



Probation in Europe

Moldova

Andrei Iavorschi

Iurie Mahu



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Andrei Iavorschi

Director
National Probation Inspectorate
1 Vasile Alecsandri Street
MD-2009, Chisinau, Republic of Moldova
andrei.iavorschi@probatiune.gov.md

Iurie Mahu

Head of Analytical Department
National Probation Inspectorate
1 Vasile Alecsandri Street
MD-2009, Chisinau, Republic of Moldova
analitic@probatiune.gov.md
iuriemahu88@gmail.com

December 2021

ISBN/EAN: 978-90-820804-0-7

This publication was funded by the Ministry of Justice and Safety of the Netherlands and the Dutch foundation *Stichting Nationale Reclasseringsactie*

Edited by:

Anton van Kalmthout
Ioan Durnescu

Published by:

CEP, Confederation of European Probation
P.O. Box 8215
3503 RE UTRECHT
The Netherlands
www.cep-probation.org

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1. Introduction

1.1 Probation organization

The National Probation Inspectorate (NPI) through its territorial subdivisions carries out the probation activity in the Republic of Moldova (RM). NPI is an administrative authority subordinated to the Ministry of Justice.

Probation is essentially an activity that has a close connection with the community and its members. Firstly the community has the resources it can provide to the probation service in carrying out its tasks. Secondly, the probation service has to achieve goals that are in the interests of the community.

NPI fulfills its attributions on the entire territory of the Republic of Moldova through its territorial subdivisions, whose activity organizes, coordinates and controls it in accordance with Law no. 8-XVI of February 14 2008 on probation and Regulation no. 827/2010 on the organization and functioning of probation bodies.

The NPI has the mission to organize and coordinate the execution of punishments and non-custodial measures specific to the field of probation, in order to prevent the commission of new crimes.

The probation service works with the following probation subjects:¹

- 1) the suspect, accused, defendant persons for whom the pre-sentence report of psychosocial assessment of the personality was requested (adults / minors);
- 2) juveniles exempted from criminal liability or criminal punishment (coercive measures of an educational nature, art. 54, 93 of the Criminal Code, further CC);
- 3) persons conditionally exempted from criminal liability (suspension of criminal investigation, art. 59 CC);
- 4) persons deprived of the right to hold certain positions or to practice a certain activity (art. 65 CC);
- 5) persons sentenced of a community service (art. 67 CC);
- 6) persons convicted with the conditional suspension of the execution of the punishment (art. 90 CC);
- 7) persons convicted with the partial suspension of the execution of the punishment (art. 90¹ CC);
- 8) persons released conditional from punishment before term (art. 91 CC);
- 9) persons whose non-enforced part of the punishment has been substituted with a milder one (art. 92 CC);

¹Law no. 8/2008 on probation, art.3.

- 10) pregnant women and persons with children up to 8 years for whom the execution of the sentence has been postponed (art. 96 CC);
- 11) amnestied or pardoned persons (art. 107 and 108 CC);
- 12) persons released from places of detention who have requested post-penitentiary assistance;
- 13) family aggressors in respect of whom protection ordinances have been issued.

In carrying out its supervisory, assistance and counseling activities, the probation body collaborates with other public authorities and institutions, as well as with non-commercial organizations in order to plan and exercise joint actions and exchange of information for the reintegration of probation subjects into society.

1.2 Probation activities in a nutshell

Probation has intervention strategies at all stages of the criminal justice process. Thus, probation is of the following types:

- a) Pre-sentence probation – is the stage when the first assessment activities by psychosocial assistance and counseling of the person in the justice system are carried out, namely, when the case is in the criminal investigation phase or in the trial procedure.
- b) Community sentence probation - provides for the organization and implementation, based on the court decision or the prosecutor's ordinance, of the activities of resocialization of the subjects of probation that are:
 - juveniles exempted from criminal liability (subject to educational coercion measures)
 - persons conditionally exempted from criminal liability (persons in respect of whom the criminal investigation was conditionally suspended by the prosecutor);
 - persons exempted from the criminal punishment (persons convicted with suspension of the execution of the sentence, conditionally released from the sentence before the term of detention, postponed execution of the sentence);
 - persons convicted or sanctioned to unpaid community work, as well as those deprived of the right to hold a certain position or to exercise a certain activity.
- c) Penitentiary probation. During the period of preparation for release, programs of civic, ethical and moral education, of professional training, of educational work are elaborated and applied to the persons in the places of detention.
- d) Post-penitentiary probation - aims at supervision, but also providing assistance and counseling of persons released from places of detention for their adaptation in society.

- e) Juvenile probation - is carried out taking into account the obligation to respect the best interests of the child and the purpose of temporary protection of the child in difficulty, resocialization and reintegration in the biological or adoptive family, in the home of family-type children and in the community.

1.3 General remarks about the implementation of European Probation Rules

The legislation on probation in the Republic of Moldova is classified in Codes, laws, Government Decisions in the application and execution of criminal sanctions, and internal departmental acts.

Thus, the normative acts regarding probation have been amended and supplemented, starting with 2008 with the adoption of the first Law on probation, then Government Decision no. 827/2010 on the organization and functioning of probation bodies, and other acts so far. Also, multiple amendments were made to Codes and Government Decisions regarding the execution of court decisions and punishments, in order to link probation to the European Probation Rules. In this regard, new concepts have been included in the legislation, such as: humanization of criminal punishments, early parole, and conviction with partial suspension of the execution of the punishment, probation programs, improving the quality of pre-sentence report, electronic monitoring, victim protection, partnership development, promotion of probation, etc.

2. Historical Development of the Probation System²

2.1 History from the origins to 2011

The history of the creation of the probation body in the Republic of Moldova goes back to 2001, when a working group in the field of alternatives to detention was set up within the Institute for Penal Reform (IRP), which aimed to introduce in the legislation of the Republic of Moldova measures to analyze the legislative framework governing the system of criminal punishments and preventive measures.

In 2003, a group of international experts was formed to conduct a Needs Assessment Mission (NAM) which aimed to implement measures for the resocialization and reintegration of offenders in Moldova, including a measure on the legal framework, infrastructure issues, societal attitudes,

² Brief history: <http://probatune.gov.md/scurt-istoric>.

obstacles and possible impact. Because of the recommendations of the Assessment Mission, a Working Group was set up in August 2003 with the task of drafting the legal framework in the field of probation. In parallel, some activities related to penitentiary probation were carried out and the Law on probation was completed, which was a further elaboration of the regulations contained in the Enforcement Code. Furthermore, were established the procedure and the way of drafting reports on pre-sentence probation for minors.

In autumn 2003, the IRP in partnership with UNICEF Moldova, started a project "*Alternatives to detention for children in the criminal justice system*" with the aim to promote alternatives for children, and in particular pre-sentence and sentenced probation for children in the criminal justice system.

During 2003-2005 the IRP Project was implemented jointly with the Soros-Moldova Foundation "*Reform of the penal sanctions system and implementations of alternatives to detention*" aiming to implement alternative measures of detention: initiation and improvement of the existing system of application of alternatives by amending the legislation and creating a system of monitoring the application of alternatives.

In 2006, within the project "*Promotion of alternatives to detention in the Republic of Moldova*", the Institute for Penal Reform carried out activities for the implementation of pre-sentence probation for adults; activities for the social reintegration of persons sentenced on probation; activities aiming to apply and uniformly execute the sentence of unpaid community service at national level; research and public information activities.

Between June 2007 and March 2008, the IPR Project jointly with the Soros-Moldova Foundation "*Promotion of the alternatives to detention in the Republic of Moldova*", was implemented, establishing probation activities for adults, increasing the number of counsellors (one each in Ungheni and Cahul), drafting the Regulation on the status of probation counsellor, the Instruction on probation supervision and the Training curriculum for probation counsellors.

Thus, by the Government Decision no. 44 of 12.01.2007 amendments to the Regulation of the Ministry of Justice were introduced, which stipulated the organization of probation activity by governmental bodies. Also by this Decision, the Directorate of enforcement of non-custodial criminal sanctions is reorganized into the Probation Directorate and 125 additional staff units are allocated.³ From this moment the Probation Service is officially formed within the Department of Enforcement under the Ministry of Justice of the Republic of Moldova.

³Decision of the Government of the Republic of Moldova no. 44 of 12.01.2007.

The Law on probation was adopted on February 14 2008, and became effective on September 13, 2008. The Probation Service within the Department of Enforcement carries out the probation work. The Probation Directorate has a specialized structure, which through the probation sections of the enforcement offices, implements non-custodial criminal sentences and exercises probation with persons released from criminal punishment. There were 42 probation sections within the enforcement offices, according to the administrative-territorial division of the RM. The staff of the probation sections are probation counsellors with the status of civil servants (state employees). Total number of staff of the probation sections - 169 employees and 9 persons in the Probation Directorate. After four years of activity, the probation system of the Republic of Moldova is undergoing a reorganization. Thus, by Government Decision no. 827 of September 10, 2010, the Central Probation Office under the Department of Penitentiary Institutions was set up, with a staffing scheme of 216 units in the territorial subdivisions and 34 units in the central apparatus.

2.2 Recent history from 2011 to 2020

On January 1 2013, the Central Probation Office was transferred from the subordination of the Department of Penitentiary Institutions to the subordination of the Ministry of Justice.⁴ Therefore, the staff of the Central probation office since that time is 243 units.

On October 12 2015, by amending and supplementing Government Decision no. 827 of September 10 2010 on the organization and functioning of probation bodies, the Central Probation Office changed its organizational structure and the functioning of probation bodies. Thus, the Central Probation Office is renamed the National Probation Inspectorate (NPI) and has under its subordination three Regional Probation Inspectorates in the North, Center and South of the country and 42 Probation Offices. The regional inspectorates, in turn, will coordinate and monitor the activity of the existing Probation Offices, the Centers for social rehabilitation of persons released from criminal punishment and the Instructive-Methodical Centers.

