



Probation in Europe

Catalonia

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The European Organisation
for Probation

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1. Introduction

1.1 Probation organizations

Probation activities take place in Catalonia in both juvenile and adult jurisdictions. The authorities responsible for them are the General Directorate for Community Sanctions and Juvenile Justice (*Direcció General D'Execució Penal a la Comunitat i de Justícia Juvenil*) and the General Directorate of Penitentiary Services (*Direcció General de Serveis Penitenciaris*). Both belong to the Department of Justice and its goal is providing, managing and supervising the services and resources needed to physically carry out the execution of community sanctions. This can be done through in-house services or through cooperation with other institutions.

Probation is not a punishment per se in Spain in the adult jurisdiction. Probation activities are carried out in the framework of suspended (or substituted) prison sentences, and sentences to unpaid work (*Trabajo en Beneficio de la Comunidad*). Likewise 'probation officer' is not a term used in Spain. When we refer to 'probation officers' we mean all the persons who work in the juvenile or adult justice system with the goal of implementing sentences that do not deprive freedom and that involve some form of supervision.

1.2 Probation activities in a nutshell

Taking probation in the broad sense as the set of activities performed within the criminal justice system with the aim of reducing the use of prison or at least the time spent in it, the main areas of activity which are currently being implemented in Catalonia are:

a) Supervision of community sanctions. Spanish criminal law for the adult population provides the following community sentences: suspension (or substitution) of prison sentences with rules for behaviour or obligations to attend some programme and unpaid work. The enforcement of these measures consists of supervision by a probation officer to ensure the fulfilment of the obligations or treatment imposed by both jurisdictions: adults (*Delegat d'Execucio de Mesures, DEM*) and minors (*Delegat d'Assistencia al Menor, DAM*).

b) Assessment and pre-sentence reports. There are specialised assessment teams (*Equips d'Assesorament Tecnic Penal, EAT*) for each of the jurisdictions, adult and juvenile. The aim is to inform judges and prosecutors of the personal and social circumstances of the defendant. While pre-sentence reports are obligatory in the case of juvenile justice, in the adult jurisdiction they are prepared only for those cases in which they have been expressly requested by the judge.

c) Victim and offender mediation. These programs are being applied in both adult and juvenile justice; in both cases, the mediation teams are made up of professional mediators. In juvenile justice in cases of crimes and misdemeanours not involving personal violence (for crimes up to five years of prison under the Penal Code provisions), the judicial process can be halted if the minor has made reparations for the harm suffered by the victim or is willing to do so. In the adult jurisdiction, however, it is not possible to avoid the judicial process, but mediation

and reparation for the harm done to the victim made before the trial may be considered as an attenuating circumstance.

d) Parole supervision and open regime. The multidisciplinary teams of the Penitentiary Social Services (*SSP Serveis Socials Penitenciaris*) are in charge of the supervision of those prisoners who are in open prison regimes (going to prison only to sleep, or in the electronic monitoring program), as well as for those on parole.

e) Security measures. Spanish criminal law for the adult population also provides for security measures for offenders who have been considered 'irresponsible'. These consist of measures of treatment for drug users and mental health (outpatient or placement). These measures are carried out by the probation services.

f) Juvenile Justice. The *Equips de Medi Obert* (Young Offenders Teams) are those in charge of the supervision of all juveniles sentenced to community sanctions by probation supervisors (*Delegat d'Assistència al Menor, DAM*). There are more community sanctions for juveniles. These consist of: Probation, Unpaid Work and Treatment or Training measures according to the Law of Penal Responsibility of Minors (LO 5/2000).

1.3 General remarks about the implementation of probation rules

a) Commitment to rehabilitation: Regarding the implementation of the European Probation Rules both the state and the Catalan legislation encourage regional organizations responsible for implementing sanctions in the community to direct their actions towards reducing recidivism in crime, and towards the rehabilitation of offenders.

b) Organisation of community sentences: In addition the *Decree 329/2006*, regulates the organization and functioning of the penal enforcement services in Catalonia, defines the tasks and responsibilities of all services involved in the execution of criminal sanctions in Catalonia, including the participation of volunteers.

c) Restorative justice: In Catalonia, the practice of restorative justice has expanded in recent years and, most particularly in the field of juvenile justice where a third of crimes committed by young people are met with restorative responses, with the participation of the offender and the victim in mediation processes. The rights of both parties are always scrupulously observed and supervised by the courts concerned.

d) Partnership to prevent crime: following the European Rules, knowledge and experience of the probation services are taken into account in developing strategies to reduce crime through participation in various settings involving coordination between public organizations and associations of the voluntary sector¹

¹ In this regard we should include the involvement of probation services in the work of the Cirso (see 4.2.3.) and the Board of Social Participation (see 8.1).

2. Historical Development of the Probation System

2.1 History from the origins to 2008

In Spain,² the first laws dealing with the supervision of offenders in the community date from 1908 (suspended sentence) and 1917 (parole). For many years, however, the resources available to implement these laws were minimal, and for the most part were left in the hands of charitable organisations. Furthermore, the long period of military dictatorship witnessed a lack of public policies and of material support from the authorities, which did nothing to conceal their orientation towards a penal response based on the principles of retribution and correction.

A. *First period (1981-1985)*. The Spanish democratic Constitution (1978) establishes that the penal code is unique for all Spain as well as the Judiciary power. Nevertheless it leaves the possibility that the different '*comunidades autonomas*' exercise some functions in this respect.

When democratic freedoms were restored, Catalonia was the first Autonomous Community in Spain to take up devolved powers for the protection of minors, in 1981. In 1984, powers regarding penitentiary institutions were transferred from the State to the *Generalitat de Catalunya* (Government of Catalonia)³. Thus the Catalan government became solely responsible for the organization of prisons and community sentences.

These transfers of powers made it possible to define a framework for political and administrative action. The years between 1981 and 1985 saw the creation of specialised professional public services, the negotiation of agreements for interdepartmental coordination and for collaboration with local organisations and citizens' groups. The basic principles in Catalonia have always been to prioritise activities in the community setting, and hence to create services for the enforcement of sentences in the community.

B. *Second period (1985-1995)*. Juvenile justice in Catalonia underwent a transition from a protection model to one based on education and responsibility. The two determining factors were the Organic Law of the Judiciary of 1985, under the provisions of which the former Tutelary Juvenile Courts (*Tribunals Tutelars de Menors*) once again became part of the structure of the judiciary, and two years later in 1987, the modification of the Civil Code under which the protection of minors became the responsibility of the Administration and the juvenile courts became competent only for the trial of minors for the commission of crimes or offences defined in the Penal Code.

The juvenile probation system was established consisting of the Assessment teams who write the presentence report (EAT) and probation officers who supervise the offenders (DAM). Additionally in 1990 a mediation programme was set up in juvenile justice in Catalonia. This was the first penal mediation programme to be created in Spain.

2 Please see the Spanish Report.

3 Catalonia is the only Autonomous Community to which powers have been transferred with respect to penitentiary institutions.

In the field of adult criminal justice, the Catalan Department of Justice established, that same year, the Assistance and Social Orientation Services (*Serveis d'Assistència i Orientació Social*). It was set up to guide judges in the implementation of non custodial sentences and was later transformed into the assessment team for adults in charge of writing presentence reports.

C. *A new criminal code (1995-2000)*. In 1995 a new Penal Code was approved in all Spain.⁴ This, as well as increasing the age of criminal responsibility from 16 to 18,⁵ introduced more alternative measures to prison sentences, namely suspended sentences (with the possibility of introducing special obligations) and unpaid work.⁶ As a consequence, in 1996 the Catalan government created the General Directorate for Alternative Penal Measures and Juvenile Justice (*Direcció General de Mesures Penals Alternatives i de Justícia Juvenil*) with the aim of bringing responsibility for the serving of community sentences and measures together with juvenile justice under a single authority. Also at the same time the assessment teams (EAT) for adults were set up. With the coming into force of the new Penal Code in 1996, the probation officers, who until then had concerned themselves only with juvenile cases, also took charge of the community sentences in the adult jurisdiction.

The only programme for serving sentences within the community which persisted outside this unified probation services structure was the monitoring of offenders in parole and open regime, which continued to be the responsibility of the Territorial Committees for Penitentiary and Social Care (*Comissions Territorials d'Assistència Social Penitenciària*) of the Directorate General for Penitentiary Services and Rehabilitation (*Direcció General de Serveis Penitenciaris i de Rehabilitació*).

In 2000 the Secretary for Penal Execution (*Secretaria Sectorial d'Execució Penal*)⁷ was formed. Thus, all matters regarding the enforcement of alternative penal measures and prison sentences were brought together (under the wing of what was then the General Directorate for Penitentiary Services and Rehabilitation, and the Directorate General for Alternative Penal Measures and Juvenile Justice) into a single management structure.

In 1998 the Framework Agreement⁸ was signed between the Department of Justice and the Local municipal authorities in Catalonia for the provision of places for serving community sentences (for juveniles and adults).

4 See the Spanish part in the Report.

5 Juveniles under the age of 18 are not criminal responsible according to art., 19 PC, but their liability for criminal offences is regulated by the Ley Orgánica 5/2000.

6 Since our concern is with probation systems we do not deal with other punishments like fines or job disqualifications, since these require no supervision.

7 With Decree 284/2002 of 19 November, concerning the structuring and restructuring of certain departments of the Generalitat, the Sectorial Secretariat for Penal Execution became known as the Secretariat for Prison Services, Rehabilitation and Juvenile Justice. After the publication of Decree 12/2007, concerning the restructuring of the Department of Justice, this Secretariat became responsible for the Directorate General for Prison Regime and Resources and the Directorate General for Community Sentences and Juvenile Justice.

8 The signatories to the Framework Agreement were the Department of Justice, the Federation of Catalan Municipalities and the Catalan Association of Municipalities and Districts, which together represent the local administrations.

In order to ensure the proper enforcement of alternatives to prison for adults, in 2000 the Department of Justice signed an agreement with the IRES (*Institut de Reinserció Social*, or Institute for Rehabilitation) under which this institution would take on responsibility for enforcement in Barcelona in coordination with the Justice Department's own staff and services. In the other three provinces the probation services of the department of justice (DEMS) are directly in charge of providing the supervision.

