

The role of European standards in probation, community sanctions and measures

Working for results

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1. Introduction

Supranational bodies like the Council of Europe (CoE) and the European Union.

Aims :

- Guaranteeing the dignity of the nations and citizens of Europe
- Ensuring respect for fundamental values: **democracy, human rights and the rule of law.**
- Cooperation between all Member States to address the major issues of our time (terrorism, organised crime and corruption, cybercrime, bioethics and cloning, etc.),

Tools:

- > Conventions (e.g. European Convention on Human Rights)
- > Resolutions and Recommendations to member States

Judicial body:

European Court of Human Rights.

Note: no control body for the probation services



Council of Europe
Based in Strasbourg, France.
Founded in 1949.
47 member States.



2. The Council of Europe and the European Union support the same vision

> **Justice of public service, at the service of the public and of all publics** <



- CM/Rec (2010)1 - Recommendation of the Committee of Ministers on the Council of Europe **Probation Rules**
- CM/Rec (2017)3 - Recommendation of the Committee of Ministers on the European Rules on **Community Sanctions and Measures**
- CM/Rec (2014)4 - Recommendation of the Committee of Ministers on **Electronic Monitoring**
- CM/Rec(2018)8 - Recommendation of the Committee of Ministers concerning **Restorative Justice in Criminal Matters**



Directive 2012/29/EU - Directive of the European Parliament and of the European Council establishing minimum standards on the **Rights, Support and Protection of Victims of Crime**

3. A human rights-based vision



Putting the person (offender, victim or relative) at the **centre is a priority** in three dimensions.

3 axes about the central place of the person:

1. Taking into account the **views of the parties**
2. Taking into account their **situation, needs and interests**
3. Taking into account their **dignity and privacy**

3.1. Taking into account the views of the parties

Rule 44 - CM/Rec(2010)1 [probation] : "Alleged offenders shall be given the opportunity to be involved in the preparation of the report, and their opinion, where available, shall be reflected in the report and its contents shall be communicated to them and/or to their legal representative."

Rule 29 – CM/Rec(2017)3 [CSM] : "[...] [The offenders] shall therefore have the right to make oral or written representations prior to any decision concerning the implementation of a community sanction or measure and should participate, as far as possible, in such decision-making."

Rule 15 – CM/Rec(2014)4 [electronic monitoring]: "In order to ensure compliance, different measures can be implemented in accordance with national law. In particular, the suspect's or offender's consent and co-operation may be sought, or dissuasive sanctions may be established."

3.1. Taking into account the views of the parties

Rule 67 - CM/Rec(2010)1 [probation]: "Wherever possible, offenders shall be enabled to make an active contribution to the formal assessment. This includes giving due weight to the offenders' views and personal aspirations, as well as their own personal strengths and responsibility for avoiding further offending"

Rule 73 - CM/Rec(2010)1 [probation]: "The work plan shall be negotiated and, as far as possible, agreed with the offender."

Rule 76 - CM/Rec(2010)1 [probation]: "Interventions shall aim at rehabilitation and desistance and shall therefore be constructive and proportionate to the sanction or measure imposed."

Rule 14 – CM/Rec(2018)8 [restorative justice]: "Other key restorative justice principles include: voluntariness; deliberative, respectful dialogue; equal concern for the needs and interests of those involved; procedural fairness; collective, consensus-based agreement; a focus on reparation, reintegration and achieving mutual understanding; and avoiding domination. These principles may be used as a framework with which to underpin broader reforms to criminal justice."

3.2. Taking into account their situation, needs and interests

Rule 33 – CM/Rec(2017)3 [CSM]: “Where an individual is found to be in need of particular personal, social or material assistance in relation to the implementation, fair and proper provision shall be made to enable them to meet their obligations.”

Rule 55 - CM/Rec(2010)1 [probation]: “Supervision shall not be seen as a purely controlling task, but also as a means of advising, assisting and motivating offenders. It shall be combined, where relevant, with other interventions which may be delivered by probation or other agencies, such as training, skills development, employment opportunities and treatment.”

Rule 61 - CM/Rec(2010)1 [probation]: “Supervision following early release shall aim to meet the offenders’ resettlement needs such as employment, housing, education and to ensure compliance with the release conditions in order to reduce the risks of reoffending and of causing serious harm.”