On July 18, 2019, by amending and supplementing Government Decision no. 827/2010 on the organization and functioning of probation bodies, came into force the amendment of the staff and the scheme of the NPI and its territorial subdivisions within the limits of the remuneration fund and the structure and staff established by the Government. Thus, the Probation Offices in Chisinau municipality were reorganized, becoming the Chisinau Probation Office (with the status of general

⁴Government Decision, no. 735 of 03.10.2012 on optimizing the structure, activity of the Ministry of Justice and subordinate administrative authorities, published in the Official Gazette on 12.10.2012, in force since 01.01.2013.

directorate), the Electronic Monitoring Directorate was set up, being a strict priority including the Government, and the Instructive-Methodical Center within NPI.

On May 21, 2021, by amending and supplementing Government Decision no. 827/2010 on the organization and functioning of probation bodies, came into force the amendment of the staff of NPI and its territorial subdivisions within the limits of the remuneration fund and the staff established by the Government. Thus, the limit staff of NPI and its territorial subdivisions in total number of 305 personnel units was established.

Currently, at national level, there are 38 territorial Probation Offices subordinated to the National Probation Inspectorate. Probation staff consists of probation counselors with the status of civil servants.

3. Legislative Basis of the Probation System

3.1 Relevant European Probation Rules

The legislation on the probation system in the Republic of Moldova is in continuous development and implementation, according to the European Probation Rules and the European practice as a whole.

The purpose of the probation body is at large regulated in national law, with the aim of reducing recidivism by establishing positive relationships with offenders, supervising and controlling where necessary, guiding and assisting them to successfully promote social inclusion, thus contributing to the safety of the community and the proper administration of justice.

The legislative basis of the Probation Service is in accordance with the relevant European Probation Rules of the Council of Europe, their role being described in the following sections:

Probation agencies shall aim to reduce reoffending by establishing positive relationships with offenders in order to supervise (including control where necessary), guide and assist them and to promote their successful social inclusion. Probation thus contributes to community safety and the fair administration of justice. (Rule 1)

Probation agencies, their tasks and responsibilities, as well as their relations with the public authorities and other bodies, shall be defined by national law. (Rule 8)

Volunteers may be involved in certain aspects of probation work. They shall be adequately selected, supported and resourced. (Rule 34)

Where provided by national law, the expertise and experience of probation agencies shall be used in developing crime reduction strategies. This may include making use of joint interventions and partnerships. (Rule 98)

3.2 Legislative Basis

The legislative basis that allows the organization and development of probation activities is found in Codes, Laws, Government Decisions and departmental acts⁵, as follows:

1) Criminal Code of the Republic of Moldova, no. 985 of 18.04.2002, in particular: art. 53 (Exemption from criminal liability); art. 54 (Exemption from criminal liability of juveniles); art. 55 (Exemption from criminal liability for administrative liability); art. 59 (Exemption from criminal liability) on probation; art. 62 (Categories of punishments applied to individuals); art. 67 (Unpaid community service); art. 89 (Definitions and categories of exemption from criminal punishment); art. 90 (Conviction with conditional suspension of the execution of the punishment); art. 91 (Preterm conditional exemption from punishment); art. 92 (Substitution of the unexecuted part of the punishment with a milder one); art. 93 (Exemption from punishment of juveniles); art. 96 (Deferral of the execution of the punishment for pregnant women and women who have children up to 8 years old); art. 104 (Application of coercive educational measures);

2) Code of Criminal Procedure of the Republic of Moldova, no. 122 of 14.03.2003, in particular: art. 82/1 (probation counselor); art. 215/1 (Protection measures applied to victims of domestic violence); art. 385 (Issues to be resolved by the court when adopting the sentence); art. 469 (Issues to be resolved by the court when enforcing the punishment); art. 470. The court that solves the issues regarding the execution of the court decisions, art. 471 (Manner for resolving issues related to conveying court judgments for execution); art.472. (Appealing rulings resolving issues related to executing court judgments); art. 475 (Circumstances to be established in cases involving juveniles); art. 483 (Terminating a criminal investigation and exempting a juvenile from criminal liability); art. 485 (Issues to be resolved by the court when issuing a sentence in a proceeding involving a juvenile).

3) Enforcement Code no. 443 of 24.12.2004, in particular: art. 173 (Institutions and bodies ensuring the enforcement of the punishment); art. 174 (Institutions and bodies ensuring the enforcement of security measures); art. 184. (Body and institution ensuring the enforcement of the

⁵ Legal framework of the NPI: <http://probatiiune.gov.md/menu/submenus/127/cadrul-legal>.

custodial sentence of the right to hold certain positions or to exercise a certain activity); art.185 (Manner of execution of the sentence depriving of the right to hold certain positions or to exercise a certain activity); art. 189 (Body ensuring the enforcement of the punishment of unpaid community work); art. 190 (How to execute the punishment of unpaid community work); art. 191 (Obligations of the body that ensures the execution of the punishment of unpaid community work); art. 192 (Obligations of local public administration authorities regarding the execution of unpaid community work); art.193 (Obligations of the administration of the organization in which the convict executes the punishment of unpaid community work); art. 194 (Obligations of the convict); art. 218 (Contacts with the penitentiary probation service and with the representatives of the public associations); art. 259 (Supervision of the person during the period when the execution of the sentence was postponed); art. 261 (Supervision of the person during the period for which the execution of the sentence was suspended); art. 265 (Conditional early release of the sentence or replacement of the unexecuted part of the sentence with a milder one); art. 268 (Supervision of the person released on parole before term); art. 269 (Search for the person released on parole); art. 270 (Exemption of juveniles from punishment); art. 271/1 (Electronic monitoring); art.272 (Amnesty); art. 273 (Pardon); art. 275 (Grounds for extinguishing the execution of the sentence).

Despite the multitude of regulations, they do not exhaust the object of regulation of the Law on Probation, which is intended to regulate institutionally and functionally the activity of probation.

4) Law no. 8/2008 on probation. This law regulates the organization and functioning of probation bodies, establishes their competence in order to prevent recidivism, regulates assistance and counseling for the reintegration of probation subjects into the community.

5) Law no. 297/1999 on the social adaptation of persons released from places of detention. This law establishes the legal bases for the provision of state-guaranteed assistance and support for persons released from places of detention in their social adaptation, determines the state policy in the field of post-prison guardianship, regulates the legal provisions on social protection of persons released from places of detention, and competence of public authorities in that field.

6) Regulation on the organization and functioning of probation bodies, approved by the Decision of the Government of the Republic of Moldova no. 827/2010. The Regulation stipulates the mission, functions, attributions, rights, as well as the organization of their activity.

7) Regulation on the execution of the criminal punishment in the form of unpaid community work, approved by the Decision of the Government of the Republic of Moldova, no. 1643/2003. The regulation on the execution of the criminal punishment in the form of unpaid community work is elaborated in accordance with the provisions of the Criminal Code and the Enforcement Code, in order to ensure the execution by convicts of the criminal punishment in the form of unpaid community work and determines the basic principles of the relations between the convicts, the competent specialized bodies that ensure the execution of the sentence in question and the local public administration authorities, as well as between the convicted within the time limit military and short-term military and the commander of the military unit.

8) Regulation for electronic monitoring of persons, approved by Government Decision, no. 1322/2016. This Regulation regulates the manner, conditions and procedure for electronic monitoring of persons.

9) Statute for the enforcement of punishment by the convicts, approved by the Decision of the Government of the Republic of Moldova no. 583 of 26.05.2006, in particular section 36, Penitentiary Probation service, points 441-444.

10) Regulation on probation planning, approved by order of the Minister of Justice no. 347/2019. This Regulation regulates a complex of actions of supervision, assistance and counseling of the subjects of probation in order to achieve the objectives of probation.

11) Regulation on the elaboration of the pre-sentence report of psycho-social assessment of the personality, approved by the order of the Minister of Justice no. 299/2018. This Regulation establishes the manner of elaboration of the pre-sentence report of psychosocial assessment of the personality, as well as its structure.

According to the criminal legislation, the responsible natural persons who, at the time of committing the crime, have reached the age of 16 are liable to criminal liability. Individuals between the age of 14 and 16 are liable to criminal liability only for committing crimes expressly established by the Criminal Code. Thus, the subject of probation may be natural persons who, at the time of committing the crime, have reached the age of 14.

In terms of the nature and degree of prejudice, the offenses provided by the Criminal Code are classified into the following categories: minor, less serious, serious, particularly serious and exceptionally serious. Minor offenses are considered the deeds for which the criminal law provides as a maximum punishment the prison sentence for a term of up to 2 years inclusive. Less serious offenses are considered the deeds for which the criminal law provides for the maximum penalty of imprisonment for a term of up to 5 years, inclusive.

3.3 Mission and Mission statement

The mission of the probation system is to participate in the administration of justice by providing support to the judiciary in individualizing sentences, supervising the execution of non-custodial sentences, social reintegration of persons who have violated the law, in order to reduce recidivism and increase the level of social security.

The vision for the future is to strengthen the probation system as a credible alternative to detention, which contributes to maintaining community security, reducing the social costs of detention, reducing recidivism and reintegration into society by harnessing the potential of people who have violated the law.

The National Probation Inspectorate was a component part of the Action Plan for the implementation of the Justice Sector Reform Strategy for 2011 - 2016⁶. Thus, among the most important achievements of the probation system when implementing the Strategy were: elaboration of probation programs for offenders, implementation of the psychosocial assistance program at the present stage, creation of the Center for social rehabilitation of persons exempted from criminal punishment, creation of electronic evidence system of probation subjects (personal electronic file); initial and continuous training of probation counselors, elaboration and implementation of the Probation Service Communication Strategy and the Probation Institution Development Concept, implementation of a pilot project on electronic monitoring of probation subjects.

The development strategy of the probation system and the Action Plan for 2016-2020⁷ establish the main directions of action and the specific objectives corresponding to each direction, in order to

⁶Justice Sector Reform Strategy for 2011-2016, adopted by the Law of the Parliament of the Republic of Moldova on 25.11.2011. In: Official Gazette of the Republic of Moldova, 2012, no. 1-6.

