sanctions. The Officer also sends regular reports to the court and the Department about the realization of community service, whereas a detailed report is delivered after one half of the punishment has been served. If the offender fails

to fulfill his working obligations or neglects his professional duties, the agreement allows the employer to inform the probation officer on these circumstances. If the convicted person continues to neglect his obligations, the employer is entitled to break the contract.

### ***Conditional Sentence with Protective Supervision***

After receiving the court decision the probation officer has got 3 days to invite the offender to initial interview and 15 days to create a special individualized Program, which has to be delivered to the court, Department for treatment and Alternative Sanctions and other relevant subjects. The Program is implemented within the local community and with assistance and cooperation of other state bodies, organizations, institutions, employers, organs of local self-government. In order to accomplish the Program, the probation officer has to cooperate with the court, police, health care institutions and social welfare services. The activities within the Program include meetings with the offender at least once a month and constant supervision of the fulfillment of his obligations. The obligations that are imposed on the offender are related to his professional training and education, fulfillment of family duties, prohibition to visit certain places, drug and alcohol abstinence as well as undergoing medical treatments etc.

## **7. Finances, Accounting, Registration Systems and Evaluation Procedures**

### **7.1 Finances**

The expenses of Ministry of Justice and Public Administration and its organizational units including Administration for Enforcement of Criminal Sanctions and Administration for Treatment and Alternative Sanctions in the Republic of Serbia are covered by the budget, which is determined for each year on the basis of Law on Budget adopted by the Parliament. Some additional resources are derived from the EU IPA funds, but they are primarily invested in the renovation of prison facilities and premises that have not been in the best condition. There are no private funds that would support the development of probation in our country. Therefore, the essential financial source is the state budget that covers the costs for personnel, travel expenses, equipment and other current and regular expenses. As it has been mentioned previously, the only NGO dealing with the issue of probation is “NEOSTART” and its work is not financially supported by the state. To be exact, this organization functions on a voluntary basis and does not have a permanent source of financing.

Not all data regarding finances and accounting of the Administration for the Enforcement of Criminal Sanctions and of the Administration for Treatment and Alternative Sanctions are available for public use. Data presented in this paper are derived from Law on Budget for the Republic of Serbia for 2014. Other relevant data on financial issues of Administration for the Enforcement of Criminal Sanctions are expected to be available on-line, but the web pages containing this information are still under construction.

According to the Law on Budget for the Republic of Serbia, a total amount of RSD **8.993.904.000** (EUR 77.885,35) is going to be spent for the needs of Administration for the Enforcement of Criminal Sanctions, in particular for the needs of penitentiary institutions and prison staff. Employees' salaries are covered by the total amount of RSD **4.503.824.000** (EUR 39.002.184), social contributions that are paid by the employer RSD **1.047.638.000** (EUR 9.072.328,32), compensations of the employees' expenses RSD **122.600.000** (EUR 1.061.690,63), „natural“ compensations RSD **26.645.000** (EUR 230.740,19), social contributions for the employees RSD **3.262.000** (EUR 28.248,25), employees' awards and other extraordinary expenses RSD **14.312.000** (EUR 123.938,96), permanent expenses RSD **197.911.000** (EUR 1.713.868,31), travel expenses RSD **23.971.000** (EUR 207.583,9), services provided in accordance with contracts RSD **25.834.000** (EUR 223.717,09), special services RSD **30.771.000** (EUR 266.470,49), current reparations and maintenance RSD **73.524.000** (EUR 636.702,63), material RSD **270.773.000** (EUR 2.344.838,16), foreign interest rates RSD **40.000** (EUR 346,39), compensations for social protection provided from the budget RSD **1.807.940.000** (EUR 15.656.386,34), taxes and fees **24.184.000** (EUR 209.428,44), fines RSD **4.687.000** (EUR 40.588,45), objects and facilities RSD **347.614.000** (EUR 3010265,32), machines and equipment RSD **113.407.000** (EUR 982.081,16), property RSD **420.000** (EUR 3.637,11), production stocks RSD **261.888.000** (EUR 2.267.895,9) and stocks of products designed for further distribution **92.659.000** (EUR 802.407,77).

When determining the amount of resources that will be used to cover the expenses of Administration and its organizational units, the correlation between performances and the budget allocation is not considered as a guideline. The budget system is based on financing institutions (e.g. staff, activities, investments etc.) and does not take into account the achieved results or expected outcomes.

## **7.2 Accounting**

The functioning of the departments and organizational units of the Ministry of Justice and Public Administration including the Administration for the Enforcement of Criminal Sanctions and Administration for Treatment and Alternative Sanctions is controlled in the manner that is known as the internal control system. This means that the controller and the controlled subject are working within the same state body, but the controlled is subordinated to the controller. The controller is the higher instance. The only means of the so called outer control i.e. control performed by an independent body that does not function under the auspices of Ministry of Justice and Public Administration include regular and extraordinary visits and reports of the Ombudsperson. These reports are published and presented on the official web pages of this institution as well as announced to the Parliament on sessions dedicated to these issues.