D. The expansion (2000-2008). As a consequence of multiple reforms of the Penal Code, since 2000 there has been a major increase in the prison population, but also in the number of persons sentenced to alternatives to prison and to community work. The main reforms have affected *gender violence* (2003) and *traffic offences* (2007). In both cases *new behaviours* have been criminalized in the criminal code. And in both cases they are mainly punished with community sentences.

At the same time, between 2003 and 2006, the Department of Justice's budget has increased substantially, essentially to implement the Prison Facilities Plan 2004-2010, but also to increase the number of staff working in assessment programmes, probation, mediation, and victim care.

Summary: The history of the probation system in Catalonia is one oriented towards rehabilitation. The system of supervision by officers that was developed for *juveniles* has expanded in order for it to be implemented also for adults; the cornerstones of which are: the *presentence report* which is mandatory for juveniles and scarcely used for adults; the *supervision by a probation officer* or by a supervisor employed by private organizations; the possibility of *mediation* for juveniles which account for 30% of cases; and the provision of victims support schemes. There has been a *great expansion* of probation mainly due to the criminalization of new behaviours. This has created an *enormous increase in community sentences*, for example unpaid work went from 321 cases in 2000 to 14.662 cases in 2010. Finally, the supervision of open regimes and *parolees* has not been considered part of the probation task but it is coordinated under the same administrative agency.

2.2. Recent history from 2008-2011

The most recent Organic Law 5/ 2010 of June 22nd amended the Criminal Code of 1995. It has introduced two new reforms that are relevant for the probation services. First, the new Penal Code introduced a new form of post sentence supervision that applies to terrorists and sex offenders. Thus, a person convicted of pedophilia, rape or terrorism after having served their prison sentence can be subject to various community measures, including electronic monitoring, for up to five years (and extended to 10 years). These persons will also need to follow medical treatment or participate in training, or sex education programs, and may be subject to other restrictions on movement, residence or work. In Catalonia this supervision might be enforced by probation services. Second, it has amended the regulation of unpaid work for traffic offences which will result in big decrease of these sentences from 2011 on.

3. Legislative Basis of the Probation System

3.1 Legislative Basis

As we have already mentioned the Penal Code is applicable to Spain as a whole. So we will just make a brief summary in order to make the rest of the section comprehensible. The legal requirements for the imposition of sanctions in the community are laid down by the *Penal Code of 1995 and Royal Decree 840/2011*, concerning the circumstances for enforcement of suspension of prison sentences, unpaid work, and security measures.

A) Suspended sentence: There are three different kinds of

A1) **Ordinary suspended sentence**, in cases of prison sentences up to two years for first offenders. The suspended period is from two to five years, or from three to twelve months for minor offences. Apart from not committing a further crime during the specified period, the following obligations may be imposed: a prohibition on going to certain places; a prohibition on approaching the victim; a prohibition on leaving home; an obligation to present oneself before the administration; the obligation to attend training programmes in the fields of employment, culture, road safety, or sex education.

A2) **Suspended sentence for drug dependent offenders** may be applied for prison sentences of up to five years and are intended for those cases in which the crime was committed as a consequence of drug dependence. For the suspension to be applied, a certificate must be produced attesting that the person is no longer addicted or is undergoing treatment for addiction. A forensic report about the treatment is also required before any suspension is applied. The period of suspension is from three to five years. During this period treatment for addiction must be started or continued.

A3) **Suspended sentence, in the sense of a conditional sentence for sick offenders**, in accordance with Art80.4 of the Penal Code the judge or court may suspend any sentence without any condition if the sentenced person is affected by a disease with very serious incurable suffering.

B) Unpaid work has to always be applied with the consent of the sentenced person. It can be used

B1) as a substitute of prison sentences of up to one year and exceptionally two years. It is intended for people who have a previous conviction, (therefore the sentence cannot be suspended), but are not habitual offenders⁹. One day community work is considered to be the equivalent of one day in prison. Furthermore the obligations that can be imposed for suspended sentences may also be imposed additionally to unpaid work.

B2) as a direct sentence by the judge. Unpaid work may be applied as the main punishment for certain crimes. This arises only for three offences: abuse or domestic violence, misuse of vehicles or motor cycles and driving under the influence of alcohol.

9 have not been convicted 3 times

B3) the deprivation of liberty for unpaid fines can be replaced by unpaid work for the benefit of the community.

C) Security measures, may be the deprivation of liberty (internment in a psychiatric hospital, drug addiction centre or special educational centre) or non-custodial sentences which might consist of the prohibition of certain rights (such as permission to carry arms or a ban on driving), obligations and/or prohibitions (concerning the place of residence or communicating with other people) and family custody, submission to outpatient treatment or training programmes in the field of culture, education, employment and sexual education, amongst others.

C1) a security measure may be imposed by the judge in cases of exemption or diminished criminal responsibility if there is likelihood that more offences will be committed.

C2) they can be also applied in cases in which a serious and long term mental illness is unexpectedly detected, and the person sentenced to prison is incapable of understanding the meaning of the sentence. In such cases medical assistance must be provided and security measures may be custodial or non-custodial measures.

C3) finally with the last penal reform (*Llei orgànica 5/2010, de 22 de juny*,) non-custodial measures can be imposed after a sentence has been served.

Additionally the *Penitentiary Law 1/1979* and *Royal Decree 190/96* regulate.

D) Open regime, is a way of serving a prison sentence. These sentences are served in the *Open Centres* or the *Open Sections*. Inmates in such institutions perform activities outside the centre during the day but return in the evening to sleep. They may be given leave over weekends in accordance with what the Treatment Committee determines is appropriate in each case. Prisoners classified in this regime can also be sent to private or public extra-penitentiary institutions such as Therapeutic Communities or special educational centres. The authorization belongs to the General Directorate of Penitentiary Services and only if there is an appeal from the prosecutor the Judge of Penitentiary Surveillance issues a final decision

Open regime inmates may, instead of returning at night to sleep at the institution, return to their own homes. This can involve (only in few cases) *electronic tagging* or other sufficient control mechanisms. More generally open regime means that the obligation is to be present at the institution during the period determined in their treatment programme for the purposes of attendance control, activities and meetings with the person responsible for tracking them. In all these cases supervision is done by the Social Services Penal Sections.

E) Parole. Eligibility for parole may be considered for prisoners who have served 3/4 of the sentence, or 2/3 of the sentence.¹⁰ Parole is authorised by the prison surveillance judge on the recommendation of each establishment's Treatment Committee. Generally, the recommendations made to the prison surveillance judge with regard to parole are accepted, and parole is granted. The supervision is done by the social workers of the Social Services Penal Sections.

For *juvenile justice*, there are more community sanctions available. These consist of: probation, unpaid work and treatment or training measures according to the Law 5/2000 of Penal Responsibility of Minors and the Royal Decree 1774/2004 regulating both, the procedure and the criteria and conditions for the adoption and the execution of the measures.

Relevant probation rules

The legislative basis for the Catalan Government's powers with regard to community sentences and the organisation of probation services consists of Spanish State legislation *and* laws passed by the Catalan Parliament.¹¹ The principal Catalan texts regarding services for the serving of sentences in the community are: The *Catalan Parliament's Law 27/2001*, concerning juvenile justice, passed by the Catalan parliament and establishing the administrative framework to be employed by the Catalan administration for the execution of the measures adopted by judges in application of the Juvenile Spanish Law. The law regulates the implementation of programmes to support rehabilitation processes and lays down a regime for the participation of public and private bodies in the exercise of these functions.

The *Decree 329/2006*, approving the regulations for the organization and functioning of the penal enforcement services in Catalonia. Chapter III of the Regulations deals with the Penal Enforcement Social Services, which are organized by geographical area in external units to the prisons and which act in coordination with the public Catalan Social Services.¹²

The Department of Justice also issue circulars, instructions and basic rules. Those worth noting here are Circular 2/2004, on the procedure for proposing and monitoring parole; Circular 1/2006, on the organisation and functioning of probation teams; Instruction 7/2005, on the application of the programme for mediation and reparations to victims; and Basic Rules 3/2003, concerning protection orders for victims of domestic violence.

10 Other forms of eligibility for parole are also contemplated for persons over the age of 70, persons with serious diseases, foreigners without legal residence in Spain, and Spaniards resident abroad.

11 In the exercise of the powers provided for in articles 166a and 168 of the 2006 Statute of Catalan Autonomy.

12 *Social Services* in Catalonia are operationally structured in primary care services and specialised services. The specialised services are responsible for diagnosis, assessment, treatment, care and rehabilitation for persons with social needs. Amongst other duties they work on the prevention and treatment of delinquency; care for prisoners and the rehabilitation of ex-prisoners.

Although these regulations are prior to the approval of the European Probation Rules, all these aforementioned regulations (laws, decrees and circulars) include specific instructions relating to compliance with the articles 1,34,95, 97 and 98 of the European Probation Rules (social inclusion, tasks and responsibilities of probation agencies, the role of volunteers, the rights of victims and offenders in the criminal and restorative justice process and the participation of probation agencies in the development of crime reduction strategies).

3.2 Mission and Mission statement

One mission of the Catalan Department of Justice is to ensure, in Catalan territory, the enforcement of community sanctions and care for the victims of crime in accordance with applicable laws and taking account of guidelines at international levels. The “*Pla Annual d’Objectius*” (objectives of the year 2010) approved by the Justice Department establishes the following goals for prison services and probation

- Ensure care and support to judges and prosecutors
- Ensure enough and adequate penal measures in the community and appropriate to needs
- Increase the social reintegration of youth and adults subject to criminal enforcement measures
- Promote new systems of conflict resolution
- Ensure that victims receive adequate care
- Increase the satisfaction of citizens and users with the Administration of Justice

3.3 Crime Prevention

Through its Prevention of Juvenile Delinquency Program, the Department of Justice offers local authorities, the services of experts in the diagnosis of conflict situations to prevent juvenile delinquency in public places, schools and neighbourhoods. Actions have been implemented for the prevention of truancy and drug and alcohol abuse, and mediation in the schools and in the community.