⁷ The development strategy of the probation system and the Action Plan for the years 2016-2020, approved by the Government Decision, no. 1015/2016: <http://probatiune.gov.md/strategia-de-dezvoltare-a-sistemului-de-probatiune>.

position probation as a public authority of national interest that contributes to the administration of justice.

The overall objective of the Strategy - to develop probation activities by 2020, by improving and ensuring the continuity of the probation process, from the pre-sentence to the post-penitentiary stage, which will ensure the rule of law, respect for human rights and help increase society's confidence in the institution of probation and in the act of justice.

The future goals of the probation system are:

- implementation of an economic-financial management that responds to the development needs of the probation system;
- ensuring an updated regulatory framework to international standards in the field of probation;
- development of human resources for carrying out probation activities at the level of quality, efficiency and professionalism;
- improving the services provided and developing partnerships;
- implementation of modern working tools in the activity oriented towards supervision and social reintegration of the persons subject to probation;
- streamlining alternative sentences to detention;
- promoting the probation system.

The experts of the National Probation Inspectorate also participate in external working groups for the elaboration of policy documents: the National Anti-Drug Strategy, the Strategy for Preventing and Combating Domestic Violence which are implemented jointly with the partner institutions.

3.4 Crime Prevention

Based on the basic directions, the probation service is actively involved in primary and secondary prevention activities, such as:

- 1) Organizing information and prevention activities in educational institutions.

The partnership relations have as objective the prevention of the recidivism of the crime, and the reintegration in the community of the probation subjects. The more favourable social environment the probation subject has, the more he/she capitalizes on his/her physical, intellectual and emotional

potential. The more insecure the social subject of probation is for its reintegration, the more the need for services that would provide an alternative social environment is felt.

2) Organizing information campaigns for citizens on the prevention of domestic violence and drug use. These actions are intended to limit the opportunities for committing the crime. These are achieved through public information programs on the causes, on the means of fighting crime, or on the means of preventing crime. It can be achieved by individually protecting potential victims (by reducing accessibility as a target or by using private security services).

3) Implementation of the program “Psychosocial assistance at the pre-sentence stage”.

During the pre-sentence probation, during the preparation of the evaluation report, assistance and counseling are provided to the subject of the probation. In the activity of assistance and counseling, an important element is the guidance of the subject of probation to the social services that could support them. The probation counselor is the one who draws up the map of social information services about governmental and non-governmental organizations in the community.

Providing psychosocial assistance at the pre-sentence stage increases the chances of reintegration or resocialization of the subject of probation at this stage. Psychosocial assistance should address the subject of probation approaching any associated issues, medical, psychological, social, vocational and legal. The purpose of the program: - minimizing the risk of recidivism, - evaluating and planning the intervention, - providing immediate help, for the concrete specification of the problems and their assessment. Target group: Subjects of probation juveniles and adults at the pre-sentence stage: suspect / accused / culprit.

3.5 Victim assistance

The assistance of crime victims in the Republic of Moldova has evolved in recent years, being developed the regulatory framework and intervention services by civil society. Victims of crime are not subject to probation, the methods of intervention being aimed at reintegrating the offender and remedying the damage caused by committing a crime.

Restorative justice aims to balance the problems of the victim and the community, as well as the need for social reintegration of the offender, to assist the victim in the recovery process and to give all parties the right to be present and to be actively involved in justice. It also seeks to remedy the damage

caused by the commission of a crime, based on an approach involving not only the parties but also the community at large, in close cooperation with institutions specialized in the field.

In turn, offenders are treated in a way that is more appropriate to their needs. Restorative justice emphasizes the responsibility of offenders and the compensation / reparation they can provide to victims. At the same time, the emphasis is on their social reintegration both as a more humane way of dealing with criminals and as a concrete way to avoid recidivism.

The Criminal Code⁸ clearly states that by applying the punishment with conditional suspension of the enforcement of the punishment, conditional exemption before term, the court may oblige the convict:

a) to provide material support to the victim's family; b) to repair the damages caused by the crime.

Thus, to the persons exempted from criminal liability or criminal punishment, the measure of educational coercion is applied: “*forcing the minor to repair the damages caused to the victim*”.

Thus, the Law on Probation provides that the subjects of probation are obliged:

a) to comply with the obligations and restrictions established by the court and the legislation;

b) to meet the legitimate requirements of the personnel of the probation bodies;

c) to submit truthful information at the request of the personnel of the probation bodies.

If the persons released from the places of detention request support in the social adjustment, the probation counselor will conclude a written agreement with them.

If the person convicted by conditional suspension of the enforcement of the punishment until the expiration of the probation period has not reluctantly executed the obligation to repair the damage caused to the victim, the court, at the proposal of the probation body, may issue a decision on annulment of the punishment with conditional suspension of the enforcement of the punishment and to send of the convict to execute, fully or partially, the punishment.

Also, based on the growing number of acts of domestic violence, at the initiative of the National Probation Inspectorate a draft law⁹ on amending the Code of Criminal Procedure, the Enforcement Code and the Law on Preventing and Combating Domestic Violence has been drawn up, being expressly established that the electronic monitoring is applied by the court to the suspect, the accused, the culprit for acts of domestic violence in order to ensure protection measures for victims.

⁸ Criminal Code of the Republic of Moldova, art.90, 104.

⁹ Law no.85 of 11.06.2020 for amendment of some normative acts, in force from 03.01.2021.

The Regulation on electronic monitoring of persons¹⁰ states that electronic monitoring may be applied to persons suspected, accused or charged of committing acts of domestic violence, as well as to victims or, as the case may be, their family members in order to verify compliance with obligations by aggressors.

The Law on Preventing and Combating Domestic Violence¹¹, establishes that: care / protection centers / services for victims of domestic violence and their children provide specialized support services such as: shelter (placement), legal, psychological, social, emergency medical assistance and other types of assistance. The centers / assistance and counseling services for family aggressors offer specialized information services, individual / group counseling of the couple, legal counseling, referral and facilitation of the aggressor's access to medical services, employment and professionalization. The organization and functioning of the centers / services for assistance and protection of victims of domestic violence and their children, as well as of the centers / services for assistance and counseling of family aggressors, are carried out in accordance with the minimum quality standards approved by the Government.

The Republic of Moldova has also adopted the Law on Mediation¹², which establishes the principles of the mediation process and its effects, the particularities of mediation in specific areas, as well as the competence of state authorities and institutions in the field of mediation.

3.6 Volunteers involvement

On February 16, 2016, the NPI obtained the status of host institution of the voluntary activity of the Republic of Moldova¹³. According to the Law on Volunteering, the persons involved in the volunteering activity within NPI benefit from the following working tools: i. nominal volunteer certificate (if involved in volunteering less than 20 hours per month); ii. volunteer card (if she/he is involved in volunteering for more than 20 hours per month); iii. letter of recommendation.

Volunteering in the public sector, confirmed by the nominal volunteer certificate, letter of recommendation and volunteer card, when hiring a candidate or attesting and promoting an

¹⁰ Regulation on electronic monitoring of persons, approved by Government Decision of the Republic of Moldova no. 1322/2016.

¹¹ Law no. 45/2007 on preventing and combating domestic violence. Published: 18-03-2008 in the Official Gazette.

¹² Law no. 137/2015 on mediation. Published: 21-08-2015 in the Official Gazette.

¹³ The normative acts underlying the voluntary activity within NPI are:

- Law on volunteering no. 121 of June 18, 2010;

- Government Decision no.158 / 2012 on the approval of the Regulation on the implementation of the Law on Volunteering no.121 / 2010.

employee, will be considered by the employer as work experience under the conditions which work experience is a specific requirement to be admitted to the competition for a vacant public office.¹⁴ The volunteer shall be guaranteed a minimum of rights according to the law:

- a) carrying out the activity in a certain field according to one's own possibilities and according to the existing rules in the host institution;
- b) optional medical insurance granted by the host institution, in accordance with the law, against the risks of accident, illness or other risks arising from the nature of the activity;
- c) reimbursement by the host institution, under the conditions agreed by the contract and according to the law, of the expenses of transport, accommodation, food, in case of necessity - travel, insurance and other indispensable expenses for carrying out the volunteering activity;
- d) the possibility to request from the host institution a nominal certificate and letters of recommendation based on the methodology approved by the Government, through which to recognize the performance of the volunteer activity and to confirm the experience and skills obtained according to the contractual provisions;
- e) the right to rest time, so that the duration of working time, established in accordance with the law, does not affect the health and psychophysical resources of the volunteer;
- f) participation in training courses organized, initiated or proposed by the host institution for a better development of volunteering.

4. The Organisation of Probation services

4.1 Relevant European Probation Rules

The following European Probation Rules characterize the organisation of probation services in the Republic of Moldova.

Staff shall be recruited and selected in accordance with approved criteria which shall place emphasis on the need for integrity, humanity, professional capacity and personal suitability for the complex work they are required to do. (Rule 22)

All staff shall have access to education and training appropriate to their role and to their level of professional responsibilities. (Rule 23)

¹⁴ The tasks of the volunteer within the Probation Offices are established in the Regulation on the organization and functioning of the volunteering activity within NPI, approved by the order of the NPI director, no. 125/2018, published: <http://probatiune.gov.md/voluntariat>.

Throughout their career, all staff shall maintain and improve their knowledge and professional abilities through in-service training and development provided to them. (Rule 25)

Staff who work or are to work with offenders who have committed some specific offences shall be given appropriate specialised training. (Rule 27)

Probation agencies shall work in co-operation with other agencies of the justice system, with support agencies and with the wider civil society in order to implement their tasks and duties effectively. (Rule 37)

Probation agencies shall provide services accessible to offenders of foreign nationality, especially in respect of community supervision and resettlement. (Rule 63)

Especially with regard to offenders who are foreign nationals and with nationals sanctioned abroad, the probation rules mention that “probation agencies shall ensure that their services are accessible to offenders of foreign nationality, especially in respect of community supervision and resettlement” (Rule 64)

4.2 Internal organization

The NPI is headed by a director. The director shall be appointed and dismissed by order of the Minister of Justice. The director of the National Probation Inspectorate is assisted by two deputy directors, who are appointed to and dismissed at the proposal of the director, by order of the minister of justice, under the conditions of the legislation in force. The deputy directors are directly subordinated to the director and organize the activity of the National Probation Inspectorate and of the territorial subdivisions, within the limits of the powers assigned to them. In the absence of the director of the National Probation Inspectorate, his/her functions are exercised by the appointed deputy director.

