



# **Probation in Europe**

## **Republic of Turkey**

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## 1. Introduction

### 1.1 Probation Organisation

It is known that there are some practices in accordance with the concept of probation such as: bail (release of the suspects by payment of the fine), exile (to be sent out to a specific place as punishment), *kalabend* (the convict's freedom to move freely within a castle designated by the judge to be able to live with family, to work and do business, but not to leave the castle), *cezirebend* (similar to the kalabend in the castle) and shovel (rowing penalty in the Ottoman Empire, similar to today's community service) in the first penal code called Ottoman Penal Code which was put into practice in 1840, as well as in the subsequent criminal laws (1851, 1858, 1859, 1869, 1876, 1879, 1917) of the Ottoman Empire. Practices in accordance with the concept of probation in the Ottoman Empire were included in the Turkish Penal Code No. 765, which entered into force in 1926 in Turkey for the first time. However, the probation system has been included in the Turkish criminal justice system in 2005 institutionally. The probation law entered into force on 20 July 2005 after its publication in the Official Newspaper. The Department in charge of Probation Services which was established on 15 August started to provide services in 2005. Advisory boards and protection boards have been organized in the General Directorate of Prisons and Detention Houses of the Ministry of Justice in order to fulfill the duties specified by this Law. Today, probation and protection services are conducted by the Probation Department in the central organisation of the Ministry of Justice. Protection boards are established as affiliated to Chief Public Prosecutor's Office in the places where 143 judicial justice organisations are located in provinces and districts. The establishment process of a new probation directorate continues.

In Turkey, the probation system represents a penal enforcement system in which pursuant to the decision rendered about the suspect, accused and probationers by judicial authorities, the supervision and monitoring of the probationer is carried out in society. The probation system provides intervention programmes and psycho-social and economic resources needed by the probationer to improve his or her living conditions. The ultimate goal of probation is the prevention of re-offending and the protection of individuals and society. Moreover, in this system interventions for reintegration of ex-convicts into society after release are conducted and when necessary, judicial authorities are assisted by preparing a social investigation report.

Necessary procedures are conducted based on the type of probation decisions given by judicial authorities on national and foreign probationers, including juvenile, young and adult ones.

## 1.2 Probation Activities

In Turkey, the Probation Service has three main functions:

- Supervision and monitoring of suspects, accused and convicts within the society; and rehabilitation activities
- Aftercare services
- Assisting judicial authorities by preparing social investigation reports

There are thirteen different types of decisions enforced by probation directorates as part of the supervision and monitoring of the suspect, accused and convicts within society (for detailed information, see 3.1. “legislative basis section”).

Within the scope of aftercare services, “Protection Boards” were established with the purpose of ensuring convicts released from penitentiary institutions and ex-convicts to gain a profession or occupation, find a job, and of providing financial supports to those who have craft skills and who want to engage in agriculture management. And furthermore to help those who want to set up a business and solve the challenges they face, as well as helping other probationers on these issues and ensuring that juvenile and young probationers continue their education.

As part of the service of assisting judicial authorities, at the investigation phase upon the request of public prosecutor’s or at the prosecution phase upon the request of judge or court, social investigation reports (SİR) are prepared by a psychologist, a sociologist, a social worker and a teacher. SİR include information about the suspect or the accused himself and their environment, seen from a systematic perspective, and suggestions on the needed services, existing programs and sources for reintegrating into society.

Probation services were built on four main processes complementing each other: a) Assessment and planning process, b) Enforcement process, c) Guidance and rehabilitation process, d) Supervision and monitoring process.

The interventions for the probationers who were decided to be supervised, tracked and rehabilitated within society under the probation services, are conducted in the framework of a planning prepared on the basis of a risk and needs assessment system. Risks and needs of the probationers are identified by taking into account their individual differences and suitable supervision plans for the probationers are prepared.

The decisions about the probationers are taken and executed according to the provisions established in the relevant laws and regulations, based on the type of the decision. The execution process is followed up by probation officers (case managers) assigned at the executing office.

As part of probation services, if it is deemed necessary (resulting from risk and needs assessment) or if it is imposed by the court on the probationer’s participation in the rehabilitation process, rehabilitation works appropriate to the needs of the probationer are carried out by taking into

consideration the risks of the probationer. Rehabilitation works are carried out, in cooperation with other institutions and NGO's, through activities such as performing individual interviews and group work, structuring free time and ensuring the probationer to participate in vocational courses and training programmes.

During the probation process, probationers are supervised with various methods like on-site supervision by supervision teams, supervision by law enforcement agencies or other relevant institutions, and supervision/monitoring via electronic devices.

### **1.3. General Remarks About the Implementation of Probation Rules**

Probation services in Turkey are conducted within the scope of the international conventions in which Turkey takes part, as well as via the main execution laws.

In the Recommendation no. R (65) 1 of the Council of Europe, it was recommended to build a probation system in a way that ensures offenders to reintegrate into society and controls their behaviour. In this context, the Ministry of Justice started to prepare a draft law for probation services. The Probation Law No. 5402, adopted on the 3<sup>rd</sup> July 2005, was prepared to manage the establishment, duties, working principles and the procedures of probation institutions. This Law was adopted by the Turkish Grand National Assembly and entered into force after its publication in the Official newspaper dated 20 July 2005. Turkish probation legislation takes into account the recommendations of the Council of Europe, and the implementation is carried out in accordance with the CoE decisions.

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

### **2.1 History from the Origins to 2011**

The Ottoman Empire, founded in 1299, had a system of *Sharia* and customary law system. The first law that emerged in the 19th century within the framework of the reform movements that began with the Tanzimat Edict, was the Ottoman Penal Code of 1840. It is known that there are some practices in accordance with the concept of probation such as: bail (release of the suspects/accused offenders by payment of a fine), exile (to be sent to a specific place as punishment), *kalabend* (the convict's freedom to move freely within a castle designated by the judge to be able to live with family, to work or do business, but not to leave the castle), *cezirebend* (similar to the kalabend in the castle) and shovel (rowing penalty in the Ottoman Empire, similar to today's community service) – all appearing in the first penal code called 'Ottoman Penal Code' which was put into practice in 1840, and also in the subsequent criminal laws (1851, 1858, 1859, 1869, 1876, 1879, 1917) in the Ottoman Empire.

Practices in accordance with the concept of probation in the Ottoman Empire were included in the Turkish Penal Code No. 765, which entered into force in 1926 in Turkey for the first time. However, in sense of institutionalization, the set up of a probation system as part of the criminal justice system took only place in 2005. When considering the historical development of probation system, it is seen that its roots rest on a sanction called ‘*nefy*’ punishment in the Ottoman criminal codes. Offenders sentenced to nefy punishment/exile (which meant banishing, transferring, banishing someone from one place to another without his/her consent) were obliged to reside in a place specified by the state from three months to three years. The second practice was the measure to place someone under ‘*zaptiye*’ supervision (military police institution assigned with ensuring the security of the society in the Ottoman State). A person who was sentenced to this measure could not reside in places that were prohibited to him/her, but s/he was allowed to be anywhere else. These punishments in the Ottoman Criminal Codes aimed at preventing the convict from reoffending.

There are some probation practices in the Turkish Penal Code No. 765, coming into force in 1926 and being applied in 2005, namely the following:

1. Exile (to be sent out to specific place as punishment)
2. Zaptiye supervision (going to the police or gendarme station for signing)
3. Security measures for drug addicts
4. Security measures for alcohol addicts
5. Community service

Furthermore, reference was made to the probation system in the Draft Laws of Turkish Criminal Code. In the drafts of 1989, 1997, 2000 and 2003, the probation system was included as a measure to be applied *after* punishments had been served by those who had committed a crime under the heading of ‘custodial security measures’. In the drafts, the things to be done for ensuring the convict to live in concordance with society and integrate with society were mentioned as services intended to be provided by probation.

In the enforcement system of the Ottoman and Republican era, structures which bear resemblance to our today’s probation services are not fully organised. Therefore it has become a priority for the Turkish Criminal Enforcement System to become a modern structure and to make the penitentiary institutions able to respond to today’s conditions. In addition to this, the understanding of preventing overcrowding in prisons coming along with the increasing number of short term imprisonment sentences became widespread, and the idea of rehabilitating offenders within the society developed. These reasons paved the way for the establishment of a probation system in Turkey and the thoughts/ideas were included in the Turkish Prison Reform studies launched from 1996 onwards. Between the years 2005-2008 the Turkish prison works refer to legislative changes that can be



described as judicial reform aims, all of them implemented to make the system independent and in accordance with international norms.

Probation services were managed by a manager of personnel, a high number of psychologists, social workers and sociologists ; teachers in directorates ; personnel who received training in similar fields; personnel with other titles who had received special in-service training, and probation officers. The services also benefited from volunteers who observed the principles mentioned in the Law on Probation Services.

## **2.2. Recent History since 2011**

Pilot implementations regarding the electronic monitoring system started on February 25, 2012. Article 15/A was added to the Probation Services Law No.5402 on April 11, 2012, in order to establish a legal infrastructure, taking into account the preliminary studies on the implementation of electronic monitoring methods and the experiences gained during the pilot. With this regulation, it has been ensured that suspects, offenders and convicts can be monitored, supervised and controlled within society by using electronic devices as addition to the regular tools.

On 11 April 2012, with the addition of Article 105/A to the Law No. 5275 on the Execution of Penalties and Security Measures, probation measures were starting to be applied to convicts who were conditionally released from penal execution institutions.

With the arrangement made in the third paragraph of the 109th article of the Criminal Procedure Code numbered 5271 on 2 July 2012, the new terms of "*Not leaving home*", "*Not leaving a certain settlement area*" and "*Not going to a designated place or region*" were included in the judicial control measures for the field of probation.

With the regulations made in the law number 5275 on 18 June 2014, the procedure for convicts who had not paid their judicial fine was to be employed in a publicly beneficial job instead of being taken to penal execution institutions. With this regulation, the scope and application area of probation had been expanded further.

On October 17<sup>th</sup> 2019, with the amendment to the Probation Services Law No. 5402, the "victim support services" were removed from the probation area. (Necessary work is being carried out by the Victim Support Services Department in order to still address this field.).

With the legal changes made on April 15<sup>th</sup> 2020, in the Article 110 of the Law No. 5275 on the Execution of Penalties and Security Measures, regulating the special execution procedures, an extension was made to the time specified for the execution of the prison sentence at home, and the implementation of this execution procedure also for children was ensured. In addition the scope and duration of decisions of probation had been increased through the amendment that was included and allowed "*the inclusion of those who are determined to be unable to sustain their lives alone and those*

*convicted women sentenced to imprisonment for a total of three years or less or who have been sentenced to imprisonment for a total of three years or less and, also in the conditions of the penitentiary institution due to a serious illness or disability they are exposed to”.*

With the clause added to Article 20 titled "Judicial Control" of the Child Protection Law No. 5395, it has been enabled to assign an expert to guide the children followed by the probation directorates during the judicial control and to carry out improvement studies according to the needs assessment to be made about the child.