3.2. Taking into account their situation, needs and interests

Rule 48 – CM/Rec(2018)8 [restorative justice]: "Restorative justice should be carried out efficiently, but at a pace that is manageable for the parties. Sensitive, complex and serious cases in particular may require lengthy preparation and follow-up, and the parties may also need to be referred to other services, such as treatment for trauma or addiction."

Article 1(1) - Directive 2012/29/EU [victim support]: "[...] Member States shall ensure that victims are recognised and treated in a respectful, sensitive, tailored, professional and non-discriminatory manner, in all contacts with victim support or restorative justice services or a competent authority, operating within the context of criminal proceedings. [...]"

3.3. Taking into account their dignity and privacy

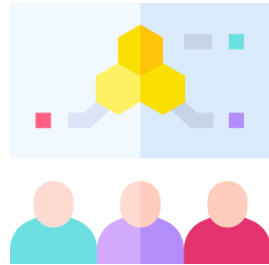
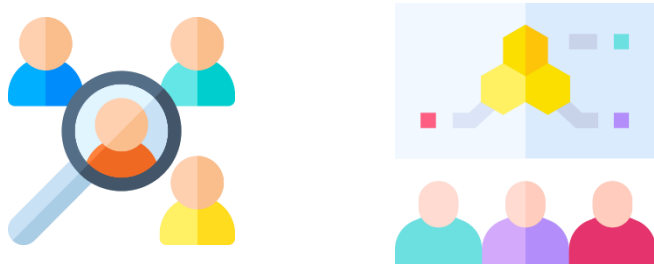
Rule 8 - CM/Rec (2017)3 [CSM]: "The nature, content and methods of implementation of community sanctions and measures shall respect the principles of dignity and the privacy of suspects and offenders, their families and others."

Rule 28 – CM/Rec(2014)4 [electronic monitoring]: "Rules regarding the use of electronic monitoring shall be periodically reviewed in order to take into account the technological developments in the area so as to avoid undue intrusiveness into the private and family life of suspects, offenders and other persons affected."

Article 21(2) - Directive 2012/29/EU [Victim support]: "In order to protect the privacy, personal integrity and personal data of victims, Member States shall, with respect for freedom of expression and information and freedom and pluralism of the media, encourage the media to take self-regulatory measures."

4. How to create implementation conditions?

- Guidelines regarding recruitment, selection, education, training and professional development of prison and probation staff
- Council of Europe Handbook for Prison and Probation Services regarding Radicalisation and Violent Extremism
- and others