3.4 Victim assistance

The legislative basis of the programme for victims of crime is the victim’s statute in Spanish criminal procedure and the international legislation by the United Nations, the European Union and the Council of Europe.¹³

¹³ Law 14/94, concerning the protection of witnesses and expert witnesses, Organic Law 5/2000, concerning the criminal responsibility of minors, Law 27/03, concerning protection orders, the Penal Code 1995, Organic Law 1/2004, concerning integrated protection against gender violence, and Law 35/1995, concerning aid and assistance for the victims of violent crimes and crimes against sexual liberty.

The aim of the Office for the Support of Victims of Crime is to be the primary point of contact for information and support for victims, and for referral to other services, as well as to ensure that victims have access to all the aid and care which they must receive in the swiftest possible way. These offices deal with cases either at the request of the courts or of the victims themselves.

The Office for the Support of Victims of Crime offers both general care (psycho-social and legal) and specialized care (legal and psychological advice for adults), as well as making referrals to other resources.

The Centres for Victims of Crime also act as a coordination point for protection orders in gender violence offences in order to ensure the provision of social assistance and protection measures (financial aid, free legal advice, reception centres, housing, employment, etc.). Their main responsibilities are: to receive the protection order adopted by the judge and to keep the victim permanently informed about the state of proceedings against the alleged offender or the prison status of the offender during his sentence.

3.5 Volunteers involvement

Generally, most volunteer organizations are involved in the support of the activities taking place inside the prisons and to a lesser extent in the care of persons subject to alternative penal measures. Still worth mentioning, however is the possibility that people sentenced to unpaid work for the community can work with the voluntary associations performing popular events of cultural, sports, as well as carrying out tasks in support groups with special needs(children, elderly, food bank, etc.).

The principles outlining the actions of the volunteer organizations are contained in Circular1 / 2001, Volunteer Management in the prisons of Catalonia.

The volunteer organizations must submit an intervention program that is generally validated by the competent bodies of the Department of Justice. This program must include aspects such as the description of the organization, the objectives to be developed, the number of volunteers participating in the activities, resources, methodology, etc.

The Department of Justice, has also signed collaboration agreements with non-profit organisations and local authorities. Notable amongst other actions are those concerning housing and the accompaniment of individuals on probation or on parole, treatment and occupational programmes, training or other workshops for people with problems of drug addiction, mental health or social integration difficulties. There are now approximately 400 entities involved in such activities altogether. These organizations are organized around the *Taula de participació social*.

4. The Organization of Probation Services

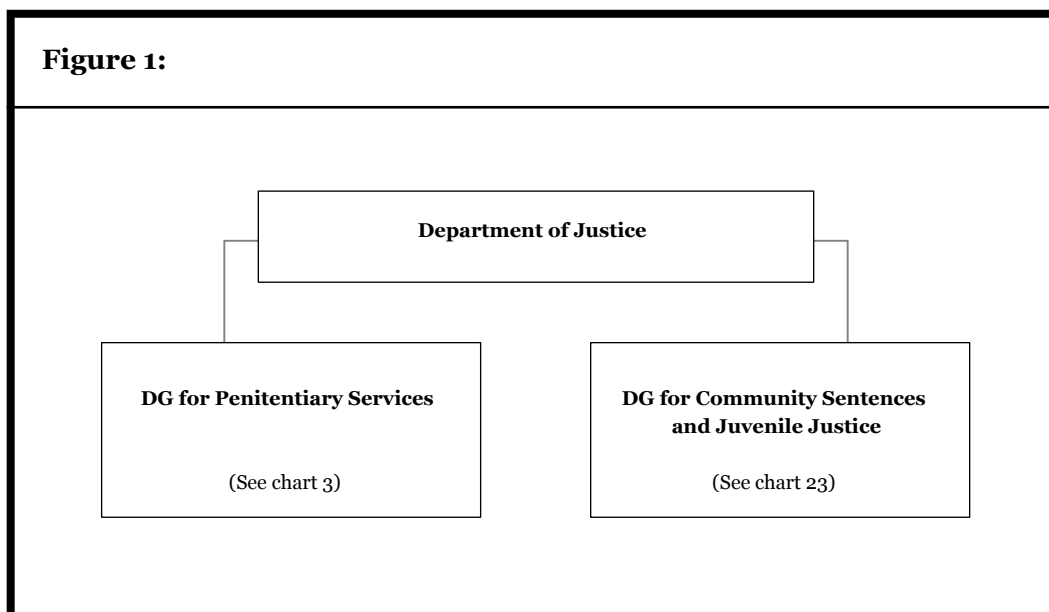
All these European probation rules (22, 23, 24, 25, 27 and 29) related to training, professional profile and conditions for the exercise of the profession are guaranteed by the Centre for Legal Studies and Specialized Training of the Department of Justice, which is responsible for initial and ongoing training of personnel. Additionally the prison and probation administration takes care of the ratio of the persons subject to community sanctions in order to allow the exercise of an individualized model of intervention.

The Rule 42, related to the need of presentence reports to assists the judicial authorities in their making decisions process, is absolutely guaranteed by the criminal law for juveniles (where those reports are mandatory always) but not in the adults jurisdiction where those reports are only prepared when the judges request it.

Concerning the rules 63, 64 and 65, related to foreign offenders, although the rules and programs of the penitentiary and probation authorities don't establish any kind of discrimination, the restrictions are often established by other general laws (health, education, and work permits) in order to control the access of irregular immigrants.

4.1 Main characteristics

Organisation chart 1: the Department of Justice



The Department of Justice is the competent Government authority for drawing up proposals for prison, community sentences and juvenile justice policy, providing strategic direction for it, implementing it and assessing its effects.

The Directorate General for Community Sentences and Juvenile Justice (*Direcció General d'Execució Penal a la Comunitat i Justícia Juvenil*) is the responsible body for the enforcement of measures in the juvenile jurisdiction and community measures in the adult criminal jurisdiction. Subsidiary to this Directorate General are the

technical advisory teams that advise judicial organs, the Centres for Victims of Crime and the Mediation-Reparation programmes.

The Directorate General for Penitentiary Services (*Direcció General de Serveis Penitenciaris*) is responsible for all the penitentiary centres and the Social Services Penal Sections, whose functions include those of drawing up individualised plans for third-grade prisoners (semi-liberty regime) as well as for those on parole.

4.2 Internal organization

In 2010, there was a change of government which resulted in the final restructuring of the Department of Justice, Decree 333/2011.

Primarily this change has led to the abolition of the former Secretary of Penitentiary Services, Rehabilitation and Juvenile Justice which had been integrated and was in charge of the Directorate General of Prison Services and the Directorate General of Community Sentences and Juvenile Justice.

The Directorate General for Community Sentences and Juvenile Justice has four management units to fulfil its responsibilities: one Sub directorate General and three Services. The Human and Financial Resources Service serves the whole of the Directorate General, while the other services undertake the management of public services and the supervision of private entities that provide services related to the various phases of the judicial process and the enforcement of community measures in both the adult and juvenile jurisdictions.

The Sub-directorate General for Reparation and Enforcement of Community Sanctions (*Subdirecció General de Reparació I Execució Penal a la Comunitat*) is responsible for the management, in the field of the ordinary penal jurisdiction, of all the programmes and services of community sentences, as well as the assessment teams, the mediation programme for adults and the Centres for Victims of Crime.

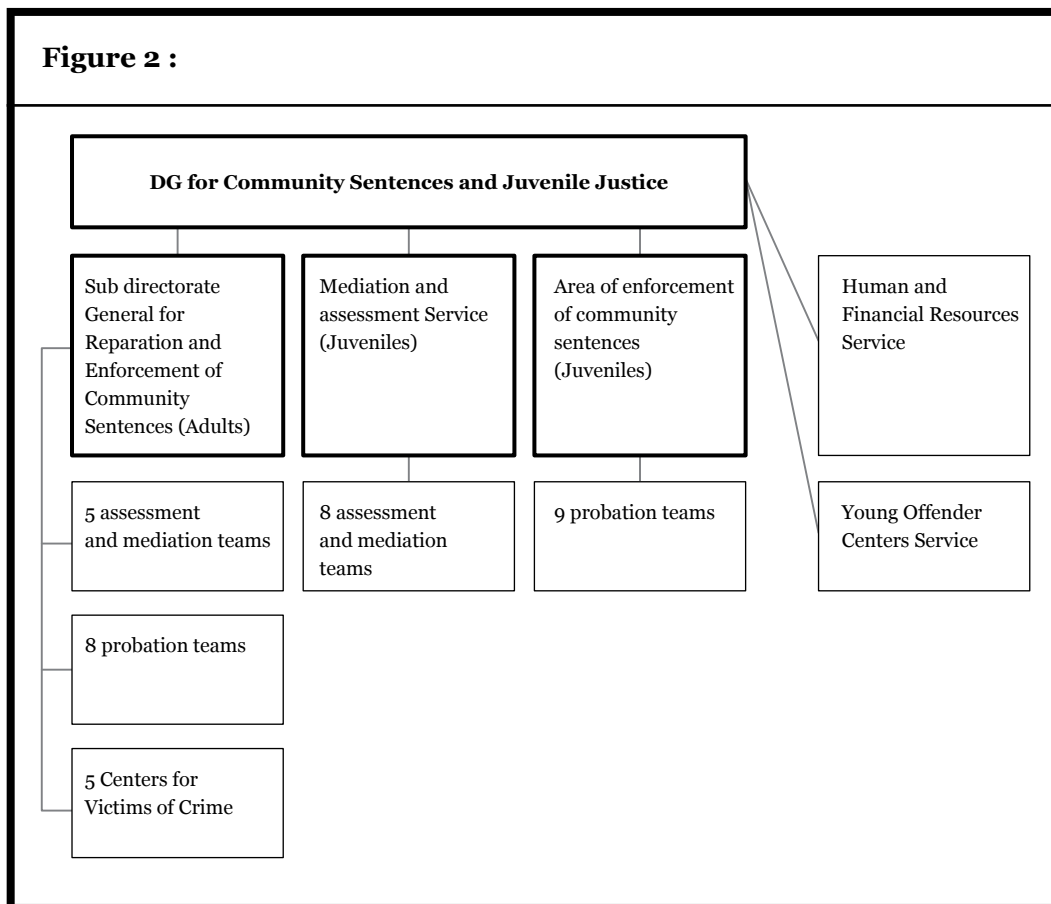
The enforcement of penalties in the community, is outsourced to the Social Rehabilitation Institute (*IREs-Institut de Reinserció Social*), for the enforcement of Training Programs and Treatment Programs in Barcelona; to the Association for the Promotion and Professional Resettlement (*APIP, Associació per la Promoció i la Inserció Professional*) for the enforcement of Unpaid Work in Barcelona; and to the Institute of Social Work and Social Services (*INTRESS, Institut de Treball i Serveis Socials*) for the whole range of alternative sanctions in Girona, Lleida, Tarragona and Terres del Ebre.