Some of the judicial control measures applied within the scope of Article 109 of the Criminal Procedure Code numbered 5271 (*on not being able to go abroad, not being able to use any vehicle, not being allowed to carry weapons, having to deposit a security amount to be determined by the judge in order to secure the rights of the victim and to guarantee the offender to pay the alimony he was sentenced to pay*), in the article 50 of the Turkish Penal Code, which regulates alternative sanctions for short-term imprisonment (e), “the decision of withdrawing the driver and license documents, prohibition from doing a certain profession and art" was removed from the probation officer’s task, as well as what was stated in the sixth paragraph of Article 53 of the Turkish Penal Code (regulating the deprivation of exercising certain rights): the “*decision to withdraw the driving license by prohibition from performing a certain profession or art”.*

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

#### *Relevant Probation Rules*

In Turkey, probation is an alternative punishment and an execution system in which the suspects, accused and convicts are supervised and monitored within the society and are provided with all kinds of services, programmes and resources in order to rehabilitate and reintegrate into society. The aim of the probation system is to prevent reoffending by assisting the probationer in regaining a place in society as a productive individual. In order to obtain the expected benefits from probation services, it is considered highly important that staff working in these services behave respectfully to human rights, and act according to the principles of honesty and stability. They should not behave in a degrading, humiliating manner while performing their duties and should comply with confidentiality and impartiality principles. Thus, the obligation of those working in probation services to comply with these principles has been regulated in the relevant legislation (Rule 1).

The issues such as the establishment, organisational structure, tasks of the Probation Department and probation directorates and protection boards were regulated in the Law on Probation Services. Consequently, in the By-Law on Probation Services, the procedures and principles regarding the

probation directorates and the tasks of the personnel, as well as the arrangements on execution proceedings of probation decisions were confirmed (Rule 8).

It was stated in the Law on Probation Services that volunteers may also be involved; in this case the provisions on public officials would be applied in terms of authority and responsibility (for detailed information please see section 3.5 Volunteers Involvement) (Rule 34).

For detailed information about the contribution of the expertise and experience of probation agencies in developing crime reduction strategies, please see the section 3.3 on Crime Prevention (Rule 98).

### **3.1 Legislative Basis**

The scope of the probation system was defined by the Turkish Penal Code no. 5237 (TPC), the Code of Criminal Procedure no. 527 1(CPC), the Law on the Execution of Penalties and Security Measures no. 5275 (LEPSM), the Juvenile Protection Law no. 5395 (JPL), the Law on Probation Services no.5402, the By-Law on the Management of Penitentiary Institutions and Execution of Penalties and Security Measures, and ordinances and by-laws governing the procedures and principles on the implementation of these laws. Probation directorates are responsible for the execution of judicial control measures (CPC 109, JPL 20), sanctions alternative to short time prison sentences (TPC 50), obligations given in case of suspension of a prison sentence (TPC 51), decisions of disqualification from the use of certain rights (TPC 53/5), treatment and probation decisions (TPC 191), probation decisions within the scope of effective remorse (TPC 221), conditional early release (LEPSM 105/A), decisions on community service instead of judicial fines (LEPSM 106), obligations given after conditional release (LEPSM 107), probation decisions specific to recidivists and some crime offenders (LEPSM 108), decisions on the execution of house arrest (LEPSM 110), obligations given in case of deferment of sentence (CPC 231) and placement of juvenile (aged 12-18) under supervision (JPL 36). The main legislation to which directorates are subject in the fulfilment of these decisions is the By-Law on Probation Services as well as the relevant legal provisions listed above.

### **3.2 Mission and Mission Statement**

The mission of probation services is to ensure the enforcement of probation measures in compliance with the constitution, international laws, national legislative system and respecting human rights; to enable the rehabilitation and re-socialisation of the probationer and to prevent recidivism. The vision of probation services is to prioritise the participation of public institutions and NGO's in providing any service, programme and resources needed by the convicts in order to integrate them into society. In Article 4 of the Law on Probation Services, the main principles of probation services are laid down. These are the principles of respect for human dignity and honesty (integrity), confidentiality and impartiality. Within the scope of these principles, those taking part in the implementation of this law

act within the framework of respect for human rights, honesty and decisiveness, which means that they cannot conduct or show humiliating behaviour while performing their duties. They are obliged to protect the confidentiality of the information that they learn about those suspected or accused, convicts or their families. In addition to these, they may examine the documents related to their duties; but they have to comply with the principle of confidentiality of investigation regarding the information they obtained from these, avoid attitudes and relations which may undermine impartiality and they have to be at equal distance to the parties of the case.

### **3.3 Crime Prevention**

In Turkey, the probation system has no direct duties in the fields of primary prevention (targeting the general public) nor in the secondary prevention (targeting special sub-groups such as youth dropping out of school). The system rather undertakes actions regarding tertiary crime prevention, i.e. preventing re-offending (recidivism) by the probationers. However, since there is a cooperation with institutions and organisations which have responsibility in primary and secondary crime prevention and which are members of the Advisory Board, indirect contribution is also provided to the activities in this field. Moreover, participation is ensured to the workshops organised for crime prevention in cooperation with the relevant institutions/organisations which are members of the Advisory Board, with the aim of examining the crime phenomenon, assessing the works conducted, or being conducted, on the issue, and creating a model for the fight against crime with the contribution of all responsible institutions.

### **3.4 Volunteers Involvement**

In Article 54 of the By-Law of the Probation Service, it is regulated that volunteers may be involved while observing some principles in probation services. Those who want to work as volunteers have to apply with a petition to the directorate. The preparation, monitoring and assessment of the programmes for the field to which those whose application is accepted will provide service, are conducted under the guidance of a psychologist, a sociologist, a social worker, and a teacher assigned by the director. As for the selection of the field in which they want to work, volunteers are guided via their information, capabilities and areas of interest. The duty of preparing social investigation reports may be given to volunteers having titles of psychologist, social worker, sociologist, pedagogue, training expert, psychological counsellor or guidance teacher, provided that he or she accepts the responsibility in written form. In order to gain maximum benefit from the practices of volunteers, the environment which encourages them to service is provided by the directorate. Also the provisions on public officials in terms of authority and responsibility and the relevant provisions of the Law on the Adjudication of Civil Servants and Other Public Officials are applied for volunteers.

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

##### *Relevant Probation Rules*

In the tenth Article of the Law on Probation Services, it is stated that a sufficient number of psychologists, social workers, sociologists, teachers and personnel who received training in similar fields needs to be available in probation directorates. Those who pass the exam conducted by the Assessment Selection and Placement Center and graduate in the specific branches are admitted to an interview. The appointment of those who are chosen as colleagues after the interview is made by the probation directorates themselves.

The same law states that the condition of successfully completing in-service training for these services which lasts for at least two months is sought in the appointment or assignment of correctional officers for the probation services (Rule 22).

Pre-service and candidate civil servant trainings are given to the personnel assigned in probation directorates in training centres, and in-service trainings are given to develop the professional skills of the personnel and to support their personal developments. Trainings are also arranged on more specific issues such as working with convicts addicted to alcohol and substance, and working with juvenile convicts (Rules 23, 24, 25, 27).

In the Law on Probation Services, there is a provision which states that there should be a director, a clerk in bureaus, and a sufficient number of psychologists, social workers, sociologists, teachers, personnel who received training in similar fields and personnel with other titles who received special in-service training in this field, as well as officials to conduct management services. When the number of files of the Directorates and the number of probationers are considered, the distribution of the personnel they need based on titles is determined with the coordinated works of the Personnel Department of DG for Prisons and Detention Houses and the Probation Department. This individual situations of the Directorates is guaranteed in the appointment of personnel and the (re)location of personnel to the various Directorates. According to the By-Law on Probation Services, a probation director assigns probation personnel who have the information and skills required by the job and received training on the issue. He or she will work in the bureaus of a directorate considering the intensity and features of the job (Rule 29).

For detailed information about the cooperation of probation institutions with other institutions/organisations, please see the section 4.2.3 “Other organisations involved in probation work” (Rule 37).

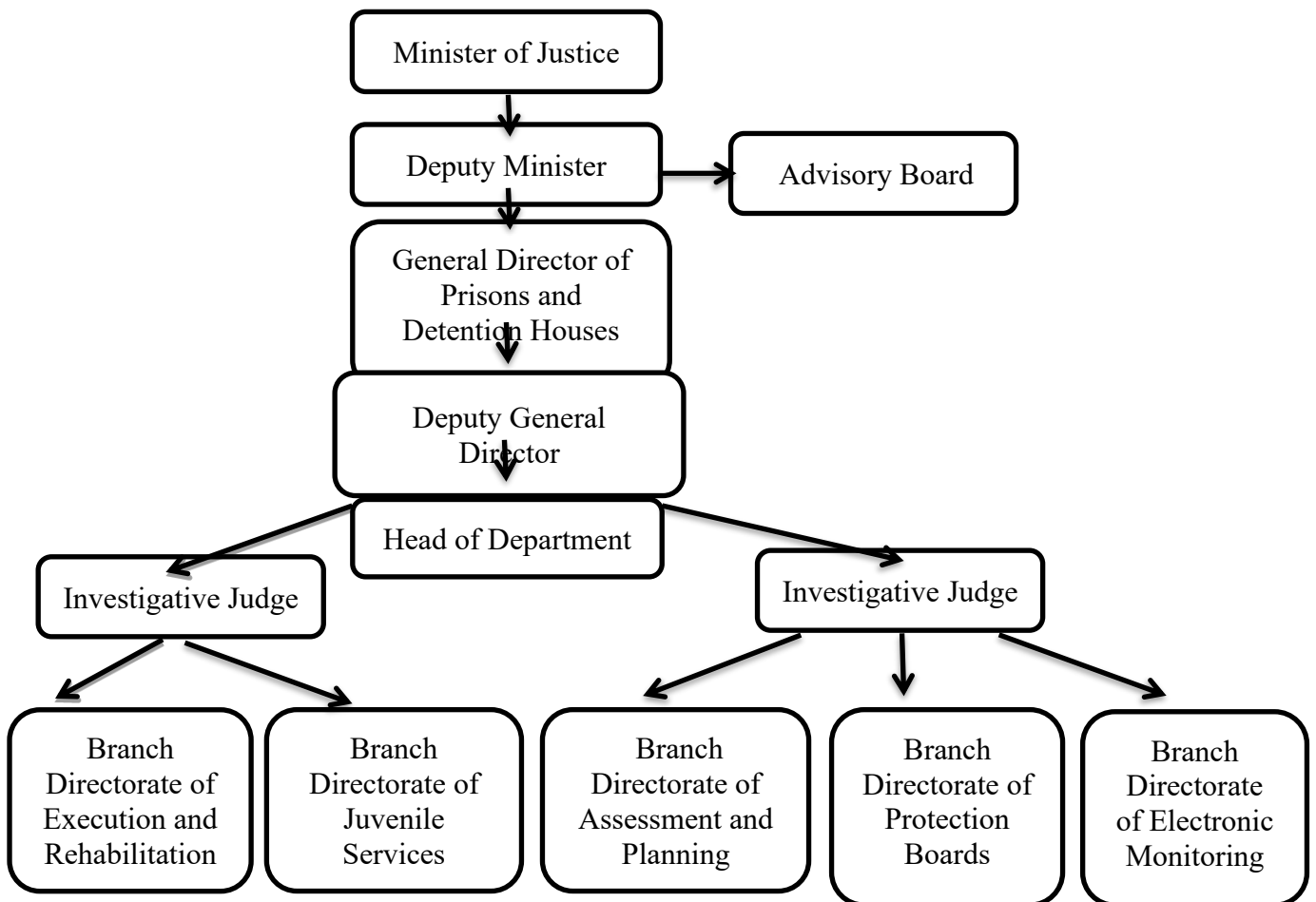
For detailed information about the pre-sentence report prepared by probation directorates, please see the section 5.1.1 “Pre-trial/pre-sentence reports” (Rule 42).