The central apparatus of the National Probation Inspectorate consists of internal subdivisions, which contribute to the accomplishment of the functions and attributions of the Inspectorate.

Under the direct subordination of the director of the National Probation Inspectorate, the internal subdivision responsible for examining the complaints regarding the activity of the probation bodies operates.

The territorial subdivisions of the National Probation Inspectorate are the regional probation inspectorates and probation offices. Probation offices are set up in each second-level territorial administrative unit for a total of 38.

The regional probation inspectorates are established in three territorial regions of the Republic of Moldova: north, center and south. The regional probation inspectorates operate in the constituency

established by the NPI. The regional probation inspectorates include probation offices and social rehabilitation centers for persons exempted from criminal punishment, who carry out their activity in the respective constituency.

The regional probation inspectorate is headed by a chief, appointed in and released from the office by the director of the National Probation Inspectorate, in accordance with the legislation in force.

The probation office is headed by a chief who is appointed and dismissed by the director of the National Probation Inspectorate. The head of the probation office is also a probation counselor.

The instructive-methodical center ensures the initial professional training and the continuous training of the employees of the National Probation Inspectorate, in accordance with the present Regulation and other normative acts. The instructive-methodical center is set up within the National Probation Inspectorate. The National Probation Inspectorate collaborates with other public or private authorities and institutions, with the representatives of the civil society, with natural and legal persons, as well as with international structures. Within the Inspectorate, commissions, councils and working groups can be created for the examination and solution of specific problems, with the training of specialists from different fields of activity.

The organizational chart of the National Probation Inspectorate is presented in the annex 2.

4.2.1 Probation workers

The staff of the probation bodies consists of the employees of the National Probation Inspectorate and the employees who work directly within the territorial subdivisions (except for the technical staff).

The staff of the probation bodies is composed of civil servants, subject to the regulations of the Law on the civil service and the status of civil servant, and of contract staff, who carry out auxiliary activities, subject to the regulations of labour legislation.

Volunteers may also work in the National Probation Inspectorate and in its territorial subdivisions under the conditions provided by the legislation on volunteering.

Direct activity with probationary subjects is carried out by probation counselors.

The person performing the duty of head or deputy head of the probation office shall also have the capacity of probation counselor.

The probation counselor has the obligation to continuously improve his / her professional qualities through the continuous training courses organized by the National Institute of Justice.

The legitimate requirements of the probation staff are enforceable for the persons in charge and for other persons. The non-execution of the legitimate requirements, related to the fulfillment of the

service obligations, of the personnel of the probation bodies, as well as the impediment, by the responsible persons and by other persons, of the execution of the personnel obligations are subject to responsibility according to the legislation.

In each probation office, a probation counselor specialized in juvenile probation is appointed.

Table 1. The staff structure (2021)

Number of staff	305
Management staff	72
Executive staff	221
Supporting staff (e.g. secretary, bookkeeping staff, ICT staff etc.)	12 (secretaries, drivers, IT specialists)

According to the Government Decision on the organization and functioning of the probation bodies and the State of personnel, the limit staff of the probation system constitutes 305 units¹⁵, of which:

- 53 units in the central unit;
- 252 units in the territorial subdivisions (of which 6 functions are for the regional inspectorates and 246 functions for the probation offices).

From the total numbers of units in the probation system:

- 72 are public management positions;
- 221 are public executive functions;
- 12 support functions (secretaries, drivers, specialist in information technology).
- 238 are probation officers.

4.2.2 Education, training requirements and opportunities

The civil servant has the right and obligation to continuously improve his / her skills and professional training.

The probation counselor has the obligation to continuously improve his / her professional qualities through the continuous training courses organized by the National Institute of Justice.

The probation bodies and the National Institute of Justice have the obligation to provide in their own budgets the necessary means to cover the expenses related to the programs of continuous training of probation counselors.

¹⁵ Government Decision no. 827/2010 on the organization and functioning of probation bodies https://www.legis.md/cautare/getResults?doc_id=115477&lang=ro.

Initial and continuous professional development trainings are organized within the National Probation Inspectorate.

In the process of professional development of probation counselors, the National Probation Inspectorate ensures:

- a) equal opportunities for every civil servant to train both in the country and abroad;
- b) for each civil servant various forms of continuous professional development, with a duration of at least 40 hours per year, and for each new civil servant an introductory training with a duration of at least 80 hours.

The human resources subdivision within the public authority elaborates the annual professional development plan for the staff, which includes the “Internal training” component and the “External training” component, and which can be updated during the year.

The annual professional development plan includes the name of the professional development activities, the type and forms of training, the duration, the deadlines, the categories of participants, the costs, the responsibilities and other elements related to a training plan.

The costs for the professional training of the employees in 2019 – MDL 92,200 (Approximately 4200 euros).

The costs for the professional training of the employees in 2020 amounted to MDL 24,844 (Approximately 1240 euros).

4.2.3 Other organizations involved in probation work

The probation activity is carried out on the principle of community participation in the process of assistance, psychosocial counseling and control.

Probation bodies, according to their competence, collaborate with public authorities and non-governmental organizations.

Local public administration authorities can assist probation bodies by providing spaces for carrying out the probation activities, by creating social rehabilitation centers for persons released from places of detention and by financing various programs related to probation.

The authorities of the local public administration, in the field of social adaptation of the persons released from the places of detention, in the subordinated territory:

- a) provide assistance to the mentioned persons in solving the problems related to the choice of domicile;

b) collaborate with the employment agencies located on the subordinated territory, solving the problems related to the employment of the persons released from the places of detention. Also, the probation body, in agreement with the local public administration authorities, determines the place and volume of work for the convict, with the help of organizations and associations identifies the objects for which unpaid community work can be used.

4.3 Probation and offenders abroad

The principle of equality is applicable in the probation activity. Thus, the manner and conditions for implementing the executory documents extend, persons, regardless of race, nationality, ethnic origin, language, religion, sex, opinion, political affiliation, wealth or of social origin, and on legal persons, regardless of the type of property and the legal form of organization.

Therefore, with foreign citizens, probation activities take place in the Republic of Moldova, if they are temporarily domiciled until the expiration of the sentence. In case of return of foreign nationals to the country of residence, the transfer procedure is initiated.

The Republic of Moldova is not an EU Member State and therefore the *Council Framework Decision 2008/947 on the application of the principle of mutual recognition of judgments and probation decisions for the supervision of probation measures and alternative sanctions* is not applicable. The Republic of Moldova has accepted the *European Convention on the Supervision of Conditionally Sentenced and Conditionally Released Offenders*, adopted in Strasbourg on 30 November 1964¹⁶.

The necessity of the accession of the Republic of Moldova to the given Convention was deduced from its tasks and the beneficial legal effects produced, aiming that the punishment shall be enforced in order to restore social equity and prevent new crimes, with the possibility by the competent bodies to supervise the offenders conditionally suspended or exempted before the term in the territory of the Member States of the nominated Convention and the enforcement of irrevocable judgments which are enforceable.

In order to socially reintegrate offenders convicted with conditional suspension of the execution of the punishment or exempted before the term, who change their residence (place of residence) in a foreign state, submit a request for relocation of files and attach the necessary documents, according to art. 26 of the *European Convention on the Supervision of Conditionally Sentenced and*

¹⁶ European Convention on the Supervision of Conditionally Sentenced or Conditionally Released Offenders, adopted in Strasbourg on 30 November 1964, by Law no. 131 of 11 July 2014.
https://www.legis.md/cautare/getResults?doc_id=21501&lang=ro.

Conditionally Released Offenders. Reciprocity agreements are initiated with states that have not ratified the European Convention.

The citizens of the Republic of Moldova who are convicted abroad may be transferred at their request on the basis of European Convention or a Reciprocity Agreements. For citizens of the Republic of Moldova who are detained abroad the probation service is not involved in any form of support.

5. Different Stages of the Criminal Justice Process

Relevant European Probation Rules

In the different stages of the criminal trial, legislation and practice comply to a high degree with the relevant provisions of the European Probation Rules, described in the following sections.

Probation agencies shall work in partnership with other public or private organisations and local communities to promote the social inclusion of offenders. Co-ordinated and complementary inter-agency and inter-disciplinary work is necessary to meet the often complex needs of offenders and to enhance community safety. (Rule 12)

Depending on the national legal system, probation agencies may produce the reports required for decisions to be taken by the competent authorities. They shall include advice on:

- the feasibility of the offender's release in the community;
- any special conditions that might be included in the decision regarding the offender's release;
- any intervention required to prepare the offender for release. (Rule 45)

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 55)

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. (Rule 61)

The normative framework establishes to the probation body the following main functions¹⁷: a) the presentation of pre-sentence reports of psychosocial assessment of the personality; b) application of social behaviour correction programs; c) coordinating the execution of certain categories of punishments; d) exercising control over the persons convicted by conditional suspension of the execution of the punishment, of the persons exempted before the term, of the persons convicted with the postponement of the execution of the sentence, of the persons exempted from criminal liability; e) exercising control over the application of coercive educational measures; f) providing post-penitentiary assistance and counseling; g) coordinating the activity of the representatives of other central public authorities and local public authorities, non-governmental organizations whose activity is directly or tangentially related to probation; h) implementation of social correction programs for probation subjects; i) collaboration with the penitentiaries in the part of preparing the persons for release from the places of detention.

5.1 Pre-trial/remand/trial stage

In the pre-sentence phase, the probation body ensures: 1) the supervision of the persons released conditioned by the criminal liability of the prosecutor; 2) electronic monitoring of family aggressors, in order to comply with measures to protect victims, and 3) persons subject to preventive measures: house arrest and release under judicial control. Information on the person's behaviour during the surveillance period is transmitted to the prosecutor and the police.