In the area of community sentences there is a total of seventeen teams, eight of them for the adult jurisdiction (managed by IRES, APIP and INTRESS) and nine for juveniles (all of them composed by civil servants of the Department of Justice).

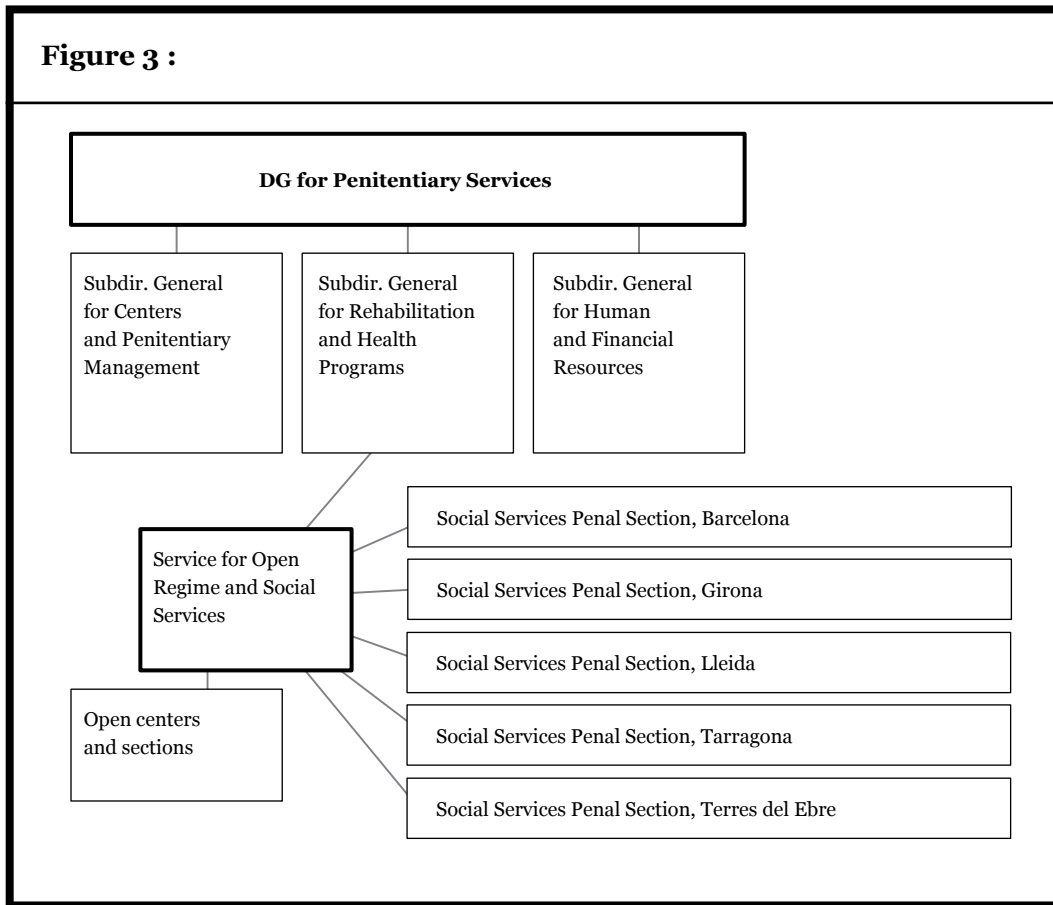
Since January 2011 the Foundation for Integral Care and Management (*AGI, Fundació Assistència i Gestió Integral*) manages the mediation programme for the adult population under a contract with the Directorate General for Community Sentences and Juvenile Justice. The mediators use the same offices as the assessment teams and coordinate with them.

All the probation programmes in the juvenile jurisdiction are managed and implemented by the staff of the Mediation and Assessment Service (*Servei de Mediació i Assessorament Tècnic*) and the Area of Enforcement of Community Sanctions (*Àrea d'Execució de Mesures en Medi Obert*). There are thirteen assessment and mediation teams in total: five for the adult penal jurisdiction (one team for each of the Territorial Areas (Barcelona, Lleida, Girona, Tarragona and Terres del Ebre) and eight teams for the juvenile jurisdiction, of which four are based in Barcelona.

Organisation chart 2: The Directorate General for Community Sentences and Juvenile Justice



Organisation chart 3: The Directorate General for Penitentiary Services



For the enforcement of prison sentences the General Directorate for Penitentiary Services is structured into three Sub General Directorates and three Services. One of these is the Service of Open Regime and Social Services (*Servei de Medi Obert i Serveis Socials*), to which are functionally attached the Social Services Penal Sections of each province. These sections are organized and made up of social workers, psychologists, jurists, educators and administrative staff, and their purpose is to provide social service coverage to the whole of the population serving sentences of privation of liberty, whether in the ordinary regime or through the various types of open regime (semi-liberty, half way houses, electronic tagging), and while on parole.

4.2.1 Probation workers

The teams work with appropriate ratios of users in order to ensure that, as well as the control activity and monitoring of each case there are also plans to work and coordinate with other services of its own Justice Department and other public and private organizations that can meet the needs of the respective individualized plans of tracking and social integration.

Staff structure for adults and juveniles

Number of staff (total)	675
Management staff	63
Probation staff	508
Supporting staff (e.g. secretary, bookkeeping staff, ICT staff etc.)	104

4.2.2 Education, training requirements and opportunities

The *qualifications required* vary according to the programme on which the candidate is to work.

For the assessment teams (EAT), a diploma in social work or a degree in psychology is required, according to the specific role the person concerned is to play in the team.

For the supervision of sentences (DEM), a diploma in social work or social education is required, although people with under graduate degrees from university in various social sciences (law, psychology, criminology, and education) may also be accepted.

For the social penitentiary services a diploma in social work is required.

To act as a mediator the candidate needs a university degree and professional experience or specialized training (a Master or postgraduate degree) in the field of conflict resolution.

Probation officers, working on assessment teams, juvenile justice, victim support, and parole supervision are *civil servants*. A high level of occupational stability distinguishes these professionals. Only in the case of substitutions (due to illness, leave, etc.) are short-term contracts extended. For the most part, when these professionals join the staff of one specific unit (mediation, probation or advisory teams), they already have several years of experience in the field of justice. Most have acquired this experience working for another unit attached to the penitentiary or the Juvenile Justice services. One of the criteria also considered when selecting new personnel is their education through the courses or post-graduate programmes they have attended in parallel with their professional activities.

On the other hand, probation officers working on the implementation of alternative sanctions, and the mediators in the adult jurisdiction, are outsourced services fulfilled by non-profit organisations (IRES, APIP, INTRESS and AGI) under agreements signed with the Department of Justice.

Initial *training* may be individualised and practical, allowing the new member of the team to integrate gradually with the support of a colleague from the same team; or in a group, when there are several people who are to join different teams. In the case of initial training for groups, this is organised and programmed by the Centre for Legal Studies and Specialised Training.

The Justice Department's staff is entitled to 40 hours per year of training during working hours, which may be used for the in-depth study of the techniques and methodology associated with each of the programmes, or for a flexible training curriculum that enables them to acquire knowledge that will be useful for their professional future. There is also the ever more frequent possibility of studying master's degrees related with the execution of penalties, legal psychology, criminal law, criminology and mediation, amongst others.

The announcements of positions for the teams responsible for community sanctions, both in adult and juvenile jurisdiction, always require according to the European Probation Rules, the need of candidates to meet both, professional requirements (training and experience) and personal skills appropriate to dealing directly with people in difficult social and personal situations.

4.2.3 Other organizations involved in probation work

CIRE.

The Centre for Resettlement Initiatives (CIRE) is a public company attached to the Department of Justice, whose chief mission is reintegration of offenders, offering them suitable training—professional and occupational training—and encouraging good working habits through the workshops located in prisons or outside them. Although most of CIRE's activities, both training and production, take place inside prisons, it also offers an Employment Resettlement Service to those who are serving a sentence in an open regime or parole. To this end CIRE operates a job exchange which offers jobs arranged with companies, occupation plans, occupational and training workshops and work contracts for the provision of services contracted by the CIRE with the public administration (refurbishment of buildings, furniture and others).

CIRSO.

In 2005 (under Decree 98/2005, concerning the Department of Justice) the Inter-institutional Committee for Social Rehabilitation (CIRSO) was created. This is a transversal body that includes the Government of Catalonia, the central Spanish administration, local authorities and social and economic agents. This committee's objective is to plan specific interventions for the rehabilitation of offenders; health services and specialised treatments; victim care; social and community intervention; reintegration; probation services; alternative penal measures and mediation; communication and information technologies and public education about the prison system.

Some examples are: Increasing the supply of sites for the implementation of unpaid work in public organizations and NGOs; Grants of the Employment Service of Catalonia for training projects of people sentenced to custodial sentences and community measures; the possibility to organize educational activities in the Catalonia Hostel Network facilities, etc. As for agreements with local authorities (for example an agreement with local authorities that enables offenders to do unpaid work in local towns),¹⁴ these cover the provision of places all over Catalonia for the enforcement of Unpaid work, in both juvenile and adult justice, as well as agreements to enable social workers in the field of justice to use offices and office services in municipalities.