For detailed information about the work with foreign probationers, please see the section 4.3 “Probation and offenders abroad” (Rule 63).

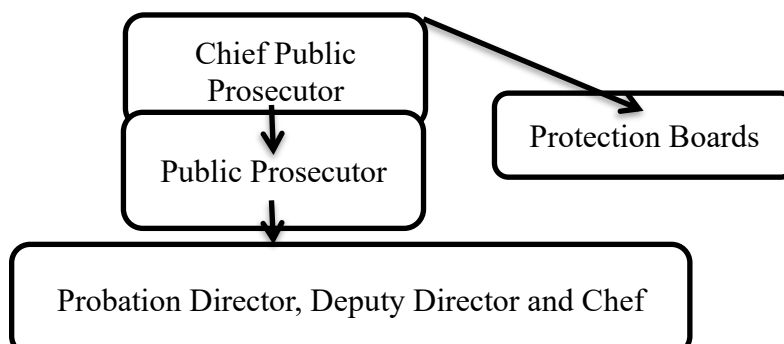
#### 4.1 Main characteristics

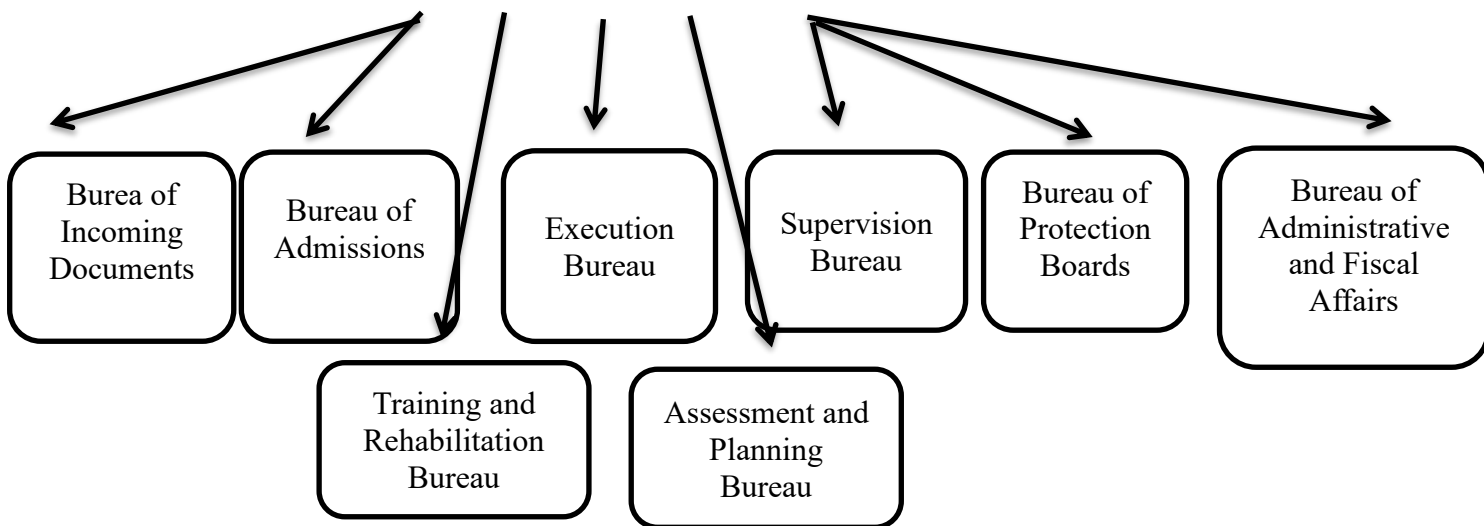
On a national level probation services are under the authority of the Probation Department within the General Directorate of Prisons and Detention Houses, affiliated to the Ministry of Justice. On provincial level (in cities and counties) the probation services are the responsibility of probation directorates and protection boards, affiliated to the chief public prosecutor offices. The decisions of probation are executed by probation directorates established in the 143 judicial justice organisations, located in provinces and districts.

**Chart 1: Central organisation**



**Chart 2: Provincial Organisation**





#### 4.2 Internal Organisation

The Probation Department is the central organisation and is responsible for ensuring the regular and efficient work of the directorates and probation boards organised in the provinces within the framework of general aims and policies.

According to the law, the Department consists of a head of department, a sufficient number of investigating judges, specialist personnel and at least three branches. Apart from the department, there is also an Advisory Board in the central organisation of the probation services. This Board works as an advisory board towards the probation services and consists of high-level representatives of the non-governmental organizations.

The directorates, established in the provincial organisation, perform the duties given with the Law on Probation Services and other laws within the framework of the phases of investigation and prosecution, as well as taking care of supervision plans for after the sentence and release. At the same time, they assist juvenile courts and family courts according to the surveillance principles in the field of probation services. At the directorates, there are a director, a clerk in bureaus, and there are psychologists, social workers, sociologists, teachers and personnel who received training in similar fields, as well as other personnel who received in-service training in this field and the officers to perform management services. The directorates consist of eight bureaus managed by the probation directorate (See Chart 2).

Moreover, at the provincial organisation, there are protection boards which form the assistance pillar for the probation services. This board works on issues such as ensuring that convicts released from penitentiary institutions and ex-convicts acquire a craft skill or profession, helping those who want to set up a work place and ensuring that young convicts continue their training.

#### **4.2.1 Probation Workers**

In the Probation Law it is foreseen that personnel, official and voluntary, may be assigned to conduct probation services. The official personnel working in the directorates consists of psychologists, social workers, sociologists, teachers, training experts, correction officers and the personnel who received training in similar fields, as well as the personnel with other titles who received special in-service training in this field.

In the selection of directors, there are the conditions of having to be graduated from faculties of law, political sciences, educational sciences and from the departments of faculties and high schools which give four-year education such as public administration, social work, sociology, psychology; of having the characteristics of the profession and having served for at least four years in court houses and penitentiary institutions; and having been successful in written and oral exams. Appointments with those who meet the criteria are made by the Ministry of Justice.

According to the By-Law on Probation Services, the personnel working in the probation system are the following:

- The Probation director is the highest manager of the directorate. He or she is responsible for ensuring that the work is conducted without interruption and that the probation personnel cooperates effectively and efficiently. Also he takes care of training his subordinates.

- The Vice director of probation is responsible for conducting the duties given to himself/herself in compliance with legislation, for effective and efficient work by the bureau and for the personnel affiliated to himself/herself. Furthermore, he or she undertakes duties such as representing the director when necessary, and replacing the director in his/her absence.

- The chief is responsible for conducting the duties given by the probation director and the vice director, for effective and efficient work of the bureau and for the personnel affiliated to himself/herself.

- Psychologists, social workers, sociologists and teachers working in probation services have duties such as conducting guidance and rehabilitation work (individual interviews, group work, seminars etc.), prevention, training activities, and the preparation of social enquiry reports and supervision plans.

- Probation officers are correction officers and officers working with cadre or contract in probation directorate or bureau. They have responsibilities such as the supervision and monitoring of probationers within society, cooperating with law enforcement when necessary, and exchanging correspondence.

- A Case manager is a probation officer who coordinates the cases regarding the execution of programmes and the decisions determined on rehabilitation and supervision for probationers.



- The Intervention team was formed among personnel assigned in the various directorates in order to ensure one-to-one work and communication with Electronic Monitoring. This team is responsible for placing electronic devices on probationers and remove the electronic devices from them, installing monitoring devices, conducting the necessary actions on the breakdowns occurring in devices, and also for executing the requests communicated regarding supervision and control of probationers by the Electronic Monitoring Centre. The inspection of the directorates is conducted by justice inspectors and controllers.

**Table 1. The staff structure \***

Administrators (General director, deputy general director, head of department, investigative judge)	5
Number of provincial/local organization managing personnel (director, deputy director and chief)	286
Number of staff (probation specialist “social worker, sociologist, psychologist, teacher) and probation officers)	4467
Supporting staff (secretaries, clerks, information technology, technician, driver, etc.)	426

\* October 2020; It includes all personnel working in central and provincial organizations.

#### **4.2.2 Education, Training Requirements and Opportunities**

The training of probation personnel started with the Project of Improving Probation Services in Turkey in 2006, following the establishment of the probation system. As a result of the trainings, the personnel obtained information about reasons for offending, trained social interaction skills, motivational interview skills, techniques for preparing reports, information on risk assessment, methods for dealing with offender behaviour, problem solving skills, execution decisions of legislation, probation, interviewing techniques, administrative procedures and corresponding services.

Trainings in the various fields are continuing in training centres each year for the probation personnel, based on what is necessary for their jobs. In this context, pre-service and candidate employees follow trainings and in-service trainings for developing the Professional skills of the personnel, thus supporting their personal developments. Trainings are also organised on more specific issues such as working with alcohol and drug addicted convicts and working with juvenile probationers. When required, training is also given to volunteers.

There is no specific department for probation studies at the relevant faculties of any school or university. However, probation issues are included in the content of some law faculties' programmes. Nevertheless, continuing the inclusion of probation in the curriculum programmes of the relevant faculties and university departments remains necessary.

#### **4.2.3 Other Organisations Involved in Probation Work**

The Advisory Board of Probation Services in the Ministry of Justice serves as an advisory organ for probation services. This board takes advisory decisions on the development of probation services, on strengthening inter-institutional cooperation, prevention of re-offending and the production of policies ensuring integration into society. The Advisory Board convenes at least once each year. The head of the Advisory Board is the undersecretary of the Ministry of Justice and the members are as follow: the Ministry of Justice General Director of Prisons and Detention Houses, the General Director of Laws, the General Director of Personnel Affairs, the Head of Department of Probation; a representative of the Turkish Bars Association, one academic per university department of law, social service, sociology and psychology, the General Director of the Turkish Employment Agency, the General Director of Child Services of the the Ministry of Family and Social Policies, the General Director of the Status of Women, the General Director of Family and Social Services, the General Director of Social Welfare, the General Director of the Services for the Elderly and Disabled, the General Director of the National Education Ministry Life-Long Learning, a high level representative from the Ministry of Labour and Social Security, the Vice General Director or Head of Department in charge of Public Order of the Gendarmerie General Command and Turkish National Police, a representative from the Turkish Union of Chambers and Exchange Commodities, and a representative of the Turkish Confederation of Tradesmen and Craftsmen. In addition, according to the agenda, relevant persons and representatives of institutions can be invited as participants to the Advisory Board meetings.