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 your legislation?	Probation service involvement?	Main characteristics of the probation activity (e.g. supervision, coordination, reporting, referral, help&support)
Unconditional waiver by the public prosecutor			
Conditional waiver by the public prosecutor	X	X	Supervision

¹⁷ Law no. 8/2008 on probation, art. 16.

Conditional suspension of the pre-trial/remand detention			
Pre-trial/remand detention	X		
Police custody			
Bail	X		
Caution			
Surety	X		
House arrest	X		
Electronic monitoring	X	X	Reporting
Community service			
Treatment order	X		
Training/learning order	X		
Drug/alcohol treatment program	X		
Compensation to the victim			
Mediation	X		
Semi-detention			
Attending a day centre			
Liberty under judicial control	X		
Interdiction to leave the country	X		
Interdiction to enter different cities/places			
Interdiction to carry out different activities			
Interdiction to contact certain persons	X		
Psychiatric treatment	X		
Deferment of sentence			
Fine			
Other financial sanctions			

Transmission of the minor under supervision	X		
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5.1.1 Pre-trial/pre-sentence report

The pre-sentence report of psychosocial assessment of the personality is a written document, with a consultative and guidance character, having the role of providing the criminal investigation body, the prosecutor, the court with information about the person of the suspect, the accused or the culprit, about the level of school education, about the behaviour, the family environment, the circle of friends and about the factors that influence or can influence his/her general behaviour. Regarding a minor, the pre-sentence report of psychosocial assessment of the personality is drawn up obligatorily, according to the legislation.

Family members, friends, colleagues, other sources of information, such as psychologists, teachers, social workers, doctors, other specialists, as well as people who can really contribute to the reflection of the psychosocial picture are contacted when preparing the pre-sentence report of psychosocial assessment of the personality of the suspect, the accused or the culprit.

The pre-sentence psycho-social assessment report is a document prepared by the social reintegration institution, at the request of the criminal investigation body, the prosecutor and the court.

The pre-sentence report is submitted to the applicant within a maximum of 21 working days, and in the case of the minor - 15 working days from the date of receipt of the application. The probation counselor maintains contact with the applicant during the period of collecting information and preparing the pre-sentence report.

If the process of collecting information delays the preparation of the pre-sentence report, the deadline for submitting it to the applicant may be extended by the head of the probation office by a maximum of 10 working days, the applicant being informed.¹⁸

So, the evaluation report is the instrument through which the resocialization body (probation) communicates with the court. Its role is to assist the court in the process of individualizing the punishment, providing the judge with a professional assessment of the nature and causes that led to

¹⁸ Regulation on how to prepare the pre-sentence report on psychosocial personality assessment, approved by order of the Minister of Justice no. 299/2018.

the installation of anti-social behaviour and the measures to be taken to reduce the likelihood of recidivism.

When preparing the pre-sentence report, the probation counselor must respect the principles: 1) confidentiality of personal data; 2) the equality and non-discrimination; 3) the opportunity; 4) ensuring and promoting with priority the best interest of the child; 5) respect for human dignity; 6) the proportionality of the intervention in the private and family life of the persons; 7) the presumption of innocence.

The person for whom the pre-sentence report is drawn up, his/her legal representative or his/her defense counsel are informed about the elaboration of the pre-sentence report by the probation counselor at their written request.

Regarding the preservation of the confidentiality of the pre-sentence report or of a part of it, the probation counselor must obligatorily insert in the text of the pre-sentence report a mention to this effect. The statement on ensuring confidentiality is also included in the letter by which the pre-sentence report is sent to the applicant.

The transmission by the probation counselor or the communication by any other means of the pre-sentence report to third parties is not allowed.

When preparing the pre-sentence report, if the accumulated information allows it, the probation counselor formulates his conclusions regarding the opportunity or inopportuneness of applying a certain criminal measure in relation to the personality of the person assessed, the need for probation or educational programs. This competence strengthens the role of the probation counselor in the act of justice.

If the suspect, accused or culprit for whom the pre-sentence report is drawn up refuses to participate when the pre-sentence report is developed, the person is not found, or the elaboration of the report is impossible for other objective reasons, the probation counselor informs the applicant by an informative note.

The structure of the pre-sentence report of psychosocial evaluation is presented in Annex 3.

5.2 Enforcement stage

The following table includes the main elements of the involvement of probation counselors in the enforcement of the punishments.

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

Sanctions/Measures/Penalties/Conditions attached to a conditional sentence	Provided in your legislation?	Probation service involvement?	Main characteristics of the probation activity (e.g. supervision, coordination, reporting, referral, help&support)
Imprisonment	X	X	Help&support
Suspended sentence	X	X	Supervision, help&support
Conditional sentence			
Affidimento in prova			
House arrest			
Electronic monitoring	X	X	Supervision
Community service as sanction	X	X	Supervision, referral
Semi-liberty			
Semi-detention			
Treatment order	X	X	Supervision, referral
Training/learning order	X	X	Coordination, referral
Drug/alcohol treatment program	X	X	supervision, referral
Educational measures	X	X	Supervision, Coordination, referral
Compensation to the victim	X	X	Supervision
Mediation			
Attending a day centre			
Interdiction to leave the country			
Interdiction to enter different cities/places	X	X	Supervision
Interdiction to carry out different activities	X	X	Supervision
Interdiction to contact certain persons			
Fine	X		
Day fine			
Other financial penalties			

In/out patient order (psychiatric treatment)	X		
Security measures			
Combined order			
Community punishment			
Conditional release / Parole	X	X	Supervision, help&support
Automatic release			
Open prison	X		
Penitentiary program outside the prison			
Conviction with partial suspension	X	X	Supervision, help&support
Postponement of the execution of the sentence	X	X	Supervision, help&support

Prison

The following specialists are responsible for carrying out the assistance process in order to social reintegrate and prepare for the release of the convicts:¹⁹

- a) social worker and / or the educator within the penitentiary institutions;
- b) probation counselor within the probation office.

At the initial stage, the probation offices provide informational support, at the request of the penitentiary institution, regarding the pre-sentence report of psycho-social evaluation of the convict's personality in order to annex it to the Individual Program for the enforcement of the convict's punishment, if such a report was prepared.

The administration of the penitentiary ensures the access of the probation counselors in the penitentiary institutions for the conversations, the development of the structured interventions, the development of the planned activities in order to assist the convicts at the final stage, who will:

- a) provide informational support for post-detention supervision;
- b) provide assistance to the convict at his request

¹⁹ Regulation on the preparation for release of persons serving a custodial sentence, approved by the Joint Order of the NPI and of the NPA of 27.06.2018: <http://probativne.gov.md/acte-normativa-care-reglementeaza-activitatea-interna>.

c) participate in the meetings of the Penitentiary Commission, during which the applications of the convicts for conditional release will be examined.

The social worker and / or psychologist in conjunction with the probation counselor will apply the Release preparation program, focused on behavioural change.

The activities of preparation for release and social reintegration require the involvement of several organizations and specialists in the social field in solving the detainee's problems, according to the Law on the Social Adaptation of Persons Released from Detention.

Probation offices, together with penitentiary institutions, involve government institutions and non-commercial organizations in order to enforce the mandatory measures established regarding the conviction, such as: identification of available jobs, schooling courses, qualification or professional retraining courses, etc.

The probation body undertakes supervision and control of persons when applying the following measures:

- **Conviction with conditional suspension of punishment execution.**

If, when establishing the prison sentence for a maximum period of 5 years for crimes committed intentionally and for a maximum of 7 years for crimes committed by imprudence, the court, taking into account the circumstances of the case and the person of the guilty, will reach the conclusion that it is not rational for him to execute the established punishment, it can order the conditional suspension of the execution of the sentence applied to the convict, immediately indicating in the decision the reasons for conditional suspension of the execution of the sentence and the probation period.

Applying the sentence with the conditional suspension of the execution of the sentence, the court may oblige the convict: a) not to change his domicile and / or residence without the consent of the competent body; b) not to attend certain places; c) to follow a treatment in case of alcoholism, drug addiction, drug addiction or venereal disease; c1) to participate in a special treatment or counseling program in order to reduce violent behaviour, d) to provide material support to the victim's family; e) to repair the damages caused within the term established by the court; f) to participate in probation programs; g) to perform unpaid community work, h) to be subject to electronic monitoring, but not more than 12 months.

- **Conviction with partial suspension of punishment execution.**

If the court, taking into account the circumstances of the case and the personality of the convict, concludes that it is not rational for him to serve the full sentence of imprisonment in the penitentiary, it may order the partial suspension of the sentence, indicating in the decision the period of execution of the sentence in prison and the period of probation, as well as the reasons for the conviction with the partial suspension of the execution of the sentence. The first part of the sentence is executed in the penitentiary, and the rest of the sentence is suspended under the supervision of the probation bodies.

- **Conditional release from punishment before term.**

Where probation agencies are responsible for supervising offenders after release they shall work in co-operation with the prison authorities, the offenders, their family and the community in order to prepare their release and reintegration into society. They shall establish contacts with the competent services in prison in order to support their social and occupational integration after release. (Rule 59)

The person serving the prison sentence may be sentenced to parole if he has completed the individual sentence execution program, fully repaired the damage caused by the crime for which he was convicted, unless he proves that he had no possibility to fulfill them, and if it is found that its correction is possible without the full execution of the sentence. The person may be released, in whole or in part, from the additional punishment.

- **Postponement of the punishment execution for pregnant women and woman who have children under the age of 8 years.**

Pregnant women convicted and persons with children up to the age of 8, with the exception of those sentenced to imprisonment for more than 5 years for serious, particularly serious and exceptionally serious crimes, the court may postpone the execution of the sentence until the child reaches the age of 8 years.

If any of the convicted persons refuses to exercise his/her parental rights and obligations or violates the conditions of probation after the warning made by the probation body, the court, at the proposal of the nominated body, may cancel the execution of the sentence and send the convicted person for the execution of the sentence at the place established in the court decision.