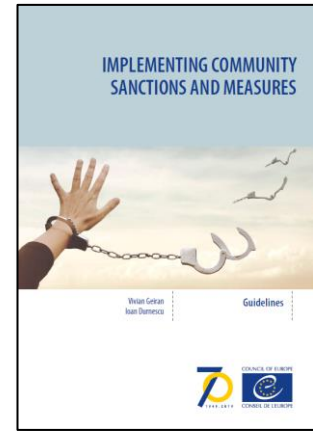


European standards turn the probation professionals into super men and women

5. How to implement?

➤ Helping member States to put recommendations in practice

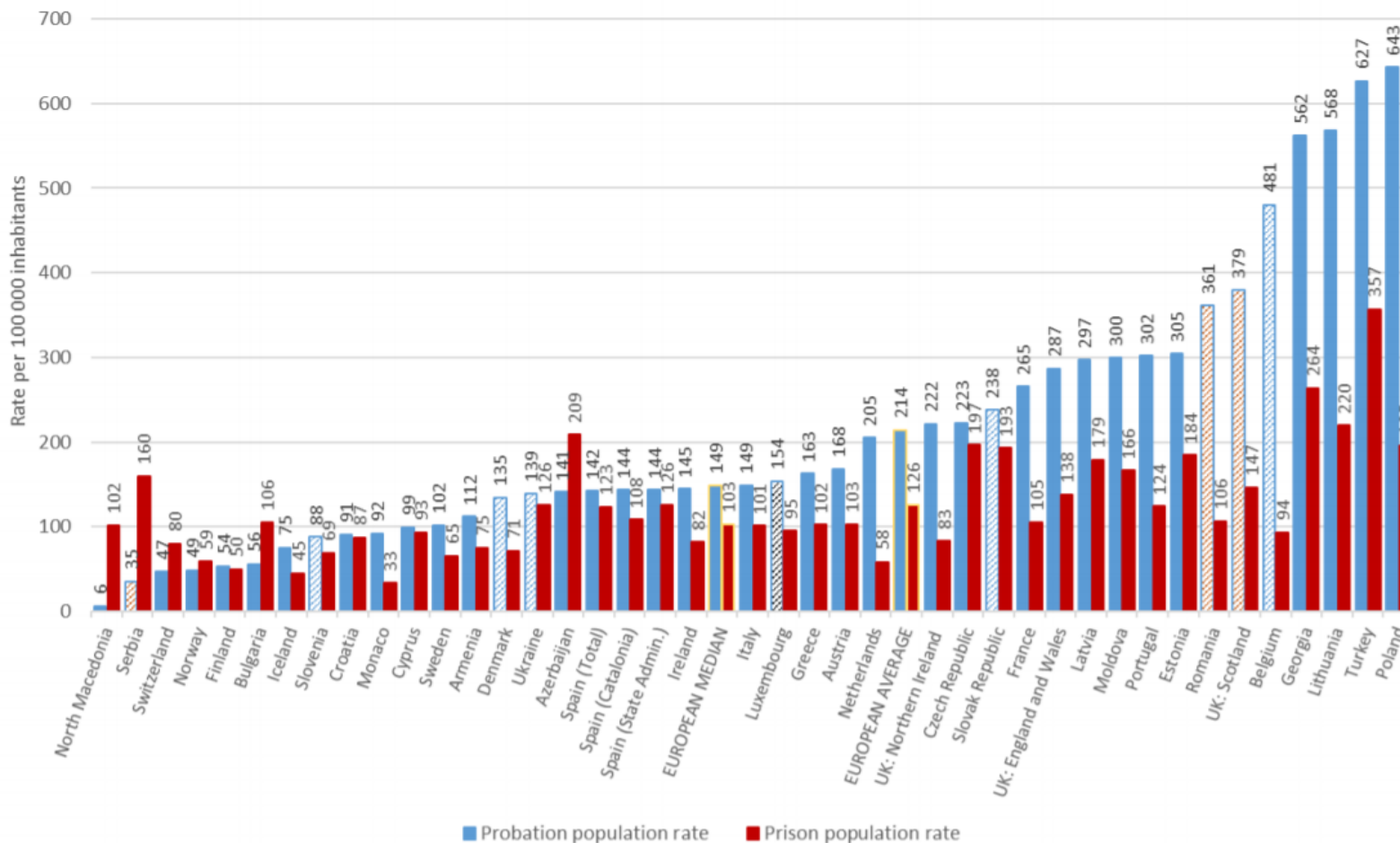
- **Meetings**
 - **Research and studies**
 - **Guidelines**
 - **Criminal Law Co-operation Unit**
- Variety of topics: practice, data protection, research, media, recruitment and training, multiagency, etc.