14 See section 2.1.

4.3 Probation and offenders abroad

On the 6th December 2011 EU Council Framework Decision 2008/947/JHA will come into force. This Framework Decision aims to facilitate the social rehabilitation of convicted foreign national offenders by transferring them from the EU State in which they are sentenced back to their home country within the EU in order to serve a probation measure or alternative sanction.

From a population of 6490 sentenced to a community sentence at April 30th 2011, 1739 persons (a 26,8%) are foreigners. From these only 11% are from EU, the people to whom the FD can be potentially applied. There has been no empirical research to see how many would agree to serve this sentence in their country of origin.

Table 1: Foreigners sentenced to Probation – April 2011

Europe	232	13,30%
European Community (27)	194	11,20%
Africa	413	23,70%
America	831	47,80%
Asia	44	2,50%
Oceania	0	0,00%
Unknown	219	12,60%
Total foreign nationals	1739	100%

There have been no cases until now of people living in Catalonia who are serving in another country as a member of the European Union that have required some sort of support from the Department of Justice in anticipation of his return.

People from abroad subject to community sanctions or involved in mediation processes are offered exactly the same treatment as nationals, but always taking into account the Spanish legislation on immigration. Some of these foreign people do not have residence or work permits. In these cases, to serve the sentence it is enough to have a NIE (foreigner identification number) issued by the Government Sub-Delegation of the Ministry of Interior and, if he does not have one it is necessary to apply for it. It is precisely in these cases when they often do not have a residence address when it becomes impossible to implement the measures due to the non-localization. In some cases the contact can be reached through non profit organizations and other local social services when they have knowledge of the person.

5. Different Stages of the Criminal Justice Process ¹⁵

In accordance with the European Rules of Probation all interventions performed before the trial requires the consent of the defendant. This consent does not imply an acknowledgment of guilt of criminal nature. The laws governing Spain in the implementation of the measures of unpaid work state that these activities cannot replace any other time jobs and, where possible, these sanctions should be a symbolic way of repairing the damage and therefore must be related in some way to the nature of the committed damage.

At the beginning of each measure the professional responsible for monitoring has the obligation to inform properly about the nature and conditions of implementation of the measure and the consequences of a possible breach. Beyond the role of control, the professional who supervises the community measures has the objective to work for the social integration of the sentenced person, and make sure that users have at their disposal all the relevant information concerning their legal status, labor resources, education and health services. This also includes all interventions carried out in the program of electronic monitoring.

On the other hand the professional always take into account the views and commitment of the offender in the design of their individualized plan of work to ensure that the objective is fulfilled with greater guarantees of success. In the individual work plan and in the reports made to the courts, they mention the appropriate referrals to social and health services that need to be done in every case. Thus, beyond the duration of the judicial measure, the goals of social integration can be carried out within the period of time that each one requires.

15 Working with suspects and offenders, this includes actions with regard to mediation schemes and victim support schemes.

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

Sanctions/ Measures/ Penalties/ Conditions attached to a conditional sentence	Provision in legislation	Probation service involvement	Main characteristics of the probation activity (e.g. supervision, coordination, reporting, referral, help & support)
Unconditional waiver by the public prosecutor	Only in the Minors Jurisdiction		
Conditional waiver by the public prosecutor	Only in the Minors Jurisdiction	x	Victim - offender mediation or other education activities
Conditional suspension of the pre-trial/remand detention	x		
Pre-trial/remand detention	x	x	Victim - offender mediation could be done during this stage. Reporting and supervision belongs to the multidisciplinary teams of the prison or the young offender institution.
Police custody			
Bail	x		
Caution			
Surety	x		
House arrest	x		
Electronic monitoring			
Community service			
Treatment order			
Training/learning order			
Drug/alcohol treatment program			
Compensation to the victim			
Mediation	x	x	Victim-offender mediation (adults and juveniles)
Semi-detention			

Sanctions/ Measures/ Penalties/ Conditions attached to a conditional sentence	Provision in legislation	Probation service involvement	Main characteristics of the probation activity (e.g. supervision, coordination, reporting, referral, help & support)
Attending a day centre			
Liberty under judicial control	x	x	Reporting and Supervision (Only in the Minors Jurisdiction)
Interdiction to leave the country	x		
Interdiction to enter different cities/ places	x		
Interdiction to carry out different activities	x		
Interdiction to contact certain persons	x		
Psychiatric treatment	x		
Deferment of sentence			
Fine			
Other financial sanctions	x		

5.1 Pre-trial/remand/trial stage

In this stage, in Catalonia, the Department of Justice gives *immediate attention*.

Initial attention in the Police Juveniles Unit. The General Directorate for Attention in Childhood and Adolescence, which pertains to the Department for Social Action and Citizenship, has a group of specialised educators available to provide immediate attention for minors arrested in the Police Juveniles Unit. This intervention may provide social and educational orientation that will be helpful for the minor or his or her family.

Care at the prosecutor's office. Since 2001, a round-the-clock system of rotations for the members of the assessment teams (EAT) was put into operation, in order to meet the needs of the permanent service of the juvenile prosecution offices. The assessment teams reports are important for the public prosecutor to be able to decide whether the judge should adopt bail.

The assessment teams, as well as reporting to the prosecutor, also care for the arrested juveniles and their families, providing them with the information and support they need. These teams are also responsible for tracking cases in which bail has been imposed.

Office for the Support of Victims of Crime. These provide support and orientation for any citizen who has been a victim of crime and requests it. The social workers have links with the Catalan police force, the *Mossos d'Esquadra*, who specialise in victim care and who are trained to provide initial backup, support and information.

Assessment reports. *Juvenile* probation officers must provide a psychosocial report. This report is mandatory in all cases, except those that, with the agreement of the prosecution office, initiate mediation–reparation programmes. This report enables judges and prosecutors to make decisions about sentencing. In the case of juveniles who, during the course of serving a community sanction, or within three months after having completed such a sentence, are once again taken before the judges for the commission of a further unlawful act, it is the probation officer herself responsible for that person who writes the presentence report.

With regard to *adults*, probation officers provide their reports prior to sentencing when the judge deems such a report necessary. Reports on those prosecuted may contain various kinds of information: the modification of criminal responsibility due to mental disorder, alcohol or drugs, dangerousness, risk of recidivism, and personal circumstances. The number of reports for adults is very low (for example in 2010, 625 for around 17.000 cases handled by the probation officers). Finally, reports are also written sometimes in order to support the claim of the victim at the judges' request.

Assessment in Courts. The assessment teams (EAT) that have written a presentence report participate in the judicial hearings in the case of the juveniles. In the case of the adults the presence of the probation officers in the Court is not so common.

Mediation–reparation. *Juvenile legislation* provides that for offences not involving serious violence (under the Criminal Code that means crimes up to less than five years of imprisonment), the judicial proceedings may be stopped if the minor has repaired the harm caused to the victim or is prepared to do so. In this jurisdiction the mediators are specialised professionals who form part of the assessment and mediation teams (EAT) of the General Directorate for Community Sentences and Juvenile Justice.

In adult justice, reparation to the victim before the trial may be taken into account by the judge as an attenuating circumstance, but it does not avoid the trial. In this jurisdiction the programme is implemented by specialised mediators under a provision of services contract signed with the AGI (*Fundació Assistència I Gestió Integral*) since 2011 and the General Directorate for Community Sentences and Juvenile Justice. Except in gender violence where the Law 1/2004, explicitly excludes the option of mediation between aggressor and victim.

Support. Upon the request of the judicial bodies, the probation officers carry out the Support Program aimed *at minors and witnesses* who, due to their personal physical or mental condition, are especially vulnerable and require specialized professional support in order to make a declaration in front of the judge. Probation officers in both juvenile and adult jurisdictions talk to those being prosecuted, collect information from other professionals or institutions, draft reports for the courts, provide information to the interested parties and, if necessary, attend the court proceedings. Within the field of ordinary *adult jurisdiction* it might be the prosecuted party that, either directly or through the specialized services, requests guidance from probation officers, especially in cases in which people are being treated for drug addiction or mental illness while awaiting trial.

5.2 Enforcement stage

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 (e.g. supervision, coordination, reporting, referral, help & support)
Imprisonment	x	x	Coordination with Prison and Young offenders institutions when a period of parole should be implemented
Suspended sentence	x	x	Supervision – help& support -reporting
Conditional sentence	x		
Affidimento in prova			
House arrest	x		
Electronic monitoring	x	x	Supervision-reporting
Community service as sanction	x	x	Supervision – coordination- reporting
Semi-liberty	x	x	Supervision – reporting – help & support
Semi-detention			
Treatment order	x	x	Supervision – reporting – help & support
Training/learning order	x	x	Supervision – reporting – help & support
Drug/alcohol treatment program	x	x	Supervision – reporting – help & support
Educational measures	x	x	Supervision – reporting – help & support
Compensation to the victim	x		
Mediation	x	x	Coordination- Reporting
Attending a day centre	x	x	Supervision – reporting – help & support
Interdiction to leave the country	x		
Interdiction to enter different cities/places	x		
Interdiction to carry out different activities	x		

Sanctions/Measures/ Penalties/Conditions attached to a conditional sentence	Provision in legislation	Probation service involvement	Main characteristics of the probation activity (e.g. supervision, coordination, reporting, referral, help & support)
Interdiction to contact certain persons	x		
Fine			
Day fine	x		
Other financial penalties			
In/out patient order (psychiatric treatment)	x	x	Supervision – reporting – help & support
Security measures	x	x	Supervision – reporting – help & support
Combined order	x		
Community punishment	x	x	Supervision – reporting – help & support
Conditional release / Parole	x	x	Supervision – reporting – help & support
Automatic release			
Open prison	x	x	Supervision – reporting – help & support
Penitentiary program outside the prison	x	x	Supervision – reporting – help & support

ADULTS

Probation officers working in the adult penal jurisdiction are responsible for supervising suspended sentences, unpaid work and security measures.