- **Amnesty.**

In the case of amnesty, the institutions and bodies that ensure the execution of the respective category of punishment examine the applicability of the act of clemency to each convict and, as the case may be, with the consent of the convict, submit an application to the competent court. The personal file of the convict, the evidence of the factual and legal reasons invoked shall be attached to the motion.

The probation body ensures the execution of the decision and informs the court about its execution after the application of the amnesty act.

- **Pardon.**

The probation body is competent to supervise the behaviour of the person released from the sentence under the act of pardon, if he has a probation period and informs annually, until the expiration of the probation period, the President of the Republic of Moldova on the behaviour of the convict. At the expiration of the established probation period, the probation body shall communicate to the President of the Republic of Moldova and to the court that judged the case on the merits about the termination of the supervision measures.

- **Electronic monitoring.**

When electronic monitoring is used as part of probation supervision, it shall be combined with interventions designed to bring about rehabilitation and to support desistance. (Rule 57)

The electronic monitoring system in the Republic of Moldova consists in remote surveillance, through GPS (Global Positioning System) systems, fixed or mobile telephone equipment that monitors the location and movement of persons subject to surveillance and control, through a special bracelet installed on hand or foot, based on court decisions or decisions of penitentiary heads.²⁰

The following are subject to electronic monitoring: persons released from criminal punishment, mentioned above, convicts who travel without escort or convoy and / or those who travel for a short time outside the penitentiary; to persons to whom a precautionary measure is applied with the establishment of certain obligations or restrictions; persons suspected, accused or culprit of committing acts of domestic violence, as well as victims or, as the case may be, members of their families in order to verify compliance with the obligations of the aggressors.²¹

²⁰ Electronic monitoring in the Republic of Moldova has obtained a legal status, being amended several legislative acts by Law no. 138/2015: Criminal Code, Enforcement Code, Law no. 8/2008 on probation.

²¹ Regulation on electronic monitoring of persons, approved by Government Decision, no. 1322/2016.

Ensuring the electronic monitoring of all categories of monitored persons is carried out by the probation bodies.

The electronic monitoring of the mentioned persons is carried out by the probation bodies, in collaboration with the penitentiary institutions, the police bodies and with other public authorities in accordance with the legislation.

- **Educational coercive measures.**

The following measures of educational coercion are applied to the persons released from criminal liability or criminal punishment: a) the warning; b) entrusting the minor for supervision to the parents, the persons who replace them or to the specialized state bodies; c) obliging the minor to repair the damages caused.

When applying this measure, the material condition of the minor is taken into account; d) forcing the minor to follow a psychological rehabilitation course e) forcing the minor to follow the compulsory education course; f) obliging the minor to participate in a probation program. Several coercive measures of an educational nature may be applied to the minor at the same time.

In case of systematic evasion of the minor from the coercive measures of an educational nature, at the proposal of the probation body, the prosecutor annuls the applied measures and sends the case to the court, and if the measures were established by the court, he/she annuls them and orders to send the criminal case to the prosecutor or, as the case may be, establishes a punishment provided by law for the committed deed.

- **Unpaid community work.**

The following Probation Rules apply to community service.

Community service shall not be undertaken for the profit of probation agencies, their staff or for commercial profit. (Rule 48)

Probation agencies shall develop community service schemes that encompass a range of tasks suitable to the different skills and diverse needs of offenders. In particular, there must be appropriate work available for women offenders, offenders with disabilities, young adult offenders and elderly offenders. (Rule 51)

Offenders shall be consulted about the type of work they could undertake (Rule 52)

Unpaid community work consists in training the convict, outside the time of basic or study service, to work, determined by the local public administration authorities.

Unpaid community work is established for a period of 60 to 240 hours and is performed from 2 to 4 hours a day, and in the case of a convict who is not engaged in basic activities or studies, at the request or agreement to him - up to 8 hours a day.

The execution of the punishment of unpaid community work is ensured by the probation body in whose territorial area the convict's domicile is located²².

The person sentenced to unpaid community work signs in court a commitment by which he undertakes to appear, within 5 days from the moment the court decision becomes final, at the probation body in whose territorial area he/she has the domicile.

In case of involuntary evasion of the convict from unpaid community work, it is replaced by imprisonment. Unpaid community work will be performed for a maximum of 18 months, which is calculated from the date of finality of the court decision.

- Deprivation of the right to hold certain positions or to carry out a certain activity.

Deprivation of the right to hold certain positions or to exercise a certain activity consists in the prohibition to hold a position or to exercise an activity of the nature of the one used by the convicted person to commit the crime.

The court sends the decision regarding the deprivation of the right to hold certain positions or to exercise a certain activity and the disposition of execution to the probation body in whose territorial area the convicted person carries out his activity or has his domicile.

The probation body sends the court decision to the competent body with the right to order the release of the convict from office or to prohibit him from exercising a certain activity.

Regardless of whether the convicted person holds a certain position or exercises a certain activity, the probation body keeps track of the convicts, checks the observance of the convicts' prohibition, established in the court decision, to hold certain positions or to exercise a certain activity, verifies the fulfillment of the prescriptions of the court decision by the administration of the organization in which the convict works, as well as by the bodies empowered to annul the authorization regarding the exercise of a certain activity.

²² in accordance with the provisions of the Enforcement Code of the Republic of Moldova and the Regulation on the execution of the criminal punishment in the form of unpaid community work, approved by Government Decision no. 1643/2003

- **Deprivation of the right to drive means of transport or cancellation of this right.**

Deprivation of the right to drive means of transport or cancellation of this right consists in prohibiting to drive any type of means of transport on public roads.

Deprivation of the right to drive means of transport can be applied by the court for a period of 1 to 5 years.

Table 4. Other probation activities in the enforcement stage

Providing support to the families of the offenders/detainees	The necessary support is provided to the detainee or former detainee following an assessment of needs and requirements.
Coordinating volunteer prison visitors	The access of voluntary visitors, non-governmental assistance and counseling organizations, is coordinated with the penitentiary administration.
Preparing offenders for (conditional) release	The activity of preparation for the release of detainees is carried out by mutual agreement with the National Administration of the Penitentiary based on the legislative acts and the Regulation of activity.
Preparing prisoners for home leave and/or providing support during home leave	Support for temporary detainees may be provided by probation bodies by electronic monitoring of the detainee at the decision of the head of the penitentiary.
Providing support to persons that have been pardoned or amnestied	Support for persons released from penitentiary institutions shall be granted at their request on the basis of the Assistance Agreement concluded between the former detainee and the probation counselor. Also, after the application of the amnesty act with the establishment of a milder punishment in probation, or after the pardon of the person with the establishment of a probation period, the probation body carries out supervision, assistance and counseling activities.
Providing advisory report with respect to amnesty or pardon	The probation body, upon request, presents reports / approaches on the appropriateness of amnesty or pardon of convicts.

5.3 Care and after-care outside the criminal justice system

The Law on Probation provides that²³ post-penitentiary assistance is granted to persons released from detention before term and to persons released from detention after the expiry of the term.

²³ Law no. 8/2008 on probation, art. 2/8.

Post-penitentiary assistance involves actions carried out individually or in groups, aimed at the personal development of the subject of probation, support for him in crisis situations in order to solve the problems that appeared in his social life after detention.

Post-penitentiary assistance is granted on the basis of a court decision for persons released before term or on the basis of an agreement signed between the former detainee and the probation counselor with the released persons, after the full sentence has been served. The format of the Post-Penitentiary Assistance Agreement is approved by order of the director of the National Probation Inspectorate.

Post-penitentiary assistance consists of:

- a) submission of information about the possibilities of granting the place of residence;
- b) providing support in search of a job;
- c) providing support for placement in social services institutions;
- d) providing support in completing the identity card and other documents necessary for the subject of probation;
- e) organization and involvement in probation programs;
- f) counseling for solving various social and psychological problems;
- g) involvement, with the help of public authorities, non-governmental organizations in the psychological, medical and social field, in solving the problems of probation subjects.

The law on the social adaptation of persons released from places of detention provides that, in order to streamline the process of social adaptation of persons released from places of detention and the proper conduct of work in their ranks, a state system of post-penitentiary guardianship is created, which will promote the social policy of the state. The basic authorities of the state system of post-penitentiary guardianship are: a) The National Council for the coordination of the activity of social reintegration of the persons released from the places of detention, b) the probation bodies.

6. Probation Methodology

Relevant European Probation Rules

When required before and during supervision, an assessment of offenders shall be made involving a systematic and thorough consideration of the individual case, including risks, positive factors and needs, the interventions required to address these needs and the offenders' responsiveness to these

interventions. (Rule 66)

The offenders shall be made aware of the process and outcomes of the assessment. (Rule 68)

Assessment is a continuing process and its accuracy and relevance shall be periodically reviewed. (Rule 69)

Assessment is recommended:

- at the time of determining the appropriate sanction or measure or when diversion from formal criminal proceedings is being considered;
- at the beginning of a period of supervision;
- whenever there are significant changes in the offenders' life;
- when consideration is being given to a change in the nature or the level of supervision;
- at the end of the supervision measure (Rule 70)

Staff shall be trained to carry out assessments in conformity with the present rules. Where national systems use assessment instruments, staff shall be trained to understand their potential value and limitations and to use these in support of their professional judgement. (Rule 71)

The work plan shall be negotiated and, as far as possible, agreed with the offender. (Rule 73)

Interventions shall aim at rehabilitation and desistance and shall therefore be constructive and proportionate to the sanction or measure imposed. (Rule 76)

The progress of the individual offender shall be evaluated at regular intervals and this process shall influence the work plan during the remainder of supervision. The evaluation shall form part of the case record and, when required, of the follow-up reporting to the deciding authority. (Rule 81)

Probation activities are regulated in the Probation Act and the Regulation on Probation Planning. The definition of probation is enshrined in the Law on Probation in the following wording "psychosocial assessment, control of persons in conflict with criminal law and their resocialization, adaptation of persons released from places of detention, to prevent new crimes."