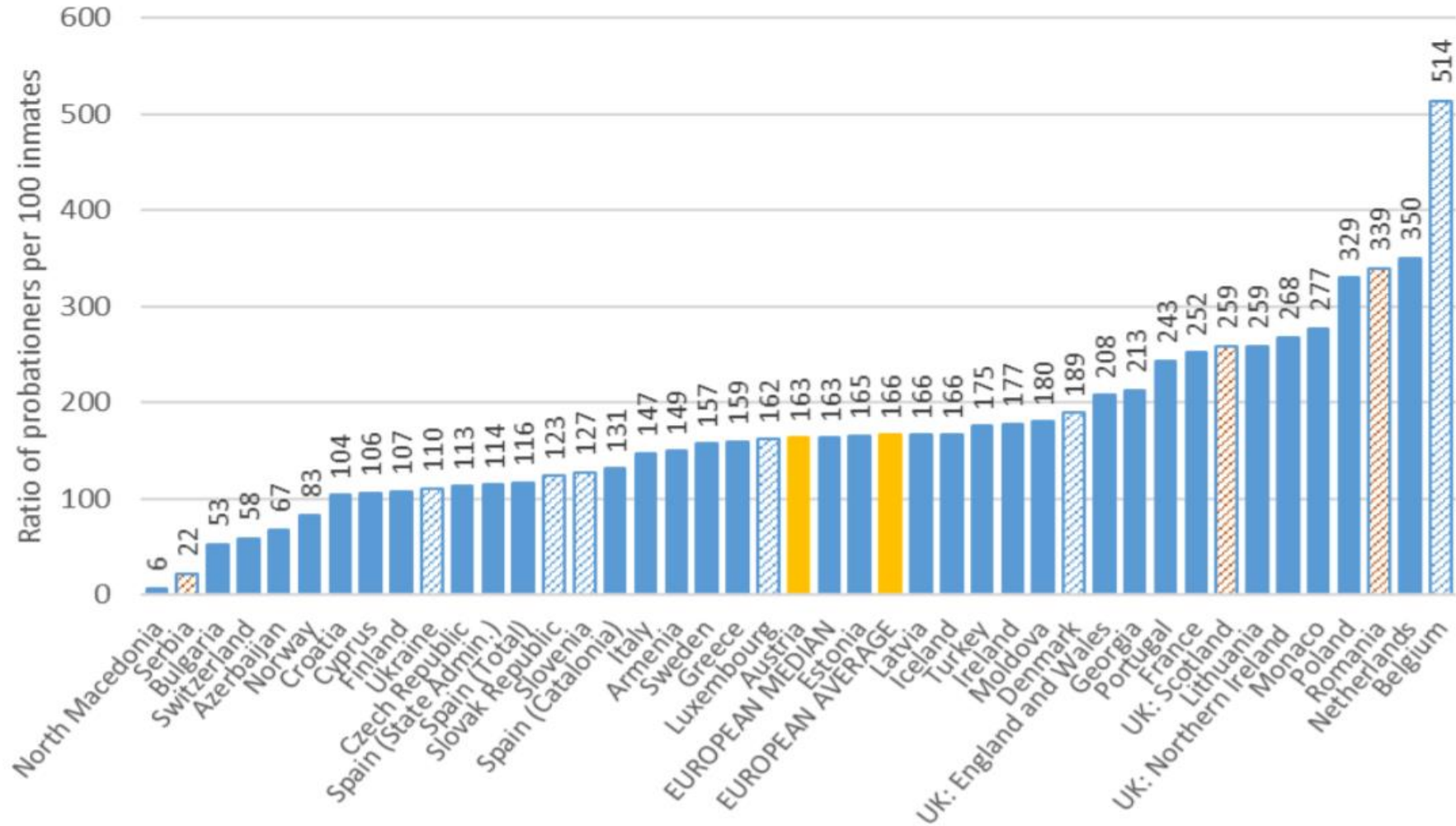
The Babel Tower, Pieter Bruegel the Elder, 1563.

6. Implementation in a judicial context

Probation and Prison population rates (per 100,000 inhabitants) on 31st January 2020 (N=40)



Ratio of probationers per 100 inmates on 31st January 2020 (N=40)



7. Probation: an organisation in the community

Challenges

- **Social justice**
- **Media and Perception of probation**
- **Confidence in institutions**
- **Ethics**
- **External factors**
- **Improvement of practices**
- **Research**

Recommendations should be prescriptive with an emphasis on the rule of law and on values.

The international cooperation and the shared experience are essential to support and improve practices.

8. Conclusions

The Rules are a compass that gives directions. We need to translate them into the practices of our organisations.

The following points can help us developing our services and the quality of their delivery:

- Resilience
- Attention to others
- Caution
- Ambition

Thank you for the attention!

Picture credits

- Title slide: Courtesy of CEP. www.cep-probation.org
- Slide 2 :
 - Courtesy of Council of Europe. www.coe.int
 - <https://edoc.coe.int/fr/carte-des-etats-membres/5332-map-of-the-council-of-europe-47-member-state.html>
 - <https://www.coe.int/en/web/chisinau/flag-and-anthem>
- Slide 10: Freepik on www.flaticon.com
- Slide 11:
 - GEIRAN, V; DURNESCU, I (2019), Implementing Community Sanctions and Measures, Council of Europe. Available in English and Greek. <https://edoc.coe.int/fr/reforme-penitentiaire-europeenne/8271-implementing-community-sanctions-and-measures.html>
 - The Babel Tower, Pieter Bruegel the Elder, 1563. Public domain. <https://commons.wikimedia.org/>
- Slide 12: Aebi, M., Delgrande, N., Marguet, Y. (2014). Have community sanctions and measures widened the net of the European criminal justice systems? *Punishment & Society*. 17 (5), 575-597.