There are also representatives of various institutions and organisations and NGO's in protection boards working in the conduction of the Turkish 143 probation services. Protection boards consist of representatives from public institutions such as: a penitentiary institution director, a probation director, a national education director, a provincial directorate of family work and social works and various non-governmental organizations determined by chief public prosecutor. The Protection boards meets every three months under the chairmanship of the chief prosecutor and takes decisions together with stakeholders to meet the social and economic needs of the probationers. These meetings promote inter-institutional cooperation in the name of the welfare of the obliged.

#### **4.3 Probation and Offenders Abroad**

### **4.3 Probation and Offenders Abroad**

According to the By-Law on Probation, offenders of foreign nationality are assessed by the directorate in terms of accommodation, health and economic situation, as well as on the characteristics of the crime that they committed. The opinion of the Ministry of Interior is asked via the chief public prosecutor's office as to whether there is an inconvenience for the stay of the foreign national offender in the country in terms of political, administrative and public security terms, and whether his/her deportation is required or not. There is an obligation of not entering the country until the period of conditional release (probation measure) for those foreign national offenders who are inconvenient to stay in Turkey, people who do not have a residence permit nor a constant place of residence or those who do not have an income in order to live a stable life. These situations are notified to the Ministry of Interior.

Probation measures required by the judicial authorities are applied to foreign national probationers in the same way as to the citizens of the Turkish Republic. If need is established, foreign nationals can benefit from training and rehabilitation works and when necessary they can be referred to relevant health institutions for treatment, like psychiatric treatment or help for substance addiction.

## **5. Different Stages of the Criminal Justice Process**

### *Relevant Probation Rules*

According to the Constitution of the Republic of Turkey until proven guilty in a court of law, no one can be considered guilty. (Rule 7).

The activities for the execution decisions and rehabilitation of probationers and their re-integration into society are conducted in cooperation with other institutions and NGO's, as well as by ensuring social participation. Public institutions and organisations contribute to the enforcement of probation services and assist the probation personnel. Public organisations, publicly managed foundations and associations, voluntary physical and legal persons are encouraged to contribute to probation services too. Preparing and conducting programmes for training and rehabilitation in cooperation with other institutions and organisations and NGO's, identifying social, cultural and sportive activities conducted by institutions and NGO's for training and rehabilitation, directing the probationers to such programmes within the scope of rehabilitation works are included among the duties of the probation personnel. In this context, rehabilitation and re-integration activities are conducted in cooperation with other institutions and NGO's through activities such as conducting individual interviews and group work, structuring free time, and ensuring the probationers to participate in vocational courses and training programmes. For treatment requirements of probationers with drug addiction and psychiatric problems there is cooperation with the Ministry of Health. The activities of the

probationers for acquiring a job and profession are supported via discussions with public and private companies, professional and industrial chambers. Cooperation with social welfare and solidarity organisations is arranged for those probationers whose socio-economic situation is weak. Moreover, cooperation is established with institutions such as the Provincial Directorate of Family and Social Policies, the Provincial/District National Police, the Juvenile Branch Directorate, and guidance research centres with regard to the development of social adaptation skills of juveniles. Consultancy is received from school counsellors on increasing domestic communication and adolescence; studies are conducted regarding the protective and preventive measures in cooperation with governorates/district governorates, provincial/district national education directorates and provincial/district health directorates. The supervision and follow-up of probationers within society are conducted in cooperation with law enforcement agencies when necessary (For detailed information about the members of Advisory Board and participants of protection boards, please see the section 4.2.3 “Other organisations involved in probation work”) (Rule 12).

Pre-release assessment reports (for the executing court) are prepared for those whose sentence includes the implementation of a probation measure and whose conditional release is less than a month ahead. In the prepared report, the effort and endeavour of the offender in his or her compliance of rules and liabilities and behaviours during probation are assessed, and suggestions are made to determine a liability within the period of post-conditional release regarding offenders who pose a risk in terms of the victim of crime, or whose reoffending risk is high (Rule 45).

Community service can be renamed as ‘work penalty’. The aim of this sanction is to rehabilitate the probationer to ensure a compensation for the damage caused by the probationer, making him or her thus respect others’ rights, plan the time and set up an own life by getting a job. While the work in which he or she will be employed is determined, the rehabilitation of the offender, the re-integration into society (by increasing social inclusion), the compensation of the damage given to the public, the security of the victim and society, and the criminal nature of the committed offence are taken into consideration. The days and hours during which they will work are determined by considering one’s job and family life, and by investing in education. While executing this punishment, the situation of the offender is not shared with anyone other than the institution or organisation in which they will work (Rule 47, 48, 51, 52).

Within the probation system the execution, supervision and follow-up of some liabilities given by judicial authorities about probationers and specified by probation directorates are carried out. Furthermore, rehabilitation of probationers and improvement of their living conditions, their re-adaptation to society after release, assistance in their inclusion in society as a productive individual and service, as well as programmes and resources needed for reoffending are provided. The Probation system is based on the principle of individualised rehabilitation. Instead of applying uniform and

similar plans to each probationer, a specific plan is implemented for the needs of each probationer (individual interviews, training, vocational training, work, economical support, social support, making use's of spare time, spiritual support, psychiatric medicines etc.), taking into account the individual differences. In this sense, firstly risks and needs of the probationers in probation system are detected; then accordingly rehabilitation programmes are conducted by the probation directorates and when necessary, in cooperation with other institutions/organisations (Rules 55 and 61).

Support, consultancy and information are also provided to probationers and ex-offenders and their families in case of requests via the protection boards (Rule 56).

Electronic monitoring methods are used in some probation decisions as a sanction alternative to short term imprisonment and postponement of the sentence, and if the relevant probationers give consent, their participation in training and rehabilitation works is also ensured. In the supervision and follow-up of offenders who are conditionally released from a penitentiary institution, electronic monitoring methods can be used and at the same time, these offenders are required to participate in training and rehabilitation works aimed at ensuring their rehabilitation (Rule 57).

In order to support the social and occupational integration of probationers after release, actions to strengthen the data exchange between probation directorates and penitentiary institutions are continuing with the aim of the strengthening of conditional release system (Rule 59).

After providing preliminary information to the probationers under a probation measure, their risks and needs are determined by assessment through a planning bureau. According to these risks and needs a supervision plan including rehabilitation programmes is prepared in cooperation with the probationer. If it is detected that the probationer needs to participate in rehabilitation programmes the probationer is encouraged to do so. In the supervision plan prepared by probationers, there are rehabilitation programmes for the determined risks and needs, issues regarding the supervision and control, rules and obligations to comply with, the period of supervision and liabilities, and information about the relevant people and institutions with whom cooperation will be established. An information form is given to probationer which includes the liabilities determined in the supervision plan, rules that he or she has to obey, and the issues to which he or she must pay attention. The issues such as what the liabilities of the probationer are, which situations will be considered as violation and whether he or she has understood correctly and adequately all relevant attention points are confirmed during the plan. The rules to be obeyed by probationers who do not have to come to a probation directorate and for whom a supervision plan is not prepared (judicial control, serving an imprisonment sentence at home, disqualification from the use of certain rights) are sent by means of an information form to their address and they are served (Rule 85,86).

## 5.1 Pre-trial/Remand/Trial Stage

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

Sanctions/Measures/ Penalties/Conditions attached to a conditional decision or sentence	Provided in legislation?	Probation service involvement?	Main characteristics of the probation activity
Unconditional waiver by the public prosecutor			
Conditional waiver by the public prosecutor			
Conditional suspension of the pre-trial/remand detention	X		
Pre-trial/remand detention	X		
Police custody	X		
Bail	X		
Caution	X		
Surety	X	X	As a judicial control measure
House arrest	X	X	As a method of inspection and monitoring
Electronic monitoring	X	X	As part of judicial control measure
Community service			
Treatment order	X	X	Within the scope of a judicial control measure, treatment and probation decision (referral to the relevant health institution and process follow-up)
Training/learning order	X	X	As a judicial control measure
Drug/alcohol treatment program	X	X	Within the scope of a judicial control measure, treatment and probation decision (referral to the relevant health institution and process follow-up)
Compensation to the victim	X		
Mediation			
Semi-detention			
Attending a day centre	X	X	As a judicial control measure*

Liberty under judicial control	X	X	As a judicial control measure
Interdiction to leave the country	X		As a judicial control measure
Interdiction to enter different cities/places	X	X	As a judicial control measure
Interdiction to carry out different activities	X	X	As a judicial control measure
Interdiction to contact certain persons	X	X	As a judicial control measure
Psychiatric treatment	X	X	As a probation measure
Deferment of sentence	X	X	Only with the postponement of the announcement of the verdict under certain conditions or as a probation measure within the same scope.
Fine			
Other financial sanctions	X		As a judicial control measure
Assigning a guide for the supervision of the juvenile	X	X	Carrying out guidance and rehabilitation activities by the probation service in cooperation with other institutions and organizations.

At the pre-sentence process covering investigation and prosecution phases, the probation decisions mentioned below may be given about the relevant person by a public prosecutor or judge:

- **Judicial control:** a measure regulated in Article 109 of the Criminal Procedure Code to be applied as an alternative to detention. This measure consist of a number of preventive measures: the obligation to regularly apply to places that will be specified by the judge within a specific time period, the obligation to obey the measures of continuing education, the obligation to be subject to measures of treatment and examination, the prohibition to leave the house, the prohibition to leave a specific residential area or to go to specified places or regions. Pursuant to Article 20 of the Juvenile Protection Law, the measures listed above in Article 109 of the Criminal Procedure Code and one or several of the measures of “*to not to go outside the boundaries of specified environment, to not to go some specified places or to be able to go only some places, to no to contact with specified people and institutions*” may be imposed as a judicial control measure towards children dragged into crime during the investigation or prosecution phases.

According to the By-Law on Probation Services, the decision to start the execution procedure of judicial control is made by the case manager. A notification is sent to the suspect or the accused and with this notification the type of judicial control measure (in what way the measure will be executed) is explained. If necessary, a letter is written to the relevant person, institution or organisation and information is asked whether the necessary actions of the judicial control measure towards the suspect or the accused were executed and whether the judicial control measure was continuing.

As per Article 20 of the Child Protection Law titled "Judicial control" – children who are followed by probation directorates and who volunteer, can get an expert assigned to them to guide them during the judicial control and improvement works that need to be carried out according to the needs assessment done for this specific juvenile.

According to the By-Law on Probation Services, electronic monitoring methods can be used in the monitoring and supervision of suspects who under the judicial control and for measures of not to be leave house, not to leave a specified residential region, not to go to specified places or regions, or to be permitted to go only to some places are decided. While there is no legal restriction in principle electronic monitoring methods are not used with respect to juveniles.