## **7.3 Registration Systems and Evaluation Procedures**

The relevant information on offenders under probation and those serving community or alternative sanctions are placed in individual files, together with other relevant documentation such as court decisions, periodical reports etc. The main purpose of these files is to assist probation officers to organize their work and develop individual plans and programs for supervision.

## **8. Societal Support and Clients' Views**

### **8.1 Societal Support and public opinion**

The attitude of general public in Serbia towards the application of alternative sanctions is ambivalent and cannot be estimated with certainty. Since this modality of punishing the offenders and resolving the issue of crime rate and recidivism represents a relatively new solution, certain amount of mistrust and even prejudice seem to be common reactions of ordinary citizens. This kind of feedback is drawn from fear of the offenders who, instead of being placed behind the prison walls, stay within the community and among other 'ordinary' and law abiding citizens. Moreover, it could be said that it dwells upon the presumption that the punishment that does not include the traditional deprivation of liberty is to 'mild' and not sufficiently strict to deter the convicted persons from reoffending. However, these are only rough estimations based upon media reports and theoretical speculations. In that sense, it should be emphasized that no serious scientific research on the attitude of general population towards the alternative sanctions and their capacities in the field of crime suppression has been made in our country.

In spite of that, it can be noticed that the Administration for the Enforcement of Criminal Sanctions and Administration for Treatment and Alternative Sanctions have been making significant efforts to raise public awareness on the importance and potentials of alternative sanctions, primarily through media announcements on that issue published in newspapers, television shows and web pages. Besides, reports on the work of these institutions are published annually, available for public and can be accessed and downloaded from their official web pages. The members of academic community, primarily researchers and university professors are also dedicating significant amount of attention to promoting alternative sanctions in their articles and conference papers. Unfortunately, there seems to be a lack of cooperation between the scientific community and the Administration, which represents a serious obstacle for further research and, as a result, improving and promoting alternative sanctions as powerful and efficient means of crime suppression.

### **8.2 Clients' Views**

Lack of cooperation and communication between academic institutions and the Administration have also led to the lack of any kind of research that would enable any estimation of the client's views of probation and alternative sanctions. One research that would include the estimation and analyses of impressions of persons serving community service in Belgrade is currently being prepared as a contribution of team on COST Action Offender Supervision in Europe. The research would include interviews with probation officers as well as with the offenders serving community service on the territory of Serbian capital city. The findings of this research are expected to show how the officers on one side and the offenders on the other perceive and experience community service and supervision it includes. Therefore, the findings of this research would allow us to estimate client's personal views on one significant aspect of probation – community service and create useful guidelines for its further improvement. Similar research could be applied on other aspects of probation, but one should have in mind that it represents a relatively new institution in Serbian legal systems and, as such, its application, effects, advantages, disadvantages and perception by offenders and general public cannot be instantly evaluated and subject to any detailed analyses.

## 9. Probation Clients' Rights

The Republic of Serbia has either inherited after the succession of former Socialistic Federative Republic of Yugoslavia or ratified as an independent state all international documents that regulate the protection of fundamental human rights and freedoms. Values promoted in these conventions, covenants and declarations of universal or regional scope of application are included in national legislative framework of our country and guaranteed by the Constitution and relevant laws and sublegal acts. They are guaranteed to all citizens without discrimination on any possible grounds.

When discussing the issue of probation client's rights it is particularly important to mention that the respect of fundamental human rights and freedoms without discrimination is guaranteed to all convicted persons, including those deprived of liberty as well as those serving non-custodial sanctions. Therefore, persons who are serving non-custodial sanctions such as community service, offenders on whom conditional sentence with or without intense supervision is imposed, prisoners on conditional release, accused persons who are fulfilling obligations derived from the plea bargain agreement are treated in accordance with general standards that are applied on all convicted or accused persons.

However, the nature and character of some community sanctions or measures require special guarantees of offender's i.e. accused person's human rights, which are provided by the law. For example, it is particularly underlined that the punishment of community service cannot be imposed without offender's consent. If he disagrees with the implementation of community service, this punishment can be replaced with a fine or imprisonment in proportionate measure. The reason for providing this option is the fact that forced labor represents a violation of human rights, which is prohibited on both – national as well as international level. Moreover, it is especially emphasized that the character of labor performed within community service cannot be of humiliating or degrading character. On the contrary, it is required that community service includes only activities of humanitarian, ecological or other similar nature that do not insult personal dignity of the offender.