The grounds for highlighting the subject of probation and initiating probation activities are court documents, prosecutor's orders or the decree of the President of the Republic of Moldova on individual pardon with the establishment of a probation period.

According to the Law²⁴, resocialization involves a process of influence on the subject of probation (organizational, psychosocial, pedagogical, educational, etc.) in order to change negative orientations, antisocial behaviour and strengthen the results of correction.

²⁴ Law no. 8/2008 on probation, art.2/2.

Elements of resocialization include: a) assessment of personality and needs; b) evaluation of the motivation for change; c) assessment of the risk of recidivism; d) supervision; e) assistance and counseling.

The intervention process involves a permanent monitoring and evaluation of the case, which means that it is constantly monitored how the beneficiary corrects the behaviour, his problems have been solved, the changes in his situation and it is appreciated to what extent these changes influence the risk of committing new crimes and its prospects for social reintegration, so that we can take a series of appropriate measures. The Regulation on probation planning²⁵ stipulates that the initial assessment of potentially criminogenic needs is made in order to establish the risk of committing new crimes or offenses, the class of supervision and the planning of the execution of the obligations imposed on the subject of probation.

The evaluation of the personality of the probation subject consists in the analysis of the process of behavioural change, of resocialization of the probation subject and is performed through an individualized intervention. The results of the assessment are included in the probation investigation of the subject of the probation personality.

In assessing the personal and social situation of the subject of probation:

- 1) the needs with criminogenic potential of the person under supervision are identified and prioritized and objectives are set in order to reduce them;
- 2) the social diagnosis is established, a phase in which the information obtained following the social investigation is systematized and analyzed, in which the probation counselor forms a conclusion about how to approach the case in terms of control, assistance and counseling;
- 3) the level of risk is established and, in concrete terms, measures considered appropriate to reduce the risk of committing crimes are planned.

The evaluation will take into account the information contained in the evaluation report prepared in the pre-sentence stage, if it was prepared, as well as, if applicable, the information obtained by contacting community institutions or the information contained in the evaluation carried out by the penitentiary institution, in the case of persons released on parole.

Contacting sources for the purpose of collecting or verifying information is done in such a way that it does not harm the image of the person in the collectivity or community, and if this is not possible to

²⁵ Regulation on probation planning, approved by order of the Minister of Justice, no. 347/2019. Published: <http://probativne.gov.md/acte-normativa-care-reglementeaza-activitatea-interna>.

the detriment of the probation program, contacting sources is done so as to minimize damage to the image the person in the community or collectivity.

The assessment of the risk of recidivism refers to the risk of committing new crimes by the subject of probation and is based on the information collected in assessing the needs and situation of the person. The risk of recidivism is analyzed through three levels: minimum, medium or increased. The information obtained is recorded, structured by areas, in a document called the needs and risk assessment form.

The evaluation is performed repeatedly, during the probation period, in case of changes in the psychosocial state since the last evaluation or the identification of new needs during the meetings.

Depending on the level of risk he/she presents, the subjects of probation are divided into the following categories:

- 1) Category I, which includes those subject to probation with an increased risk of recidivism, which constitute a real danger to the public or to the security of state institutions, low motivation for change.
- 2) Category II, which includes probation subjects with a medium risk of recidivism.
- 3) Category III, which includes the subjects of probation with low risk of recidivism, who are:
 - a) non violent;
 - b) increase motivation for change.

After completing the risk and needs assessment process, the probation counselor draws up the probation plan with the actions to be taken.

The probation plan is drawn up in order to determine and achieve the main objectives of working with the subject of probation. The probation plan is discussed with the subject of probation and can be modified if necessary. When drawing up the probation plan, the probation measures are formulated concretely and clearly, in terms easily accessible to the person in evidence.

Probation measures refer to working with the family, community volunteers and civil society representatives, as well as public authorities, non-profit organizations to initiate and carry out resocialization programs, home visits, permanent contact with people and institutions that could provide useful data in order to identify, as the case may be, the available jobs, the school courses, as well as those of professional qualification or requalification.

The probation plan shall include supervision measures and, where appropriate, assistance and counseling measures. The probation counselor's meetings with the subject of probation are correlated with the actions provided for in the probation plan, whether they are supervisory or assistance and counseling.

The probation plan may be revised if changes occur that affect the needs of the probation subject and the identified risks. The changes occurred in the situation of the probationary subject, corresponding to the intervention chapter and the motivation of these changes, constitute an integral part of the probation plan in the form of an annex.

Assistance and counseling are provided upon request, by the probation counselor to all categories of probation subjects. The planned and properly taken measures are recorded in the probation plan.

In order to provide assistance and counseling, the initial assessment with the establishment of the social diagnosis, the continuous assessment of the situation, the final assessment and the completion of the intervention are necessary.

The initial assessment is made taking into account the needs of the subject of the probation.

The continuous assessment of the situation consists in assessing the effects produced by the implementation of the intervention plan.

The final evaluation determines whether the established intervention plan was effective and the problem of the subject of the probation was improved or solved.

The probation counselor may include in the probation plan measures to strengthen the social network around the subject of probation and his or her family, such as:

- 1) establishing connections with family and social environment, workplace, neighbors, friends, social service professionals;
- 2) identification of gaps in the support network and support needs;
- 3) identifying the resources through which the family can achieve its objectives;
- 4) sensitizing the members of the network on the situation of the subject of probation;
- 5) mobilizing the probation subject network by finding a trusted person.

Assistance and counseling is provided by the probation counselor of the probation office within the domicile / temporary residence of the subject of the probation. Assistance and counseling are applied after the process of psychosocial evaluation and investigations performed to establish the conclusion from which the following can be derived:

- 1) measuring the effects produced by the implementation of the probation plan;
- 2) continuing assistance on the basis of a renegotiated plan adapted to the situation or permanent abandonment of assistance as a result of success or failure;
- 3) determining whether the established probation plan was effective, whether the probation subject matter has been improved or resolved.

In order to provide assistance and counseling, the probation office collaborates with community actors in the social network: employees of internal affairs bodies, prosecutor's offices, penitentiary institutions, local public administration, social protection, educational, medical institutions, religious communities, territorial employment agencies and public associations to direct the probation subjects to specialized institutions.

If the subject of probation accepts the assistance services provided by public authorities, non-profit organizations or a specialist in the field, the probation counselor refers him to the institution or person concerned.

Supervisory actions are included in the probation plan. The actions of supervision of the probation subjects are performed by: a) visits at home, at the residence, at the place of work and studies; b) meetings; c) control at the competent bodies regarding the commission of contraventions and crimes; d) checking the crossing of the state border; e) electronic monitoring; f) other actions provided by the legislation.

The probation system carries out probation programs for correcting social behaviour that consist of changing behaviour, visions and abilities that led to the crime and social reintegration programs that consist in regaining the ability to solve the problems of daily social life.

The probation system in the Republic of Moldova has developed 11 probation programs, which comply with European standards, with a well-organized structure, based on research on the causes and remedies for criminal behaviour. The probationary programs carried out by the counselors are applied after the initial assessment of the probationary subject, respecting the eligibility criteria, the principles of risk, needs and responsibility, i.e. the intensity and duration of the intervention is correlated proportionally to the identified risk of recidivism. The programs are focused on the identified criminogenic need (target, treat those needs that are directly related to the crime), correspond to the learning style of the subject.

Probation programs are carried out individually and/or in groups.

The National Probation Inspectorate carries out the following types of probation programs:

- Psychosocial assistance program at the pre-sentence stage (individualized);
- Intervention program for preparation for the release of detainees from the penitentiary;
- Probation program for minors. Civic and vocational training for you and the community;
- Programs to reduce aggression;
- Cognitive-behavioural programs;
- Psychoeducational intervention programs for substance users.

Probation programs are evaluated within the coordinating board and approved by order of the NPI director. The type of probation program and its necessity is established by the probation counselor, after the psychosocial assessment and the risk of recidivism.

Probation programs for probation subjects are conducted directly or in collaboration with community institutions, by the probation office, after the court applies the obligation “*to participate in probation programs.*”

If it is necessary to include the subject of probation in the probationary program, but the subject of probation refuses, then the probation counselor, sends in an application and asks the court to issue a decision on the application of the obligation “*to participate in the probationary program*”.

Probation programs are carried out by probation counselors who have been trained in their application. After the completion of the probation program, the probation counselor draws up an assessment of the subject of the probation to determine the increase or decrease of the behaviour targeted by the specifics of the program and the impact of the program on the conduct of the person as a whole.

If, during the probation period, it is necessary to change the probation program, the probation counselor involves the subject of the probation in the probation program.

An important technique used during the probationary program is the motivational interview, a way of counseling directed towards the beneficiary. The motivational interview has a positive and understanding approach, it is not based on judging or provoking the person, but on the contrary the desire for change comes from the beneficiary and is not imposed by the counselor.

The principles of the motivational interview are based on the confidence that each person has a potential for change, and the role of the probation counselor is to release this potential using the natural process of change.

The motivational interview, as a method, was born in the Republic of Moldova, following debates attended by Norwegian psychologists. In the case of alcohol abuse, the method has proven to be effective especially with people who do not want change. Within the Territorial Probation Offices, probation advisers are specialized in the directions in which they work:

- Minors and pre-sentence activity;
- Unpaid community work;
- Surveillance;
- Probation programs.

Every six months, probation counselors are trained in professional development in areas of activity: ensuring the execution of unpaid community work, implementation of probation programs, supervision of obligations, work with minors and pre-employment, resocialization of drug users and family aggressors, electronic monitoring, and so on.

The legislation on probation was elaborated and approved according to the case management model, but the internal normative acts do not include the concept of management / case manager. Depending on the assessments made, the probation officer shall determine the frequency of supervision, assistance and counseling.