- Placing a child under supervision: In the event that it is decided to place a juvenile (All individuals under the age of 18) under custody, the decision of postponement of a public lawsuit is approved according to Article 36 of the Juvenile Protection Law. The execution decision is conducted by the probation directorates. When a child involved in crime comes to a probation directorate, he/she is assessed in terms of criminogenic risks and needs. As a result of this assessment, a supervision plan appropriate to the needs of the child is prepared in cooperation with the child. Rehabilitation works (individual interviews, group studies, seminar, structuring of free time, directions etc.) are included in the content of the supervision plan. This report covers issues such as the implementation method of the decision, the impact on the child and whether parents of the child, guardians, people or institutions responsible for care and surveillance carry out their necessary responsibilities for the child. In addition, taking into account the personal, social and emotional state, the school and friends environment and the child's family life, an evaluation report that indicates how the child develops as a result of the guidance and improvement activities, information about his/her willingness and the results of changing the negative behavior, as well as other studies that are thought to be useful for child are prepared and sent to the court or juvenile judge every three months.

- Treatment and probation: According to Article 191 of the Turkish Penal Code, a probation measure for at least a year is applied for the suspect who is sentenced to suspend the filing of public lawsuit for five years. In this context, individual factors like using drugs or the desire of using drug are assessed. The rehabilitation works conducted for these people to control their needs to this substance and to become individuals beneficial to themselves or society in line with their specific needs,



are the responsibility of the probation directorates in cooperation with the relevant institutions.

### **5.1.1 Pre-Trial/Pre-Sentence Report**

During the investigation phase, following the motion of public prosecutor, or during the prosecution phase, following the motion of judge or court, a social investigation report (SIR) is prepared by psychologists, sociologists, social workers and teachers. This report is a pre-sentence report. In the report, information of the suspect or accused is assessed. The information consists of one's identity, previous criminal information (if any), health, family, environment, education, personal aspects, social and economical situation, cognitive and psychological situation, possible risks posed to the society/victim and attitudes and behaviours. The report is prepared by discussing with the suspect or the accused and his/her family and social environment. In the concluding part of the report, the elements which may constitute the risk of offending and the risk of giving damage to society or himself/herself are assessed. In case there is the impression that a person gave a false statement during the preparation of the report or the answers given are contradictory, this situation is explained in the concluding part of the report.

The SIR is prepared within 15 days. However, in case of necessity, an additional period may be requested on the condition that its reasoning is stated. One copy of the report is transmitted to the requesting authority, the other copy is stored in National Judicial Network Informatics System (NJNIIS). This report pays attention to the privacy in the storage since it contains personal information.

### **5.2 Enforcement Stage**

After the prosecution phase, the probation decisions by public prosecutor are as follows:

- a) Sanctions alternative to short term prison sentence (art. 50 PC).

These sanctions conducted by the probation directorates are as follows:

- Attending an educational program.
- Prohibition from travelling to certain places or from conducting certain activities
- Community service.

If there is an exact definition of the prohibited place/region in the sanction of prohibition from travelling to certain places or from conducting certain activities, electronic monitoring may be used for supervision and monitoring.

- b) Suspension of prison sentence: According to Article 51 of the Turkish Penal Code, a supervision period is determined for the offender whose punishment is suspended. Within the supervision period it may be decided by the court that:

- an offender with no profession or craft skills shall continue in a training programme

- an offender with a profession or craft skills shall be employed in a public institution or in private under the supervision of another person performing the same profession or craft skills without being paid.

- offenders under eighteen shall continue a training institution which also provides accommodation when necessary to ensure that they acquire a profession or craft skill.

Furthermore, a court can assign an expert who will guide the offender during the supervision period. In this case, it is planned that the probationer after an individual interview with this expert will participate in training and rehabilitation activities. Identification of risks and needs (conducting necessary directions in the fields such as group work; seminar; structuring of leisure time; psychiatric need, training need, working and professional need, social welfare need) shapes the rehabilitation activities. The report, drawn up in three-month periods by following the developments in the offender's attitude, social adaptation and sense of responsibility, is sent to the execution court.

c) Disqualification from the use of certain rights: these security measures that foresee the prohibition of the rights and authorities listed in the first paragraph of Article 53 of the Turkish Criminal Code no.5236, in part or whole, or the prohibition of performance of a profession or craft skills, as a consequence of a crime committed by an offender.

d) Effective remorse: the effective regret given by the courts within the scope of Article 221 of the Turkish Penal Code about the founders, managers and members of an organization who dissolve the organization or cause the organization to dissolve through provided information, who voluntarily left or surrendered or caught the organization with regret or caught the members of the organization. This is a measure that provides control, follow-up and improvement of the convicts within society.

d) Deferment of sentence: if this sanction is imposed according to Article 231 of the Criminal Procedure Code no. 5271, the accused is subject to a supervision period of five years. As probation measure it may be decided that:

- If the accused does not have a profession or craft skill, he or she shall continue an educational program to obtain this,

- If the accused has a profession or art, he or she shall be employed in a public institution or in private under the supervision of another person performing the same profession or craft without receiving payment,

- The accused shall be prohibited from going to certain places, obliged to continue certain places or fulfill other liabilities to be assessed. Probation decisions given regarding prohibition from going to certain places are executed by means of using electronic devices.

e) Execution of house arrest: if the conditions mentioned in Article 110 of the Law on Execution of Penalties and Security Measures arise, it may be decided by the court to impose house arrest. Within ten days as of the registration of this decision by the probation directorate, a probation

officer at the supervision bureau goes to the address of the offender and examines the house. The rules required to be obeyed by the offender are determined in cooperation with the offender, taking into account the specified needs of the offender. The case manager makes a plan within three days and communicates how the house arrest will be executed and which rules should be obeyed. In the execution of house arrest, the basic needs of the offender such as health, education and worship are taken into account. The offender is controlled by a probation officer at supervision bureau or law enforcement agency who goes to the house in person. The supervision can also be conducted by using electronic monitoring methods.

f) Community service instead of judicial fine (Article 106 of the Law on the Execution of Penalties and Security Measures): if the offender does not pay the judicial fine within a specific period upon the notified payment order, the amount of days corresponding to the unpaid part is converted into imprisonment by decision of the public prosecutor. The offender shall work in community service as two-hour work corresponding to one day. The daily working period is determined by probation directorate, at least two hours and a maximum of eight.

g) Placing the child under supervision: if it is decided that in the framework of a deferment of sentence a child is placed under supervision according to Article 36 of the Juvenile Protection Law no.5395, his or her file is sent to the probation directorate. For detailed information about the procedures conducted by the directorate, see the part “b) Placing the child under supervision” in the section “5.1 Pre-trial/remand/trial stage”.

When the probation directorate receives a file regarding the enforcement of an alternative sanction, the suspension of imprisonment sentence, effective remorse or a deferment of sentence, a notification is issued for the relevant probationer to come to the directorate. There a risk and needs assessment is conducted and a supervision plan, appropriate to the content of the decision, is prepared. After the registration procedure of the decisions of prohibition of the use of certain rights and authorities or the performance of certain professions or art and the seizure of driving license, is completed by probation directorate, it is notified with a letter to public institutions and organisations and professional institutions according to their relevance. For these decisions, the offender does not need to come to the probation directorate and no supervision plan is prepared. An information form including the liabilities of the offender, the rules to be obeyed and the issues to be considered by the offender is sent to his or her address.

The probation decisions included in the scope of measure/punishment determined by the judge after release are as follows:

a) Execution of punishments by using the probation measure (conditional release): Article 105/A of the Law on the Execution of Penalties and Security Measures includes the execution of a specific part of the punishment up to the date of conditional release by means of using a probation measure.

The probation directorate decides to subject these offenders to one or more of the following conditions based on the results of a risk and needs assessment:

- To perform community service.
- To be placed under supervision and surveillance at a house or region,
- Not to go specified places or regions,
- Not to follow specified programmes

In the supervision and monitoring of these, electronic monitoring methods can be used.

b) Conditional release: on probationers who are conditionally released by the court according to Article 107 of the Law on the Execution of Penalties and Security Measures, the following obligations may be imposed:

- To work under the supervision of another person,
- To follow a training program (under the age 18),
- To participate in rehabilitation works.
- Other obligations in probation.

A notification is issued for the probationer to come to the directorate. Here a risk and needs assessment is conducted and a supervision plan is prepared.

c) Execution regime and probation measures specifically for recidivists and some criminal offenders:

According to Article 108 of the Law on the Execution of Penalties and Security Measures, rehabilitation practices for re-integration into society and efforts to reduce the risk of re-offending are conducted by probation directorates. In the same vein, under the same Article and the sexual assault crime defined in Article 102 of the Turkish Penal Code, the supervision and monitoring within society of the probationers for whom an obligation is determined are conducted by probation directorates.

When the execution file comes to the probation directorate within the scope of this type of decision, a notification is issued to the relevant probationer to come to the directorate. There a risk and needs assessment is done and a supervision plan appropriate to the content of the decision is prepared. Moreover, information regarding the guidance and rehabilitation is included in this plan. The supervision and monitoring of the probationers about whom the liability of “*prohibition of residing at the residential place where the victim of crime resides and works and/or prohibition of approaching the places where the victim is located*” is determined, can be conducted by using electronic monitoring methods.

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

Sanctions/Measures/ Penalties/Conditions attached to a conditional sentence	Provided in legislation?	Probation service involvement?	Main characteristics of the probation activity (e.g. supervision, coordination, reporting, referral, help&support)
Sanctions/Measures/ Penalties/Conditions attached to a conditional sentence	X		
Imprisonment	X	X	Execution of the probation decision (continuing education, community work, guidance)
Suspended sentence			
Conditional sentence			
Affidimento in prova	X	X	Supervision and monitoring
House arrest	X	X	Supervision and monitoring
Electronic monitoring	X	X	Enforcement decision
Community service as sanction			
Semi-liberty			
Semi-detention	X	X	The follow-up of the process with the referral procedure to the relevant health institution
Treatment order			
Training/learning order	X	X	The follow-up of the process with the referral procedure to the relevant health institution
Drug/alcohol treatment program	X	X	Enforcement decision
Educational measures	X		
Compensation to the victim			
Mediation			
Attending a day centre	X	X	Carrying out guidance and rehabilitation activities by the probation directorate in cooperation with other institutions and organizations
Interdiction to leave the country	X	X	Supervision and monitoring
Interdiction to enter different cities/places	X	X	Enforcement decision

Interdiction to carry out different activities	X	X	Probation directorate is assigned.
Interdiction to contact certain persons			
Fine			
Day fine	X		
Other financial penalties	X	X	As part of referral/channelling to health institution
In/out patient order (psychiatric treatment)	X	X	As part of disqualification of use of certain rights
Security measures	X		
Combined order	X	X	Enforcement decision
Community punishment	X		As a probation decision
Conditional release / Parole	X	X	As a probation measure; a) To be employed free of charge in a job useful for the public, b) Being under control and surveillance in a house or region, c) Not allowed to go to designated place or regions, d) Implementation, supervision and follow-up of the obligations to participate in determined programs
Automatic release	X		
Open prison	X		
Penitentiary program outside the prison	X	X	Enforcement decision
Banned from going to certain places	X	X	Enforcement decision
Working for a fee under supervision	X	X	Enforcement decision
Being banned from residing in the residential area where the victim of crime lives and works	X	X	Enforcement decision

Being banned from approaching the victim's locations	X	X	Enforcement decision
Being banned from working in an environment that requires being with juvenile	X	X	Enforcement decision
To be banned from performing activities that require the obligation to care and supervise juvenile	X	X	Enforcement decision

Risk and needs assessments of convicts staying in penitentiary institutions due to any crime, and rehabilitation works are conducted by psycho-social services in line with the determined needs.