Another specific situation that requires special attention to be given to the respect of offender's human rights is the making and the implementation of conditional delay of criminal prosecution. Namely, it should be highlighted that the decision on conditional delay of criminal prosecution is made and enforced before the finalization of criminal procedure, meaning before the final decision on the guilt of the accused person has been made. Therefore, the legislator insists on the respect of the presumption of innocence of the accused person throughout the process of making and implementing the decision on conditional delay of criminal prosecution. Besides, it is worth mentioning that both – conditional delay of criminal prosecution as well as plea bargain agreement need to be applied in the manner that does not violate the right of defense. For that reason, neither of these institutions can be applied without the consent of the accused person. Finally, in order to provide full respect of the right of defense and prevent violations of accused person's human rights, it is prescribed that the accused person has to be provided a professional legal representative i.e. a lawyer on the occasion of making a plea bargain agreement.

## **10. Developments to be expected**

Prior to defining future goals for the development of probation system in Serbia, it should be mentioned that alternative sanctions and the concept of probation represent relatively new terms and institutions in our legislative system.

Although normative preconditions for the enforcement of alternative or community sanctions in Serbia were created in the period between 2006 and 2011, Serbia is about to face another legislative reform in the field of execution of criminal sentences and post-penal treatment in order to achieve full harmonization with the European standards and enable complete and appropriate implementation of Recommendation CM/Rec (2010)1 of the Committee of Ministers to member states on the Council of Europe Probation Rules, adopted on 20 January 2010. Accordingly, four draft versions of documents have been created and are about to be adopted and, hence, obtain legal force: 1) Strategy of the development of the system of execution of criminal sentences in the Republic of Serbia in the period between 2013 and 2020, 2) Law on the Execution of Criminal Sanctions, 3) Law on the probation of execution of non-custodial sanctions and measures (i.e. Law on Probation) and 4) Strategy for social reintegration and acceptance of sentenced persons for the period between 2012 and 2015. All these draft documents dedicate significant amount of attention to the issue of offender supervision through the course of enforcement of various alternative or community sentences and measures, as well as during the period of the application of post-penal treatments and programs.

Offender supervision is particularly important in the enforcement of probation which, according to Draft Law on probation includes: 1) supervision of the fulfillment of obligations in accordance with public prosecutor's decision to delay criminal prosecution, 2) supervision of the fulfillment of obligations derived from plea bargain agreement, 3) supervision of the execution of ban to leave one's apartment with or without electronic surveillance, 4) supervision of the execution of ban to approach, meet or communicate with a particular person, 5) organization, enforcement and supervision of community service, 6) protective supervision in case of conditional sentence, and 7) supervision of the execution of prison sentence in the premises where the convicted person lives, 8) supervision of conditionally released prisoners and 9) post-penal support and assistance. These activities are supposed to be performed by a special organizational unit in charge of treatment and Alternative Sanctions, within the Administration for the execution of criminal sentences (that functions under the auspices of the Ministry of Justice and Public Administration). The unit should function through a network of local probation offices employing probation officers and other staff-members and cooperating with other relevant state bodies and civil sector representatives, particularly non-governmental organizations that provide post-penal treatment services.

A comprehensive network of probation service offices that would cover the entire territory of the Republic of Serbia is due to be established by the end of 2015.

## 11. Important Publications

- Bajović, V. (2009). Plea agreement, *Review of Criminology and Criminal Law*, 47(3), 335-339.
- Bejatović, S. (2010). Criminal procedural legislation and prevention of criminality, *Review of Criminology and Criminal Law*, 48 (3), 33-61,
- Criminal Matters and Alternative Criminal Sanctions*. Belgrade: Serbian Association for Criminal – Legal Theory and Practice.
- Ignjatović, Đ. (2010). Critical Analysis of current state and tendencies in executive criminal law of the Republic of Serbia, *Crimen*, I (2), 168-201.
- Ilić, A. (2011). Possible ways of solving the problem of prison overcrowding in the Republic of Serbia, *Journal of the Institute of Criminological and Sociological Research*, 30 (1-2), 91-108.
- Joka, D.(Ed.)(2012). *Report on the work of Administration for the execution of criminal sanctions for 2011.*, Belgrade. Ministry of Justice of the Republic of Serbia – Administration for the Execution of Criminal Sanctions.
- Jovašević, D. (2013). Community Service – theory, practice, legislation, *Review of Niš Law Faculty I*, 64 (1), 15- 32.
- Konstantinović Vilić, S., Kostić, M. (2011). *System of Execution of Criminal Sanctions and Penal Treatment in Serbia*, Niš: Publishing Centre of Faculty of Law.
- Mrvić-Petrović, N. (2006). Alternative sanctions and new legislation in the Republic of Serbia, *Temida*, 9 (1), 55-59.
- Mrvić-Petrović, N. (2010). Alternative criminal sanctions in the states of the Balkan region, in: V.Colović (ed.), *Law of the Region Countries*, Belgrade: Institute of Comparative Law.
- Soković, S. (2009). Between prison and conditional conviction: Intermediate sanctions, *Review of Criminology and Criminal Law*, 47 (3), 183-196.
- Soković, S. (2011). Contemporary global tendencies in crime control (characteristics, perspectives and overview of domestic circumstances). *Crimen*, II (2), 212-226.
- Stevanović, Z. (2012). Realization of the idea to establish a probation system in Serbia, *Review of Criminology and Criminal Law*, 50 (3), 87-103.
- Stevanović, Z. Igrački, J. (2013). Harmonization of the implementation of alternative criminal sanctions in Serbia with European standards, in: L.Kron, A.Jugović (eds.) *Crime, State Reaction and Harmonization with European Standards*. Belgrade: Institute of Criminological and Sociological Research.