a) Suspended sentences. It is important to emphasize that the possibility of adding rules to the supervision although legally possible since 1995 was not really implemented until 2003 (for gender violence mainly) and 2007 (for traffic offenses mainly). Therefore all crimes sentenced to suspended sentence between 1995 and 2003 received no supervision (and hence no ‘probation’). The only exception to this was drug offenders who received a suspended sentence with supervision since 1995.

b) Unpaid work. The Criminal Code provides for the possibility of replacing prison sentences up to 1 year for work in community service or a fine (exceptionally also be replaced prison sentences up to 2 years). Additionally there are three offences

(abuse or domestic violence, use of vehicles or motorcycles and driving under influence) which can be directly sentenced to unpaid work. Likewise, the deprivation of freedom for personal responsibility for unpaid fines subsidiary can be replaced by unpaid work for the benefit of the community.

c) *Security measures*. Security measures may be the deprivation of liberty (internment in a psychiatric hospital, drug addiction centre or special educational centre) or non-custodial sentences which might consist of the prohibition of certain rights (such as permission to carry arms or a ban on driving), obligations and/or prohibitions (concerning the place of residence or communicating with other people) and family custody, submission to outpatient treatment or training programmes in the field of culture, education, employment and sexual education, amongst others.

d) *Open regime and Parole supervision* (the supervision is done by penitentiary social services). One of the conditions for parole is the prior fulfilment of restitution, a condition that in 80% of cases is met without difficulty. The number of offenders in parole in Catalonia is 880 (July 2011). It involves three levels of tracking: Ordinary, which consist on maintaining at least one presentation per month; Advanced, for those progressing well, which consists in maintaining one interview every three months. Intensive, for those included in special programs of sexual aggression, domestic violence and mental health, which should have also interviews with the psychologist of the Social services penal section. The number of people who have their parole revoked is very small.

e) *Victim care*. In the enforcement stage in the case of victims of crime to whom a judicial protection order has been applied, the Centres for Victims of Crime monitor judicial actions and provide the victims with access to the social services or other specialised services they consider necessary.

MINORS [14-18 years old]

In juvenile jurisdiction, once the judge has passed sentence, probation officers organise and monitor:

a) *Probation (Llibertat Vigilada)*, up to a maximum of five years with the possibility of imposing certain obligations while it is being served;

b) *Community service*, up to a maximum of 100 or 200 hours depending on the age of the offender and nature of the crime. This measure must have the consent of the minor concerned;

c) *Outpatient treatment for drug abuse or mental health* ;in the case of treatment for drug addicts this measure must have the consent of the minor concerned;

d) *Other measures*: performance of social or educational tasks; attendance at a Day Centre; living together with another family or educational group.

Table 4. Other probation activities in the enforcement stage

Providing support to the families of the offenders/detainees	x
Coordinating volunteer prison visitors	x
Preparing offenders for (conditional) release	x

Preparing prisoners for home leave and/or providing support during home leave	x
Providing support to persons that have been pardoned or amnestied	
Providing advisory report with respect to amnesty or pardon	x

5.3 Care and after-care outside the criminal justice system

Released prisoners have the right, in some cases, to receive unemployment benefit for a maximum period of 18 months, and people who have never worked before have the right to receive a prisoner's release subsidy for a period of 6 months. In the case of people who find themselves in especially difficult circumstances the prison service Social Services Sections may agree on a personalised employment plan aimed at mitigating the most urgent needs and at accompanying such a person for a brief period of time during the first phase of the transition to life in liberty.

The population serving community sanctions continue their habitual life at work and training activities and the sentence must be adapted to their situation and circumstances. If at the end of the measure some action of support is still needed the case will be referred to the social or health public services.

6. Probation Methodology

According to the European Probation Rules in all cases regular coordination is arranged between the Department of Justice and the staff of the institutions where the court's decisions are implemented. The organizations that implement these measures have signed agreements and contracts with the Department of Justice. They have to follow the procedures and goals that the Department of Justice has established.

All intervention programs are *individualized* and work on the basis that the best way to get positive results in relation to non-recidivism and social integration depend largely on the effective involvement and engagement of offenders in the plan for implementing the community sanction. After the sentence an individualized *agreement* is signed between the probation officer and the offender concerning:

- a) The kind of tracking and how it is to be implemented;
- b) The responsibilities and/or duties of each party (including the social worker);
- c) The design of a personalised intervention project that sets out the aims to be achieved in order to enhance the sentenced person's social integration and quality of life.

This implies the fulfilment of the activities or treatments previously decided by the judge and, in many cases it implies a certain undertaking on the part of the sentenced person to participate. In this sense it is possible to speak, quite apart from criminal

responsibility, of personal responsibility. The degree of undertaking and acceptance varies from person to person and also depends on their situation at the time. Thus, this can be practically nil in the case of sentences leading to psychiatric internment but can imply a considerable amount of commitment in the case of unpaid work. The variables that determine the possible levels of commitment and which it is possible to work with are:

- a) The personal characteristics of each person;
- b) The adaptation of the conditions of the judge's or court's decision to each individual's personal capacity;
- c) The need to observe the court's ruling.

In some cases, it is possible to propose modifications to the court's judgement. On the other hand, it is also necessary to bear in mind that the conclusion of an activity or treatment might not coincide with the term of the sentence. In such cases it needs to be determined whether it is appropriate to continue with the socio-educational supervision and, in such cases, determine the conditions under which it should be conducted. In this regard, it is especially important to maintain optimum coordination between the public network of social and health care services, educational services and employment services on one hand, and the specialised organisations and services that also operate in these areas through social initiatives on the other.

The main aspects of the work of probation officers responsible for the implementation of *community sentences* are:

- a) To ensure that the obligations imposed by the judge and by the probation officer are met;
- b) To keep the relevant judicial authorities informed about the serving of the sentence and how it develops;
- c) To promote the social integration of the person thus sentenced through social and educational tracking;
- d) To promote social and community resources suited to the needs of the target population;
- e) To raise the community's awareness and to implicate the community in the processes involved in serving such sentences.

Monitoring the execution of sentence is achieved through *regular interviews*. Often the court's decision involves the carrying out of an activity such as unpaid work that benefits the community, participation in cognitive behavioural programmes, in employment or training programmes, or socio-medical treatment. The first interview takes place when starting the measure and its goal is to agree on an individualized work plan; later, once every three months, a report is written, including information related to the development of the plan and the possible

need to introduce changes, and send to the judge. At the end of the measure a final report is made evaluating the results. Individual intervention plans include regular evaluation of the goals set at the beginning of the measure. Each case also involves opening a file with the record of the interviews contents and possible incidents that may occur during the measure. These interviews are being increasingly done with the help of risk and needs assessment tools. An important aspect of the tracking is a mandatory report, at least every three months, for the court concerning both the sentenced person's progress and the execution of the sentence. These reports contain information regarding the progress made by the sentenced person and the execution of the sentence, and they contain details and an evaluation of the situation with regard to the observance of the obligations that have been imposed.

The person responsible for the overall evaluation, and for communicating it to the court, is the social worker designated in each case. These three types of report (initial, follow-up and final report) have to be done in accordance with specific deadlines depending on the length of the sentence and the nature of the report. That means that the initial one should contain clearly defined objectives and a work plan, the follow-up report should refer to the evolution of the implementation of the agreements set forth in the initial work plan and possible proposed amendments, and the final report is to assess the results achieved in relation to compliance with the obligations and / or treatment programs carried out.

The social worker is, therefore, not someone who merely passes the information on. On the contrary, this person can act as an interlocutor with the court and in this way can express and channel the various requests, and propose any changes, which would enable the court's sentence to be better adjusted to the aims of the intervention.

Implementing the sentence must be accompanied also by socio-educational tracking in order to strengthen aspects of personal responsibility and social integration of each individual, and it must always be backed by the judicial sentence. The intervention of the person responsible for tracking should facilitate the implementation of the sentence while establishing a helpful and supportive relationship that encompasses all the important aspects of each individual's situation (personal, family, social and judicial) in order to achieve the established aims. The interdisciplinary work is one of the main axes of intervention, and it is for this reason that in some cases these teams already are built with diverse professional disciplines (social workers, psychologists, lawyers) or they are coordinated with professionals from other services or organizations depending on the needs of each case at different levels of care, training or treatment. All teams and services have a professional, usually at the rank of coordinator. Although the work is one to one (including home visits if necessary) there is also the possibility to organize training or special treatment programs for specific criminogenic needs (violent behavior, domestic violence, transit, mental health and drugs programs), whose task is supervising the overall functioning of the team and acting as a reference person. All teams and professionals involved in the execution of penal measures may be subject to inspections by the competent authorities of both, the Justice Department itself, as well as the Courts, the Catalan Ombudsman or other organizations empowered to do so.

Methodology in the case of **mediation-reparation** programmes. Within the juvenile and adult penal jurisdictions the basic tools used by mediators to implement the programme are, on one hand, interviews with the victim and the offender and, on the other hand, meetings between them, as long as these meetings are considered appropriate and are accepted by them.

The mediation process can conclude with no possibility for reparation in sight or with specific agreements for reparation to the victim. These agreements are drawn up in a document signed by both parties, and by the mediator who is responsible for supervising its observance. Once the program for reparation to the victim has concluded, the mediator communicates the results to the prosecutor, and the court charged with the case. In the Juveniles jurisdiction the case will then avoid going to trial. In the adult courts, the judge may take the victim's satisfaction regarding the implementation of the program into account for the purposes of reducing the sentence.

In cases in which the reparation programme fails to provide reparation for the victim, the result of the programme must also be communicated to the judge in order to assess the effort that has been made to achieve reparation.

The mediation-reparation program is also being applied in prisons, mainly with prisoners on remand awaiting trial, as well as with offenders who have been sentenced and who have voluntarily expressed their desire to make reparation for the damage caused to the victim.