For convicts and detainees in penitentiary institutions, structured intervention programmes are set up such as:

- Individual interviews
- Anger Management Programme
- Personnel Awareness Programme for Suicide and Self-Harm
- Cigarette-Alcohol-Substance Addiction Awareness Programme
- 0-18 Age Family Training Programme, Pre-Release and Prisoner Development Plan
- Special Supervision and Surveillance Programs

In addition to the listed interventions for family, guiding to vocational training and support works are continuing in line with the needs of detainees and convicts.

Penitentiary institution personnel is responsible for these activities conducted in the penitentiary institution; in this process probation personnel has no duty or role.

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

Providing support to the families of the offenders/detainees	
Coordinating volunteer prison visitors	
Preparing offenders for (conditional) release	
Preparing prisoners for home leave and/or providing support during home leave	

Providing support to persons that have been pardoned or amnestied	
Providing advisory report with respect to amnesty or pardon	
Providing support to convicts while seeking work	The convicts who leave the penal institutions after obtaining a job permit, are informed by the bureau of the protection board in the probation directorates about the jobs they can do or the places where they can work upon request, and the convict is informed that he or she can apply to the protection boards after the conditional release.

### 5.3 Care and After-Care Outside the Criminal Justice System

The convicts released from penitentiary institutions and probationers (people who have never been in prison and who come directly to the probation system) are assisted with issues such as financial aid and aid in kind, job placement, training, health, and psycho-social support upon their request. Likewise, the participation in vocational courses of ex-convicts who apply to the 143 protection boards is ensured. In addition to these, along with probationers and ex-convicts, counselling and information are also provided to their families upon their request. Moreover, projects on different issues such as employment, applied entrepreneurship, certified vocational training, setting up a business and social support are developed in cooperation with various institutions, organisations and NGO's for probationers or ex-convicts; children and young people under the risk of offending due to social and economic deprivation.

The period of after-care and other services is assessed within the scope of the legislation to which cooperated institutions are affiliated, by considering the needs of people to whom care is provided and the type of care provided. The discretion and authority regarding this issue belong to the relevant institutions. The period of care may be influenced by the financial sources of the institutions, withdrawal of the application by the person who receives care, and the type of care provided.

## 6. Probation Methodology

### *Relevant Probation Rules*

The reports for probationers who are under supervision, such as: individual interviews, groupworks, seminars, community monitoring and community based rehabilitation, are decided within the scope of the probation services and conducted within the framework of the planning prepared via a risk and needs assessment system. In the probation practices the main priorities are the determination of what kind of interventions can be conducted to strengthen one's social adaptation while observing the



individual behaviour (the crimes committed, possible remorse on crime and awareness of the damage done to the victim, psycho-social, socio-cultural and socio-economic differences etc.), and what programmes in which they participate will meet their needs and provide the expected benefit. For this reason, following the applications of the probationers to probation directorates, their risks and needs are detected and a supervision plan is prepared in cooperation with the probationer according to the content of the probation decision and the responsibility.

General ARDEF, which is a version of the "Research and Evaluation Form", is applied in all probation directorates as of 18.03.2013. In addition, ARDEF191, an addiction focused risk and needs assessment tool, has been developed.

Risk and needs determination and planning processes for children pushed into crime are carried out by specialists responsible for children and through a system different from adults (Probation Youth Program-DENGE). In addition, Re-form is used as a risk and needs assessment tool that focuses on risk factors driving children into crime, as well as the protective factors that keep them away from it. This form is prepared as a result of at least three interviews with the child. Re-form focuses on 8 basic areas in a child's life: Criminal Behavior, Family Relationships, Education and Job Status, Social Environment and Peer Relations, Leisure Time, General Health Status, Substance Use, Attitudes and Behaviors. The Re-form application also includes information obtained from home and school visits, interviews with family members or other caregivers, and those of other institutions and organizations being in contact with the child.

The reports are planned and conducted taking into account issues such as the person's age, gender, education status, the crime that he or she committed, the risk of re-offending/giving damage to the victim, and possible training or rehabilitation programmes that he or she previously participated in. To this end, a supervision plan including rehabilitation programmes appropriate to risks and needs is prepared in cooperation with the probationer.

Probationers are informed about their obligations during the process of probation and about the rules to be obeyed. For detailed information about this see the section 5.2. "Enforcement stage (Rule 6, 66, 67, 68, 73, 76)".

The Research and Evaluation Form (General ARDEF / ARDEF191) is applied to determine the risks and needs of adult obliged parties in their first application to the probation directorate. After the first application of ARDEF, three individual interviews (evaluation interviews) including qualitative evaluation are carried out by the probation expert. The needs assessment on the child during the probation process is reviewed after the work carried out by the child and probation officers, and the work of other institutions and organizations to which the child is directed in line with his needs. At the same time, the changes in the life of the child during the probation process in relation to the eight above mentioned risk areas are monitored and the needs assessment is updated (Rules 69, 70, 81).

Probation director assign probation officers who have information and sufficient knowledge required by the job and who have received training on assessment and planning to the assessment and planning bureau. Evaluation and planning procedures for children driven into crime are carried out by probation specialists responsible for activities carried out with children (Rule 71).

Individual interviews, group works and seminars conducted within the scope of probation are updated via various workshops and by obtaining the views of the experts who conduct the relevant works. Also they are made ready to be implemented with any feedback taken from pilot practices. Furthermore, projects targeting the improvement of probationers and their living conditions are conducted. Currently, three different projects are being carried out for strengthening the capacity of the electronic monitoring system, developing the monitoring possibilities of probationers via electronic devices as well as the risk & needs tools and intervention programmes for children (Rule 77).

In Turkey, the enforcement of probation decisions, including the coordination of the reports on supervision, monitoring and rehabilitation of probationers, are conducted by an enforcement bureau in the probation directorates. For each client one probation officer is determined as case manager (Rule 80). For detailed information about the formal and up-to-date records of probation institutions, see the section 7.3. "Registration systems and evaluation procedures" (Rule 88).

For some probation decisions, a supervision report in which the supervision process of the accused or convict, his or her success in adaptation to society, efforts shown to change their behaviour or other developments are assessed, is prepared and sent to the relevant court. In the decision of conditional early release, a pre-release assessment report including information about the attitude and behaviour of the convict during the period under probation, as well as the efforts and endeavours in his or her adaptation to the rules and liabilities, is prepared and sent to execution judge. In the decision of taking the child under control, an inspection report is prepared by the probation expert every month, to be sent to the court or the juvenile judge upon request (Rules 81, 91). It is regularly audited by the probation directorates, justice inspectors and controllers, and also the audit reports of these institutions are regularly submitted to the Ministry of Justice (Rule 103).

There are individual interviews, group works and seminars within the probation system training and rehabilitation works, but cognitive behavioural approach is predominantly used. The issues addressed under the programme objectives are transferred to the participants step by step within the framework of the relevant paradigm, and their self-notifications are picked up via several homework practices. Updates of the current program (with feedback taken from the field and scannings from the literary field), the creation of required new programs and the general decision making process on the state of implementation in Turkey, are managed by the Probation Department. In this context, attention is paid to conduct common studies in cooperation with universities regarding the needs of psychologists,

sociologists, social workers and teachers implementing the training and rehabilitation works. When necessary programmes are accredited. The programmes determined by the department are implemented by probation directorates. Which programme(s) are implemented to the probationer is determined via an assessment and planning process conducted with the probationers themselves. The conformity of the programme for the probationer determined in the assessment and planning process is also controlled by the psychologists, sociologists, social workers and teachers who conducted the interviews during the process of assessment (the first three individual interviews are conducted with specific intervals) within the scope of training and rehabilitation.

The preparation and updating of resources, tools, standard forms etc. needed by the probation personnel are also managed by the Probation Department. Probation directorates conduct the execution probation decisions and other works via their bureaus. At the directorates there is the incoming document bureau, the admission bureau, the assessment and planning bureau, the execution bureau, the training and rehabilitation bureau, the supervision bureau, the protection boards bureau, and the administrative and fiscal affairs bureau.

Care services performed within the probation system are independent from supervision and surveillance activities and cover the services performed by protection boards. Convicts released from penitentiary institutions as well as probationers (who are not imprisoned) benefit from the opportunity given in the probation system (For detailed information about the care provided, see the section 5.3 “Care and after-care outside the criminal justice system”).

In Turkey, the inspection and control units of the Ministry of Justice inspect and report on-site whether the standards for probation and legislative requirements created within the year are fulfilled or not.

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

### *Relevant Probation Rules*

Service buildings of probation can be part of court houses or different public institution buildings, or can be independently rented. In the selection of service buildings, attention is paid to having sufficient rooms for the administrative staff and bureau personnel, interview rooms where child and adult individual interviews can be conducted and saloons for group work, seminars etc. Equipment and other needs of probation directorates are provided by means of purchasing or renting; to this end, allowance is transferred to the budget of the Ministry of Justice (Rule 10).

For detailed information about the regular supervision of probation institutions, see the section 7.2 “Accounting” (Rule 15).

The enforcement and rehabilitation processes of the probationers in the probation system should be conducted in a highly meticulous manner within a specific plan and programme as this is important

on the basis of legislation. Likewise, it is equally important that they are conducted with the personnel who received the necessary trainings along with the information and ability to work with offenders, and a high motivation.

Thus, necessary resources are provided when needed by the personnel working in the enforcement probation services in order to have the expected quality in terms of performing their duties. Also their professional developments and motivations are supported and trainings that can contribute to their efficient work are organised. For detailed information about the selection of probation workers, please see the section 4 probation rules (Rule 21).

While the civil servants assigned to conduct probation services receive the same remuneration, according to their service class, title and degrees, the civil servants working in other public institutions benefit from the pay raises and compensations paid by the Civil Servants Law no. 657 compared to their colleagues working in penitentiary institutions. All personnel assigned in probation directorates receive trainings on candidate civil servant, in-service training and other trainings related to their duties in Training Centres of Penitentiary Institutions and Detention Houses (Rule 33).

The intervention programs for the probationers are performed in the framework of the planning, prepared on the basis of risk and needs assessment system. All programs conducted by probation units are supervised regularly by inspection boards affiliated to the Ministry of Justice (Rule 104). In the revision of the current legislation, policies and practices concerning the probation system and universal legal rules are adopted; the work is done by people specialised in the relevant fields, academic support is obtained, other country practices are closely followed, consultancy service is taken at national and international level as part of project activities. Also when necessary and as a requirement of a modern penitentiary understanding, all resources are mobilised in order to develop and strengthen the system. In the formulation of rules and standards in policy and practices of probation, the Recommendations of the Committee of Ministers of the Council of Europe are also taken into consideration (Rule 105).