Stevanović, Z. Igrački, J. (2013). Probation system in Europe – experiences that should be implemented. in: S. Bejatović (ed.) *New Solutions in Penal Legislation of Serbia and their Practical Application*. Belgrade: Serbian Association for Criminal-Legal Theory and Practice.

Stojanovic, Z. et al. (2009). *Alternative Criminal Sanctions and Simplified Forms of Proceedings*. Belgrade: Serbian Association for Criminal Legal Theory and Practice, Association of Public Prosecutors and Deputies of Public Prosecutors of Serbia.  
Stojanović, Z. (2009). Justification and scope of alternative criminal sanctions and alternatives to standard criminal procedure, *Review of Criminology and Criminal Law*, 47 (2), 21-40.

Stojanović, Z. et al. (2009). *Alternative Criminal Sanctions and Simplified Forms of Proceedings*, Belgrade: Serbian Association for Criminal Legal Theory and Practice, Association of Public Prosecutors and Deputies of Public Prosecutors of Serbia.

Tanjević, N. (2011). Towards European trends in penal policy: The alternative sanctions in Serbia. *Review of Security Studies*, 5 (2), 125-139.

Važić, S. (2009). Abbreviated Criminal Procedure in S. Bejatović, (ed.) *Simplified Forms of Proceedings in Criminal Matters and Alternative Criminal Sanctions*, Belgrade: Serbian Association for Criminal-Legal Theory and Practice

## **12. Main Addresses, Phone & Fax Numbers, E-mail Addresses, Home Pages**

Ministry of Justice and Public Administration  
Belgrade, 22-26 Nemanjina str.  
Telephone: +381 11 3622-345, +381 11 363-1026, +381 11 3616-550.  
Email address: [kontakt@mpravde.gov.rs](mailto:kontakt@mpravde.gov.rs)  
<http://www.mpravde.gov.rs/>



## General Information

- Number of inhabitants: 7 186 862 (the latest data available is for 2011)
- Prison population rate per 100,000 inhabitants: 153.2 (the latest data available is for 2011)
- Link to Probation Service: <http://www.uiks.mpravde.gov.rs>
- Links to websites: <http://www.uiks.mpravde.gov.rs>
- Not a member of CEP

## Characteristics of the Probation Service

- Functions within Department for Treatment and Alternative Sanctions under the auspices of the Ministry of Justice and Public Administration
- Works via probation offices distributed throughout the country
- Cooperates with the police, medical institutions, social welfare services, employers and other institutions, organizations and associations
- In charge of supervision and probation, particularly of alternative sanctions and conditional release

## Tasks:

- Supervision of: conditionally sentenced offenders, application of measure of electronic surveillance, convicted persons on conditional release and community service
- Writing reports on the course of the enforcement of community service and delivering these reports to court and Administration for the Enforcement of Criminal Sanctions
- Informing court and Administration for the Enforcement of Criminal about obstacles for further implementation of community service
- Providing assistance and support as a part of the pre-release process
- Controlling the application of ban to leave the premises where the accused person lives, provided that such measure has been imposed in the criminal procedure as a means to guarantee that the accused person will be present and attend the trials.

## Number of staff (average numbers in 2011)

- |   |                      |
|---|----------------------|
| - Probation officers:                           | 45                   |
| - Probation Managers, all grades:               | not available        |
| - Administrative support staff, all grades:     | not available        |
| - Community Service Supervisors:                | not available        |
| - <b>Total:</b>                                 | <b>not available</b> |
| <br>  |                      |
| - Daily average number of offenders dealt with: | not available        |

## New developments

- Introduction of “house prison” as a modality of execution of prison sentence

- Introduction of “house arrest” as a measure to ensure the presence of the accused during the trial
- Electronic monitoring during house prison, house arrest and conditional sentence with protective supervision
- New probation offices around the country
- Draft laws and strategic documents that will enable full harmonization with European Probation Rules

**Probation during the different stages of the criminal procedure:**

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