7. Finances, Accounting, Registration Systems and Evaluation Procedures

Relevant Probation Rules

As it's stated in items 7.1 and 7.2, the relevant probation rules related to the recognition and financing of probation agencies are established throughout contracts between the Department of Justice and probation agencies covering 100% of the costs of the resources needed to implement their intervention programs. On the other hand research and evaluation of services and programs in the field of the criminal justice system (7.3) is promoted by the Centre for Legal Studies and Specialized Training through their own department of research or by funding yearly external research projects.

7.1 Finances

All the services described both those that form part of the administrative structure of the *Generalitat de Catalunya* and those that provide services through collaboration agreements or service contracts are financed through the budget of the Department of Justice of the Catalan government. The budget for social services in the field of justice (social workers and other professionals such as psychologists, teachers, administrative staff, etc.) who perform the tasks of advising judges and courts, mediation, care for victims, and the implementation of the community-based sentences, are shared amongst the budgets of the Directorate General for Prison Services and the Directorate General for Community Sentences and Juvenile

Justice. The global 2009 budget for these bodies and services grouped together was €354.570.120, of which approximately 12.5%, according to various estimates made by the Department of Justice's own financial administration services, can be attributed to the actions taken as a whole with regard to the implementation of non-custodial sentences, technical consultation for judges and tribunals, mediation, Centres for Victims of Crime and the social and employment rehabilitation programmes for prisoners and former prisoners.

7.2 Accounting

The financial administration of the economic resources devoted to the various programmes and services applied in the field of the serving of sentences within the community is not differentiated from the rest of public administration services. There are a number of mechanisms for controlling expenditure, and these are applied by the public administration itself through the Department of Justice General Auditor, as well as by external auditing by the Audit Tribunal (*Sindicatura de Comptes*), whose task is to inspect the public sector's economic and financial administration and then present its reports to the Catalan Parliament.

7.3 Registration Systems and Evaluation Procedures

All the services and programmes employ data collection systems, on one hand for staff activities through activity sheets and clocking systems, and on the other for the target population of the various programmes (legal and administrative nature, such as petitions, court orders, periods for compliance and the submission of reports; as well as personal and social data). Instruments are also in place to systematise the intervention that is carried out during the serving of sentence as well as to evaluate the processes and the results with regard to the aims set in each case.

There are four data bases which are maintained by the two directorates general: juvenile jurisdiction, the serving of sentence within the community, Centres for Victims of Crime, and prisons. The databases are used only as support for the administration of the various programmes and services, the consultation of files and the generation of documentary and statistical support. The databases are also used, as are other appropriate instruments, in the drafting of the annual reports, for evaluating the various programmes and, occasionally, for study and research. With regard to the databases, it should be mentioned that these are not public and Spanish law allows the interested party to exercise their right to access the information, correct it or erase it. The interested parties, or their legal representatives, have access to the administration's public archives with the exception of information that must be excluded on the grounds of security or the protection of third parties' rights to privacy.

The Strategic Projects and Planning division of the Directorate General of Prison Services publishes a weekly statistical bulletin¹⁶ which provides information of a general nature about all the activities taking place, and every six months a bulletin is published which provides information concerning the client population as a whole throughout the various sentences (kind of sentence, crimes, sex, age, nationality, participation in treatment programmes, training and employment programmes, etc.).

16 http://www.gencat.cat/justicia/estadistiques_mpa/

Social workers of justice, whether they belong to the staff of the Justice Department or to the other collaborating organizations in the implementation of alternative penal measures have the same social recognition as other social workers involved in areas such as the welfare and health systems. The most important differences occur in the material level in terms of pay and opportunities for continued education, which in the case of staff employed by the administration, are larger than those of the staff employed by partner organizations of the Department of Justice.

Staff training and research are two duties of the Center for Legal Studies and Specialized Training, CEJFE, which is the main reference in Catalonia concerning the promotion of criminological research and evaluation of programs and services in the field of criminal justice and prison. The CEJFE has always played a very significant influence in terms of progress in the direction of penal policy and prison, and, in a more practical level, on the training and methods of intervention of prison staff, community measures, victim-offender mediation, victim services and juvenile justice.

8. Societal Support and Clients' Views

As described in items 8.1 and 8.2 the most relevant European probation rules relating to information and awareness of the public about the mission of probation services (rules 17,106, 107 and 108) include the activities carried out by the Social Participation Board and the Justice Department itself through a continuous contact with the media. It's also important to notice in this regard the permanent activity of diffusion and research carried out by the CEJFE in promoting social and criminological research about the results of the work made by probation services.

8.1 Societal Support and public opinion

In 2004 the *Taula de Participació Social* (Social Participation Board) was established in the penal and penitentiary field as a working group, for consultation and dialogue, between the administration and voluntary penitentiary and rehabilitation services. The aim of the Social Participation Board is to study and discuss questions and initiatives of common interest and to improve the coordination between voluntary organisations and the administration in the field of corrections. Its functions are defined in the Social Participation Board foundation document of 17 November 2005 and consist of:

- Providing information to, and opening participatory process with, the Board's social members with regard to all those strategic aspects of penitentiary activity that are relevant to its work,
- Evaluating the functioning of, and making proposals to improve, in general terms, the channels of communication that define the collaboration relationship between the two parties, and
- Proposing joint strategies to facilitate the raising of awareness about the social and rehabilitating dimension of prison policy.

The Social Participation Board is formed by two directors of the Justice Department, six representatives of the collaborating bodies and four representatives of the volunteer

bodies in the field of sentence enforcement. It has met three times per year since 2004 and has three axes of work: a) improvement of networking and liaison work, b) improvement of interventions, c) generate favourable public opinion. The TPS organizes work committees¹⁷, training for professionals and volunteers and campaigns for public awareness.

Since the opinion poll carried out by Soria Verde, M. A. and others in 1995 about reactions to alternatives to prison in Catalonia, no further polls have been held to gauge the opinion of citizens and users of alternative penal measures.

8.2 Client's Views

Several studies of the victim-offender mediation programs by Martin, J. (2000) and Vall A. (2003) in which users were asked to evaluate the satisfaction of the victims, the way both sides were treated, the neutrality of mediators and the confidentiality of the mediation process. In all those parameters studied these studies have produced highly positive results.

In the study by Martin, J. (2000) 96% of the victims and the defendants that responded to the survey thought that the attitude of the mediator was impartial. All of them, regardless of whether the final agreements were reached full or in part, expressed their satisfaction with a score of 8.65 points on average within a scale of 10 points. In the study of Vall, A. (2003), also with a 10-point scale, the satisfaction level of victims in relation to the agreements reached was 9.20 and 9.52 points for the defendants.

As for the rules regarding communication with the public and reporting, the Department of Justice convenes every six months for the media to present them the statistics of Criminal Justice in Catalonia, which are always accompanied by an assessment of those aspects most relevant from the standpoint of the evolution of the prison population and the implementation of community measures, including new initiatives set up or the agreements made between the different organizations involved. The yearly statistical bulletin is available on the website of the Department of Justice to the public at large, including an English version.

Participation of the offender in the process of sentence implementation is achieved through regular interviews. Offenders do not usually get to know the content of final reports, but there is the possibility to formally request this information.

9. Probation Clients Rights

The most relevant European probation rules related to the clients' rights are fully inserted (although not literally) in criminal and penitentiary legislation and their implementation is ensured through various institutional mechanisms of control and supervision which have as a central goal the control and supervision of the competent

¹⁷ These deal with transmission of information from the liaison committee, Situation of the working groups, Preparation of meetings of the Standing Committee or Plenary, Specific issues affecting organizations, Approved budget if applicable, etc

authorities to guarantee the respect of their individual and collective rights.

The judicial authorities supervise the enforcement of sentences in the community, and therefore the rights of people subjected to such measures. This usually means supervision by the judge of the juvenile court, by the sentencing court or by the prison surveillance judge, who:

- Approves the personalised intervention programme which must, necessarily, be proposed by the probation officer responsible for implementing the measure,
 - Receives regular information every 3 months, about the progress made by people subjected to such judicial measures, and
 - May, at any time, request information about any aspect concerning the implementation of the measure.
 - Attend any incident during the enforcement
- A second level of supervision of people's rights is provided by the department of Justice self-evaluation:
- Firstly, the supervision of the administrators themselves; the various Services carry out constant evaluation. When the enforcement is the responsibility of a private entity, the Collaboration Agreement expressly establishes the creation of a tracking committee to supervise the performance of the agreement.
 - Secondly, there is, within this second level of self-evaluation, an Inspection Service. The Inspection Service is an organ attached to the Directorate General of Prison Services and is therefore independent of the various administrative units that might be the object of inspection. In the field of juvenile justice both Organic Law 5/2000 on minors' penal responsibility, together with its Regulation, and the Catalan Autonomous Law on Juvenile Justice, Law 27/2001, carefully regulate the existence and functions of the Inspection Service. In the field of adult jurisdiction the Inspection Service is also contemplated in the General Penitentiary Organic Law, although traditionally the area to which it has devoted special attention has, until now, been the observance of custodial measures in ordinary or closed regimes. Nevertheless there have been regular inspections or evaluations, either for fact-finding or to guide administrative proceedings on ways of enforcing sentence in semi-liberty or in the open regime.

The persons subject to community sanctions can address their complaints also to the *Sindic de Greuges* (the Catalan Ombudsman) and to the Spanish Ombudsman. Currently there are not many complaints to these institutions by persons subject to non-custodial measures

In accordance with the law LO 5/1999 of protection of personal data and the provisions of the European Probation Rule 92 all offenders sentenced to a community measure are informed that their data cannot be transferred to third parties and sign a document stating that they have been informed of their right of access, rectification, cancellation and opposition.

10. Developments to be expected

The Penal Enforcement Plan (*Pla d'Execució Penal 2007/2010*) established the aims and actions of the various organs that make up the core strategies for prison, and probation. Notable amongst them are:

- To strengthen the individualisation and grading of the intervention programmes in order to facilitate the social and employment rehabilitation of sentenced persons.
- To stimulate the development of the various means of serving sentence in the open regime and to promote alternative sentences, mediation and reparation processes and victim care, and to implement the programme within the community, and thereby enhance the process of rehabilitation.
- To strengthen human resources development policies and their commitment to the mission, values, principles and aims of sentence enforcement.
- To promote the mechanisms that enable greater institutional and social collaboration and participation through policies and actions in concert with the public authorities and the social fabric, to promote social and employment rehabilitation.
- To strengthen the quality and evaluation of on-going administrative improvement plans and to implement the programming, planning and tracking methodology laid down in the Government Plan.
- To equate the health and education services they receive with those provided for the rest of the population, within a framework of respect for cultural, religious, ideological and personal diversity.