## **7.1 Finances**

Probation services within the justice services are financed by the state. The services of the Ministry of Justice are financed with a budget allocated by the Ministry of Finance each year. The exact figure changes each year. Sufficient allowance is allocated from the budget of the Ministry of Justice for probation services. Budget proposals are prepared in the framework of rates determined by the Ministry of Finance and the needed allowance amount is determined. Lastly, the allowances allocated through the Budget Law finalised by the General Board of the TGNA are used within a year.

Moreover, the income and profits obtained from economic value (goods, material, service etc.) produced by the personnel, workers and convicts working in the Workshops Directorates that produce

various products as rehabilitation and re-integration for convicts, are allocated for the needs of the institutions affiliated to the Ministry of Justice with regard to their services and works, and they are used within the fiscal year.

The financial authority in probation directorates is the probation director. When the probation directorates want to make an expenditure, they submit a request within the budget allocated to them by the General Directorate of Prisons and Detention Houses.

**Table 5.** *Prison / Probation Expenditure - Year 2020*

	<b>Probation Services</b>	<b>Prison System</b>
Total current yearly expenditure	34.480.734,27 €	817.388.118,55 €
Average number of employed staff	5.179 people/143 36	65.931 people/368 179
Daily average number of offenders/clients dealt with	334,040 clients on average	264,513 daily number of people in penitentiary institutions

## **7.2. Accounting**

The audit regarding the expenditure of allowances allocated via the Central Administration Budget is biennially conducted by the Auditors of Court of Accounts, the Justice Inspectors of Financial Audit and Controllers of the General Directorate of Prisons and Detention Houses. The audits are conducted through on-site controls in the service buildings by using UYAP screens in some processes, and by examining the relevant documents, files and folders.

There is no independent audit of expenditure in place in Turkey (for UYAP see section 7.3 below).

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

The records of all processes in probation services are kept electronically in the National Judicial Network Project System (UYAP system). UYAP is an information system which provides both hardware and software to the internal automation of the central and provincial organisations, affiliated and relevant institutions, judicial and administrative support units and which provides external unit integration with public institutions and organisations that have established a similar information system.

With UYAP developed complying with the electronic signature infrastructure, a central information system has been established and in this system full functional integration has been achieved between judiciary and judicial support units. Thanks to the full integration of UYAP and its archive kept in a central electronic environment, correct and coherent information is available for all users, in particular

judges and prosecutors and judicial personnel. The latest version of the information and documents in UYAP are stored in the database in a stable and secure manner; unauthorised access is not permitted. In the system each user has a different authorisation degree and can get access to necessary information according to this degree. This information kept within confidentiality rules can be used to develop policy or improve practice. Attorneys and citizens also can access the relevant records and information from outside.

Thanks to electronic filing, judicial information and documents can be stored in a secure environment. In this framework, criminal records, registers, addresses, driving licenses, land registers and cadastre records from those institutions where integration with UYAP is ensured can be accessed immediately and automatically by the judicial units.

The data reports and statistics kept by the Probation Department are used to measure the effectiveness of the probation works. Through the UYAP system various data such as types and numbers of probation decisions, the distribution of these decisions between children/adults or woman/man, forms and plans prepared for probationers, statistics of rehabilitation programmes, reasons for closing files, and statistics of the protection board can be accessed.

The Public Expenditure and Accounting Information System Salary Module, which is used by all public institutions, is used for storing identity and salary information regarding the personal rights of personnel working in different statuses of the probation directorates and for conducting any salary calculation or reporting procedure.

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

### *Relevant Probation Rules*

Informative visits are performed to the managers of institutions, organisations and NGO's required to be cooperative both in the process of the enforcement of probation decisions and in providing care services. In addition to this, seminars and panels are organised, also in various programmes on national/local television channels, information is given about relevant probation issues. Introductory materials (brochures, posters etc.) which are informative about probation, specifically generally introducing the topic and the types of decisions, are prepared and distributed to probationers, their families and stakeholder institutions. Further, up-to-date information and news is published on the web sites of the General Directorate of Prisons and Detention Houses and the Probation Department in order to inform the public and those who are interested (Rules 17, 106).

In Turkey, it is mandatory for public institutions to prepare a strategic plan. In the five-year strategic plans of the Ministry of Justice, the priorities of the Ministry as well as how and when the current resources will be used are clearly set forth. On the other hand, strategic plans have the characteristic

of commitment to the public. From the moment a strategic plan is announced, the public obtains information about the axis of the works in judicial field and can follow the works conducted in the judicial field. Within the scope of the Strategic Plan of the Ministry of Justice, the probation units report about the work done by the Probation Department, including three-month, six-month and one-year period reports. Pursuant to the Law on Probation Services, the Probation Department is responsible for submitting its annual work programmes, projects and study reports (prepared by the probation directorates and protection boards) to the General Directorate. Furthermore, advisory decisions taken via the meetings of Advisory Board regarding the probation and protection services are transmitted to the relevant institutions and organisations. At the protection board meetings, information and expectations regarding the developments in the probation system are transferred to the members of this board (Rules 107, 108).

### **8.1 Societal Support and Public Opinion**

The findings of some research about the Turkish probation system emphasize that developing tools for measuring the effectiveness of probation practices (by objectively and regularly evaluating the practices), and increasing rehabilitation works will provide a positive contribution to probation system (*Müftüoğlu, 2009; Berk, 2010; Aslan, 2012; Göker, 2015; Emel, 2016; Bayraktar, 2018*).

Various introduction activities are conducted at national and local level in order to make probation services better known. The works at national level are conducted especially via organizing a seminar, conference, meeting and workshop, via writing columns in national newspapers and participating in news programmes to introduce probation activities at the national television. Likewise, at study visits organised abroad probation policy and methodology in Turkey are transferred to these countries, and information exchange takes place about the developments in the field. The experiences obtained by means of international conferences and symposiums reach the international platforms and good practice examples of regional countries are learnt through which a positive public opinion is formed about the system.

After the Probation Department started to give service, an official website was prepared. On the website that is used as a means of communication, an introduction, announcement and news, up-to-date information/news and announcements as well as documents, legislation, statistical data on probation services, probation activities, probation in the press, frequently asked questions and communication addresses with probation directorates are in place. Moreover, the '*Sesleniş Newspaper*' is published monthly by the General Directorate of Prisons and Detention Houses. In this newspaper, news and announcements relating to all units affiliated to the General Directorate, the personnel, the penitentiary institutions and the probation directorates are published. This newspaper is sent to all court houses, penitentiary institutions, ministries, high judicial organs, NGO's, and

national publication & media institutions. In addition to these, probation directorates in the districts regionally conduct introductory activities, prepare various brochures/introduction booklets for introduction and information, and organise seminars/meetings/panels. The publications prepared since the establishment stage of the probation services are shared with stakeholder institutions and personnel.

## **8.2. Clients' Views**

The clients' views about the probation process are asked by case managers assigned in probation directorates and psychologists, sociologists, social workers and teachers in charge of rehabilitation works. In addition, the opinions of all professional parties about the program and probation practices are gathered through surveys conducted with the aim of improving the programs. In general, the probationers state that they are pleased with the probation and conditional release practice. Moreover, the probationers can notify their views and comments on the probation directorates and services in the probation process, verbally or in written form, to the Probation Department, the General Directorate of Prisons and Detention Houses and the Ministry of Justice.

In addition, the name of the DENGGE Program, developed within the scope of "*the Project for Developing an Effective Risk Assessment System for Children in Probation Services in Turkey*" which was carried out by the Ministry of Justice General Directorate of Prisons and Detention Houses between 21 December 2015 and 21 December 2018, with financial support from the European Union, the government of Turkey and UNICEF's co-financing, and through technical support from UNICEF the opinions of children driven to crime in the probation process and their selection were made available.

## **9. Probation Clients' Rights**

### *Relevant Probation Rules*

The right of complaint and objection of probationers against the acts and procedures conducted during probation is secured in the Law on Probation Services and the By-Law on Probation Services. Article 18 entitled "Complaint and Objection" of the Law on Probation Services contains the provision that "*a complaint may be lodged against the administrative acts and processes of directorates and protection boards. The judge and court decisions given within the scope of the implementation of this law are open to objection.*". At the same time, with regard to personal data, there is the "Law on Protection of Personal Data" numbered 6698, which regulates the obligations of natural and legal persons who process personal data, and the procedures and principles to comply with the protection of fundamental rights and freedom of individuals, especially within one's private life. The provisions



of this Law are applied to natural persons whose personal data are processed, and to real persons and legal entities who process such data fully or partially automatically or by non-automatic means, provided that they are part of any data recording system. Moreover, it states that *“Probationers and their legal representatives may object to the directorate or file a complaint to execution judgeship on the grounds that acts and procedures such as the prepared supervision plans and reports, warnings made by the directorate are contrary to the provisions of laws, by-laws and regulations.”* The complaint and objection rights of people are notified to them at the beginning of the probation process (Rules 14, 100). In the Criminal Procedure Code, the rights of the victim of crime and the complainant are determined separately according to the phases of investigation and prosecution. The Victim Rights Department within the Ministry of Justice works as a separate unit. If the complainant is included in the system as a victim, all information on the findings of the process and investigation is conducted by this unit (Rule 101).

The personnel in probation services are subject to the Civil Servants Law no.657. There are the provisions of *“A civil servant is prohibited from obtaining a profit under whatever name it may be from an enterprise under his or her supervision or related to his or her duty or institution of which he or she is member”*. *“Civil servants are prohibited from disclosing the confidential information about public services even if they retire from office, without the written permission of the competent minister”* (Article 30 and 31). Furthermore, according to the Law on Probation Services and Regulation on Probation Services, *“a) those who work in the enforcement are obliged to protect the confidentiality of the information that they learn about those affected by crime, the suspect or the accused, the convict or their families. b) They may examine the documents related to their duties; but they have to comply with the confidentiality of investigation regarding the information that they obtain from there, avoid attitudes and relations which may jeopardise the impartiality and be at an equal distance to the parties of case.”* The latest version of information and documents regarding the probationers are stored in the database of UYAP and unauthorised access is not permitted. The responsibilities of the parties is once again confirmed by including the section *“Confidentiality and Data Sharing”*. When people, institutions or organisations request information about clients for a specific aim/work, in the event that it is decided in the assessment to share information, only numeric (statistical) data are shared (Rules 41, 89).

Documents on all processes conducted about clients are given to them. It is being secured to comply with the confidentiality principle, and if the probationer requests a document regarding the execution, this document can be given to him or his legal representative under the condition that this is not contrary to the confidentiality principle (Rule 92).

As for the process of informing clients about their rights and the rules to be obeyed, detailed information has been given in the section 5 (*“Different stages of the criminal justice system”*).

According to the Regulation on Probation Services, non-compliance with these rules to meet the liability and the programmes prepared as appropriate to the decision, as well as warnings or calls of probation personnel in this framework, are considered as violation of this liability. In case of violation of liability, the probationer is warned in written form. If a warning notification is made, it states that the warning will not be repeated, and that the file will be sent to the relevant judicial authority for necessary action regarding legal results.

The Criminal Procedure Code contains a regulation regarding the conditions of an interpreter made available, and the Ombudsman Law contains regulations about the right to access the ombudsman.

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

### **10.1 Developments in coming years**

With the probation system included in the criminal enforcement system of Turkey fifteen years ago, the criminal sanction system consisting of imprisonment and fine was broadened. It is the goal to make probation services where significant developments have taken place during the last years much more effective also in the forthcoming period.

The Ministry of Justice's purpose of *Improving the Effectiveness of the Criminal Justice System* in the Strategic Plan covering the period 2019-2023 summarizes the objectives of the probation system in Turkey for the coming period and states the following:

- It will be possible to execute the sentences of the elderly, pregnant and children convicted of some non-violent crimes at home via electronic monitoring.
- Increased capacity of electronic monitoring in probation services and new methods such as biometric signatures in the follow-up of obligations will be provided.
- Personnel shortages of penal institutions and probation organizations will be eliminated, and the personnel selection and promotion system will be strengthened.

In terms of studies based on relevant strategies, as details are given in the section titled "Recent history since 2.3. 2011" and in the section of "Annex-1 New Developments", studies have been carried out to make necessary legislative amendments, and new electronic monitoring methods such as biometric signature are continuing to follow up obligations in probation services.

Also the following target points have been identified:

- Strengthening the improvement system with the existing risk and needs assessment system,
- Developing applications to ensure that the improvement works carried out for obliged parties benefiting from probation are carried out with the use of remote technology options,

- Providing in all probation directorates the practices that already have been realized in some probation directorates, namely separate areas for adults and child-friendly areas for children driven into crime,

- Providing in all probation directorates the practices that already have been realized in some probation directorates, namely areas that allow training and workshops for the rehabilitation of offenders who are under probation treatment in order to continue their studies.

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### **Important Publications**

#### **Books, Articles and Thesis:**

-Aslan, N. (2012). Relationship between family structure and perceived social support levels of individuals enforced for treatment and probation order, Social Work Department, Social Sciences Institute of Hacettepe University, Master's thesis.

-Bayraktar, H. İ. (2018). Relationship between aggression and impulsivity levels and cognitive emotion regulation strategies of males who are sentenced to probation and treatment measures due to substance use, Psychiatry Department, Health Sciences University, Dissertation.

-Berk, G. (2010). Evaluating the efficacy of the addiction program of probation, Psychiatry Department, Medical Faculty of Ege University, Dissertation.

-Çolak, H. And Altun, U. (2006). 'Sanction Theory of the Concept of Probation and Its Analysis in terms of Penology and Arrangements in our Positive Law', Justice Journal, 25, pp.4-10

-Emel, Z. (2016). Effects of the probation rehabilitation programs on social problems, Psychology Department, Social Sciences Institute of Abant İzzet Baysal University, Master's thesis.

-Eryalçın, M. and V. Duyan (2017). Juvenile in Probation, Yeni İnsan Publisher, Ankara.

-Eryalçın, M., and Duyan, V. (2020). Perceived Social Support Of Juvenile Delinquents And Young Offenders On Probation. Journal of Society & Social Work, 31(1).

-Eryalçın, M. (2020). Evaluations of the youth who receiving probation service and the service providers on probation practices, Doctoral Thesis, Ankara University. Ankara.

-Eryalçın, T. and Özyörük, D. (2017). 'Advisory Board and Protection Boards in the International Platform and Turkey' Probation Department Publication, Ankara.

-Göker, M. (2015). Perceived social support of juvenile delinquents enforced for probation order, the example of the General Directorate of Probation in Ankara, Social Work Department, Social Sciences Institute of Ankara University, Master's thesis.

-Kamer, V. K. (2007). Execution Probation Decisions, Adalet Printing House, Ankara.

In the book the history of probation system, execution decisions related to probation rendered by courts, international practices, decisions of the Court of Cassation and opinions of the Ministry of Justice are explained.

-Kamer, V. K. (2008). 'New Period Probation in the Execution of House Arrest Sentence', Justice Journal, 32, pp. 20-28.

-Kamer, V. K. (2008). 'Importance of the System of Probation in Criminal Justice and Execution System', Justice Journal, 31, pp. 69-80.

-Nursal, N. and Öztürkmen, D. (2005). Book of Internation Probation and Care Conference, *Department of Foreign Relations of the Ministry of Justice, DG for Prisons and Detention Houses* İstanbul.

-Nursal, N. and Ataç, S. (2006). *Probation and Care System(Probation)*, Yetkin Printing House, Ankara. Probation System, Yetkin Printing House, Ankara. In the book, probation and care system are examined; the issues such as the need for probation system, establishment of the system by law, services provided by the organisation within criminal justice system and conduction of these services are included.

-Müftüoğlu, D. (2009). Examination of the adjustment process of the probationals, Psychology Department, Social Sciences Institute of Maltepe University, Master's thesis.

-Savaş, G., & Eryalçın, T. (2019). An Applied Research on the Employment of Ex-Convicts and Probationer. *Toplum ve Sosyal Hizmet*, 31(2), 336-367.

-Yavuz, A. H. (2011). 'About the General Outlook of Probation within Criminal Justice System' *Justice Journal*, 42, pp. 58-75.

-Yavuz, A. H. (2012). 'The Historical Development Process of Probation within Turkish Criminal Justice System'. *Journal of Turkish Bars Association*, 100, pp. 317-342.

-Yavuz, A. H. (2011). Probation in Criminal Justice System, Public Law Department Social Sciences Institute of Gazi University, Doctoral thesis.

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## SUMMARY INFORMATION ON PROBATION IN TURKEY



### **General Information**

Number of inhabitants: 83.154.997 (December 2019)

Prison population total 264,513 prisoners: 368 prison (November, 2020)

Probation population 334,040 probationers: 143 probation service (November, 2020)

Probation link: <http://www.cte-ds.adalet.gov.tr/>

Web site link: <http://www.cte.adalet.gov.tr/>; <http://www.adalet.gov.tr/>

CEP membership: October, 2015

### **Characteristics of the Probation Service**

Probation represents a rehabilitation and enforcement system in which punishments, sanctions and measures given by the judicial authorities about the suspect, accused or probationer, their supervision and monitoring are carried out – all services, programmes and resources are provided for the betterment of their living conditions. Its aim is to prevent re-offending by the probationer and thus to ensure the protection of society. In Turkey the probation system was established in 2005.

Probation services are conducted in the central organisation by the Probation Department as affiliated to the General Directorate of Prisons and Detention Houses of the Ministry of Justice; in the provincial organisation by probation directorates and protection boards in the 143 centres where justice commissions are based.

### **Tasks**

In Turkey, probation services perform the tasks laid down by laws after the investigation, the prosecution phase and release. These tasks can be expressed under three main topics:

- To conduct the supervision and monitoring of suspects, accused persons and convicts/probationers within society, to carry out rehabilitation activities,
- To provide after care services,
- To assist judicial authorities by preparing social enquiry reports.

There are thirteen different types of decisions which are executed by probation directorates as part of the supervision and monitoring of the suspects, the accused and the convicts in society. These are:

judicial control, treatment and probation, placing the child under supervision, sanctions alternative to short term imprisonment, liabilities given in case of suspension of imprisonment, disqualification from use of certain rights, probation as a security measure in case of effective remorse, defrement of announcement of sentence, execution of house arrest sentence, community service instead of judicial fine, conditional release, execution of sentence by applying a probation measure, (conditional early release), an execution regime specifically meant for recidivists and some criminal offenders, and probation decisions. The studies on which probationers about to supervise, track and rehabilitate are based on the results of a risk and needs assessment system; rehabilitation works are conducted by probation directorates in cooperation with other institutions/organisations when necessary.

Within the scope of post-release support services, “Protection Boards” were established with the purpose of ensuring convicts released from penitentiary institutions and ex-convicts the acquisition of a profession or art and the finding of a job, providing vehicles and credits to those who have art and who want to engage in agriculture management. The services also help those who want to set up a business by solving the challenges they face and they take care of juveniles and young convicts continuing their education.

As part of the service of assisting judicial authorities, at the investigation phase upon the motion of the public prosecutor or at the prosecution phase upon the motion of the judge or court, a social enquiry report (SIR) is prepared by a psychologist, a sociologist, a social worker and a teacher, in which the suspect or the accused is evaluated with his/her own or environment’s systematic perspective and in which suggestions for needed services, programs and sources for reintegrating into society are included.

**Number of staff (average numbers in 2020)**

- Probation Director, Deputy Director, Chef	: 286
- Psychologist	: 250
- Sociologist	: 375
- Social Worker	: 92
- Teacher	: 249
- Probation Officers/Guardians	: 3501
- Other Supporting Staff	: 426

**Total** : **5179**

Daily average number of probationers dealt with (throughout Turkey): 393.957

## **New developments**

- An arrangement was made in the Execution Law on 11 April 2012 that enabled convicts with good behaviour who had spent the last six months of their penalty uninterruptedly in open penitentiary institution and whose conditional release was within a year or less, to have the part of their sentence up to the date of the conditional release conducted via a probation measure.
- With the arrangement made in the Law on Probation Services on 11 April 2012, it was enabled that the monitoring, supervision and monitoring of the suspects, accused persons and convicts would also be possible via the use of electronic devices.
- With the arrangement made in the Article 109 of the Criminal Procedure Code on July 2, 2012; "*Not leaving your home*" "*Not leaving a certain settlement area*" and "*Not going to designated places or regions*" were included among the judicial control measures in the field of probation.
  
- With the provisional article added to the Execution Law on 24 January 2013, the condition of staying in an open penitentiary institution for six months in order to be able to benefit from probation has been abolished.
- With the arrangement made in the Execution Law on 18 June 2014, the procedure of benefitting from probation by means of community service instead of converting unpaid judicial fines into an imprisonment sentence was introduced.
- On October 17, 2019, with the amendment made in the Probation Services Law, "victim support services" were removed from the field of probation.
  
- On April 15, 2020, in the amendment made in the Execution Law, extending the periods determined for the execution of the prison sentence in the house and the implementation of this execution procedure for children and "*those who are determined to be unable to survive under the conditions of the penitentiary institution due to a serious illness or disability they have been exposed to*", now also convicted women who had been sentenced for up to three years of imprisonment or who were converted to imprisonment during the execution of a judicial fine, were included in this target group. Besides that the duration of the probation decisions was increased.

With the clause added to Article 20 of the Child Protection Law titled "Judicial control" in the same Law amendment it became possible to assign an expert to guide children who were followed up by the probation directorates during the judicial control, and to carry out improvement studies according to the needs assessment conducted upon the child.

Again with the same law change some of the judicial control measures (not being able to go abroad, not being able to use all kinds of vehicles or some of them, depositing an amount of security to be



determined by the judge, not being able to have or carry weapons, the control on fines being paid in order to guarantee the rights of the crime victim, the decision to withdraw a driver's license and license from the alternative sanctions to short-term imprisonment, the decision to be banned from doing a certain profession and art, the deprivation of the exercise of certain rights, and the decision to withdraw one's driving license with the prohibition of execution) were removed from the field of probation.

### Probation during the different stages of the criminal procedure

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