Amongst other actions foreseen for this period in the field of serving sentences in the community, the following deserve mention: strengthen the network of public and private bodies and organisations that support alternatives to prison; participating in the drafting of a new law regulating the enforcement of alternative sentences; promoting evaluative research; strengthening human resources in all areas of administration and intervention; raising the public's awareness about community sentences and victim-offender mediation; improving the educational programme and the establishment of knowledge administration groups; and the improvement of data base.

The developments in the area of community sentences that might be expected from 2011 on are: i) decrease in unpaid work due to legal reforms in the area of traffic offences, ii) more control for new group of offenders (especially sex offenders) due to the establishment of security measures after the sentence has been served, iii) more people on parole with more rules and supervision.

Also, in 2012, it is planned to establish methodological standardization of CBT programs for domestic violence and gender violence so that they can be subject to ongoing evaluation by the competent organs of the administration of justice. Finally, to improve compliance with the Rule 67, the department of justice is working on the design of an assessment tool for the users about the results at the end of the community measure. In terms of implementation of alternative penal measures the Catalan department of justice is working together with the legal bodies in the design of a future unique agenda system to allow judges automatically to establish the interviews to be held with the offender and the professional responsible for their monitoring during the execution of the measure.

Additionally it is important to mention that on 15 September 2011 came into force the Circular 1/ 2011 on immigrants in prisons. This circular tries to promote the possibility of initiating procedures to return foreigners to their countries if they have served $\frac{1}{2}$ or $\frac{3}{4}$ of their sentence.

In addition, Circular 2/2011 of 10 November 2011, approved the Code of Ethics of the professionals of the enforcement of sanctions of the criminal justice system in Catalonia, which is a very significant step in strengthening the instruments by which they can make effective implementation of European rules, both in terms of juvenile justice and adult. The adoption of this Code of Ethics anticipates to some extent the adoption of the future code of ethics for prison and probation staff promoted by the Council of Europe.

11. Publications

1. MARTIN BARBERAN, J., 2005 ***Juvenile penal mediation in Spain: the experience of Catalonia***.pp. 347-371 in A. Mestitz and S. Ghetti, Victim-Offender Mediation with Youth Offenders in Europe, Ed. Springer, Dordrecht, In this chapter the author presents the legal and material possibilities for applying juvenile mediation in Spain and describes the elements that characterise the juvenile mediation model in Catalonia. The author describes the context that made juvenile mediation possible in 1989 and the way it developed until it became one of the main mechanisms of social reaction to crime and one of the characteristics of the juvenile justice system in Catalonia.

2. PÉREZ PABLO, R. M. 2000.***Probation and Probation Services, a European Perspective, Spain***, chapter 18, pp 495/520, in A.M. van Kalmthout and J. Derks,***Probation and Probation Services, a European Perspective***, WLP, Amsterdam,

This is a chapter from the previous edition of *Probation and Probation Services* in which the author describes the Spanish legal framework and the model for serving sentences in Catalonia.

There is also a wide range of research published by the *Centre d'Estudis Jurídics i Formació Especialitzada* - CEJFE (Juridical and Specialised Training Study Centre) in all areas of Law and the enforcement of sentences in the community as

well as about experiences in victim-offender mediation, the cost of criminal justice, re-offending, victimisation surveys and so forth. The results of this research are published regularly in the statistical journal *Justidata* and in the research survey bulletin, *Invesbrenu*.

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ANNEX 1 Criminal Statistics

Please provide three sets of statistics

Adults - Throughout the year

Presentence programs	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
Technical advice	584	591	645	739	812	769	873	786	631	581	586	445
Mediation	91	100	155	228	201	413	452	803	968	1.025	1194	1177

Community sanctions	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
Unpaid Work	321	275	254	254	443	1.443	3.134	4.328	5.518	10580	14662	15653
Obligations												
Obligation training programs	42	42	31	50	104	389	1.052	1.836	2.430	2.442	2913	2642
Obligation drugs treatment placement	13	8	21	26	31	25	21	22	25	28	28	28
Obligation drugs outpatient treatment	104	141	192	292	361	473	653	816	983	1.063	1095	1134
Obligation to appear before administration	85	89	93	103	135	178	271	387	426	387	293	246
Obligation to comply with obligations	6	7	11	15	39	49	71	83	91	84	71	66
Security Measures												
Monitoring int. detoxification centre	47	103	102	98	96	104	104	123	108	118	109	94
Measure outpatient drugs treatment	142	240	204	181	174	165	148	119	132	104	115	119
Monitoring psychiatric center placement	52	82	86	108	157	189	222	234	263	273	266	247

Community sanctions	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
Outpatient Treatment Mental Health	71	120	110	136	186	222	273	306	314	314	310	306
Monitoring the Placement in special education centre	1	3	5	7	7	5	8	5	5	6	7	5
To attend training programs	20	28	26	23	19	25	24	20	17	22	19	19
Family Custody	0	0	0	0	3	7	8	9	7	4	2	4
Others												
Previous Code	231	143	40	17	13	10	5	4	3	2	1	...

Juveniles - Throughout the year

Presentence Programs	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
Technical advice	3.150	6.055	7.394	6.367	5.812	5.834	6.161	6.342	6.447	5.627	5.892	5406
Mediation	1.359	1.574	2.042	1.931	1.824	2.286	2.487	2.795	2.643	2.560	2.373	2359

Community sanctions	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
Probation	1.032	945	1.150	1.706	2.098	2.317	2.276	2.162	2.206	2.262	2.335	2317
Interim Probation	28	124	167	98	91	200	264	308	363	361	327	273
Internment regime in probation	0	2	27	52	83	83	97	98	92	93	76	68
Weekend at home	0	1	2	10	21	79	145	157	104	106	122	104

Community sanctions	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
Unpaid work	637	552	729	1.102	1.297	1.167	1.259	1.175	829	632	598	580
Monitoring therapeutic internment	0	2	14	16	28	36	32	25	21	20	15	16
Outpatient therapeutic treatment	16	27	39	60	60	54	45	42	35	30	50	65
Performing socio education tasks	0	3	51	122	224	221	222	199	281	373	448	423
Attending a day centre	0	0	1	3	19	44	36	23	21	19	15	8
Living with others	0	2	2	3	10	10	10	8	9	11	16	10
Living interim with others	0	0	0	0	0	3	12	4	6	10	6	8

Internment Measures	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
Internment	218	214	384	525	555	601	623	596	536	549	564	568
Interim Internment	142	478	482	418	332	376	309	304	332	343	303	286
Therapeutic Internment	1	3	6	7	4	4	15	20	25	32	34	43
Weekend Internment	22	15	17	29	49	55	59	52	64	48	46	53

Presentence Programs	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
Technical Advice	22	13	28	39	27	64	45	24	33	23	40	19
Victim-Offender Mediation	64	72	86	104	92	118	79	220	102	164	147	115

Adults - Measures Dec. 31

Community sanctions	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
Unpaid work	85	68	69	92	189	872	1,716	2,105	2,684	5,157	6,320	4681
Obligations												
Training programs	24	20	17	40	78	284	642	965	1,076	1,043	1,137	1150
Drug internment	4	8	12	18	17	13	7	14	14	17	15	13
Drugs Outpatient Treatment	71	94	151	224	288	370	470	577	678	691	744	730
Appear in front of Administration	54	43	52	76	111	138	227	295	285	220	181	177
To comply with obligations	3	6	7	12	31	37	50	56	56	49	43	38
Security Measures												
Monitoring Drug internment	29	57	50	45	58	52	59	72	62	60	58	40
Drugs Outpatient Treatment	98	144	118	105	113	104	82	82	76	53	67	65
Monitoring psychiatric internment	35	39	61	73	107	126	142	164	163	183	158	153
Mental health outpatient treatment	46	71	63	109	138	163	182	191	204	174	197	167

Community sanctions	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
Monitoring internment in educational centre	0	4	6	3	3	4	4	4	3	3	4	1
Attending training programs	12	16	13	13	12	15	10	12	8	11	11	8
Measure of family custody	0	0	0	0	3	7	8	4	4	1	2	3
Others												
Former Penal Code	231	143	40	17	13	10	5	4	3	2	1	...

Juveniles - Measures Dec. 31

Presentence Programs	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
Technical Advice	174	573	413	273	290	284	215	229	237	236	273	208
Victim-Offender Mediation	218	335	364	342	326	478	564	451	489	450	426	393
Community sanctions	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
Probation	398	256	516	687	795	893	805	936	968	971	1088	999
Interim Probation	5	63	43	25	34	88	110	119	139	136	117	94
Internment regime in probation	0	1	10	28	26	21	29	26	39	28	24	17
Weekend at home	0	0	1	0	11	24	29	23	14	31	19	25
Unpaid work	140	108	221	320	342	330	309	249	181	120	142	147
Monitoring therapeutic internment	0	1	6	6	8	12	12	9	8	9	3	8

Presentence Programs	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
Outpatient therapeutic treatment	10	9	21	28	19	19	17	20	11	15	28	33
Performing socio education tasks	0	1	32	57	76	82	75	83	108	164	160	143
Attending a day centre	0	0	1	1	14	20	8	9	6	9	4	4
Living with others	0	1	0	3	4	2	1	3	3	8	4	5
Living interim with others	0	0	0	0	0	3	4	0	1	2	2	2

Measures the last day

Internment Measures	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
Internment	42	89	140	168	163	183	186	205	193	223	214	219
Interim Internment	23	62	40	51	69	55	59	53	85	70	60	59
Therapeutic Internment	1	0	4	1	1	1	5	9	8	7	12	16
Weekend Internment	0	1	0	2	1	0	0	0	3	1	0	1