Also, the legislation on probation, in the last decade, has undergone multiple modifications and completions, being improved and developed the fields of intervention.²⁶

7. Finances, Accounting, Registration Systems and Evaluation Procedures

Relevant Probation Rules

Probation agencies shall be accorded an appropriate standing and recognition and shall be adequately resourced. (Rule 10)

Probation agencies shall be subject to regular government inspection and/or independent monitoring. (Rule 15)

Probation agencies shall act in a manner that earns the respect of other justice agencies and of civil society for the status and work of probation staff. The competent authorities shall endeavour to facilitate the achievement of this aim by providing appropriate resources, focused selection and recruitment, adequate remuneration of staff and good management. (Rule 21)

Revision of existing laws, policy and practice shall be based on sound scientific knowledge and research that meets internationally recognised standards. (Rule 105)

The probation activity is financed from the state budget and from other sources not prohibited by law. The probation service in the Republic of Moldova since its establishment has had insufficient

²⁶ Thus, new provisions and working tools were approved: the Law on probation no. 8/2008, with subsequent amendments of December 31, 2015, the Regulation on the execution of the criminal penalty in the form of unpaid community work, approved by the Decision of the Government of the Republic of Moldova, no. 1643 of 31.12.2003, with subsequent amendments of 22 June 2018, the Regulation on electronic monitoring of persons, approved by Government Decision no. 1322/2016, the Regulation on probation planning, approved by order of the Minister of Justice no. 347/2019, Regulation on how to prepare the pre-sentence report on psychosocial personality assessment, approved by order of the Minister of Justice no. 299/2018.

resources for the rapid development of probation phases, improving support services provided to beneficiaries, increasing the professionalism of probation counselors not being recognized as a key element in the criminal justice system. Among the basic problems were: the insufficient budget of the NPI (goods / services / fixed assets), the low salary of the employees of the probation bodies, the staff fluctuation due to the salary level that does not adapt to the rhythm of the labor market, etc. These problems were gradually alleviated with the adoption of Law no. 270/2018 on the unitary salary system in the budgetary sector and subsequently the annual budget of NPI being doubled.

7.1. Finances

NPI is funded in accordance with the Law on State Budget which is approved annually by parliament. NPI funding is negotiated with the Ministry of Justice and the Cabinet of Ministers.

There are no other sources of funding. The budget is divided into several segments: staff costs, goods and services, operating expenses and capital investments, etc. The amounts allocated to these segments can be changed only by amending the Law on Budget, which is usually made once a year. Financial resources that were not used during the budget year are returned to the State Treasury. The responsibility for using the allocated budget rests with the director of the NPI. He has the competence to sign contracts for the purchase of goods and services. In order to verify the legality of the expenditure from the state budget, NPI like other governmental organizations is regularly audited by the Financial Inspection.

In 2019 the budget allocated to NPI was approximately 39,694 mln lei (approximately 1,98 million euros), in 2017, it was approximately 29,685 mln lei (approx. 1,5 million euros), in 2015 it was reduced to approximately 23,597 mln lei (approx. 1,1 million euros)²⁷, being insufficient for the proper functioning of probation system.

Also, the Government Decision established a temporary moratorium on staffing in vacant positions, in public authorities and institutions financed from the state budget, starting with November 30, 2018 and maintained until December 31, 2021.²⁸

²⁷ State budget law, annex 3.

²⁸ Government decision to establish a temporary moratorium on the employment of staff in the budget sector in registered vacancies.

	Probation Services (2020)	Prison System (2020)
Total current yearly expenditure	424,83 million lei (approx. 2,1 million euros)	979,093 million lei (approx. 49,9 million euros)
Average number of employed staff	305	2951
Daily average number of offenders/clients dealt with	33	18,3

7.2 Accounting

Each year, the NPI submits a detailed report to the Ministry of Justice on the use of the public budget. This report together with the reports of other subordinate institutions is presented to the Ministry of Finance. The report on the execution of the budget together with the achievement of the performance indicators is presented every six months and annually to the Ministry of Justice.

The audit service of the Ministry of Justice monitors the legality of spending public money. Also, the financial activity of NPI is verified by the Financial Inspection subordinated to the Ministry of Finance and the Court of Accounts of the Republic of Moldova.

7.3 Registration Systems and Evaluation Procedures

The first electronic system for recording probation subjects was created in 2014 in the probation system. This electronic register allowed each probation office to record the judgments, subjects and penalties applied. The electronic system was inefficient because it did not allow the generation of statistical reports according to the needs of the probation authorities, and search engines did not exist. Also, the legislation on probation has been revised, the categories of probation customers have been expanded with the addition of new ones, the database becoming more and more dysfunctional.

Thus, in 2019 the electronic system was replaced, being developed jointly with the General Inspectorate of Police. The electronic system is being piloted in the probation system. Until now, the elaboration and approval of the concept and of the Regulation of operation of the electronic record system is in process. The database contains all the information about the execution of the court decision and the probation activities with the convicted person. Each Probation Office has access with created users who enter daily the information received or the activities performed, these being viewed and administered by the central apparatus. This electronic system is for internal use and all information about offenders in probation records is stored here. Statistical reports can be generated by the electronic system, according to the indicators requested and presented to the data beneficiaries.

At present, the database is not interconnected with other interoperability platforms, as the system is not yet approved by a government decision, nor is there a single functional interoperability platform at government level.

8. Societal Support and Clients' Views

Relevant Probation Rules

The competent authorities and the probation agencies shall inform the media and the general public about the work of probation agencies in order to encourage a better understanding of their role and value in society. (Rule 17)

The media and the public shall be provided regularly with factual information about the work carried out by probation agencies. They shall be informed about the purposes and results of the work in order to encourage a better understanding of their role and value in society. (Rule 106)

The competent authorities shall be encouraged to publish regular reports on developments in the field of probation. (Rule 107)

Statements of policy and practice of probation agencies shall be made available to other agencies, to service users and to the general public, both nationally and internationally, in order to promote confidence and improve probation standards and practices. (Rule 108)

The NPI publishes periodically (half-yearly / annually) the balance report of the probation activity²⁹ on the web page, in order to inform the general public about the probation activity. All events of public importance are covered by the media and are in constant communication with the NPI, which are visible on the website. Any information requested by media companies is provided in compliance with the Law on Access to Information³⁰ and the Law on the Protection of Personal Data³¹.

Within the NPI, there is a subdivision that directly informs the public and the media about the activity of the public authority and ensures inter-institutional communication.

NPI attaches equal importance to internal communication and external communication, realizing their harmonization as a premise for achieving communication objectives, likely to lead to an efficiency of the institution's activity and a positive perception of it among the general public.

²⁹ The balance report of the probationary activity <http://probatiune.gov.md/rapoarte-de-bilant>.

³⁰ Law no. 982/2000 on access to information. Published: 28.07.2000 in the Official Gazette.

³¹ Law no. 133/2011 on the protection of personal data. Published: 14-10-2011 in the Official Gazette.

8.1 Societal Support and public opinion

Crime safety is a task that can only be accomplished if there is an effective interaction between the community and the probation service.

Studies on society's views on the activity of probation services were conducted several years ago. Thus, a 2011 monitoring report by IRP shows that few members of the community know very well the activity of the probation service (approx. 21%).

The majority - 52% - know little or nothing about this activity. Most respondents indicated as sources of information about the probation service acquaintances, colleagues, friends, relatives and the media. In the monitoring process, 127 questionnaires were completed by community members from various regions.

Currently, the visibility of the probation service is much better, given the achievement of multiple purposes in the interests of society and actions in interaction with society.

Activities to promote the activity of the probation service are included annually in the policy documents. The action plan of the Strategy for the development of the probation system for the years 2016-2020 contains specific actions to promote the probation activity among the general public, the law enforcement bodies and the representatives of the local public administration.

NPI also implemented the Communication Strategy with the public during 2014-2018, the aim being to create an effective link with society and probation service partners through media institutions, civil society, government institutions, public associations, partners national as well as international.

Communication with target groups is done in the following methods:

- posting press releases, news, reports, announcements on the NPI website (www.probativne.gov.md);
- dissemination of brochures, information materials on the activity of the probation institution;
- launching commercials and information campaigns (on TV, Radio and print media);
- placing on the NPI website the reports and records on the probation activity;
- organizing seminars, round tables, international conferences and training in the field of probation;
- participation of NPI collaborators in TV, Radio shows, debates, etc.
- organizing press conferences through the involvement of the media;
- stimulating continuous dialogue and exchange of views with probation partners.

8.2 Client's Views

The same research report from 2011, conducted by the IRP that was indicated above, reveals that the attitude of probation clients towards the activity of probation counselors is positive, but we know that there is always room for improvement. Thus, 63% of customers indicated a positive attitude, and 5% of customers - a negative one. However, 32% of respondents reported a neutral attitude. Research indicates that the majority of clients (60%) consider the work of probation counselors to be effective compared to 19% who consider it to be ineffective. More than three-quarters of probation clients indicated that probation counselors fully respected their rights (compared to 5% who disagreed). Also, according to probation clients, 45% were helped by probation counselors in search of a job and in only 23% of cases did they take concrete action to solve certain problems. Various methods and techniques for collecting information were used in the monitoring process, including document analysis, statistical data analysis, questionnaires and interviews with probationary beneficiaries (370 completed questionnaires from different regions).

9. Probation Clients' Rights

Relevant Probation Rules

There shall be accessible, impartial and effective complaint procedures regarding probation practice. (Rule 14)

In all cases, the complainant shall be duly informed of the process and the findings of the investigation. (Rule 101)

Formal and clear rules regarding professional confidentiality, data protection and exchange of information shall be provided by national law and shall be specified whenever such partnerships are established. (Rule 41)

Records are subject to principles of confidentiality and data protection as set out in national law. Confidential information shall only be shared with other relevant agencies based on strict procedures of handling and used for clearly defined purposes. (Rule 89)

Offenders shall have access to case records kept about them to the extent that this is foreseen in national law and does not infringe the right to privacy of others. The offenders shall have the right to contest the contents of these records. (Rule 92)

The Republic of Moldova complies with the European rules of probation regarding the rights of the subjects of probation. Thus, the rights of probation clients are specified in several normative acts: the

Law on probation and the Enforcement Code. Thus, probation clients have the right: a) to request and receive information about the conditions of supervision; b) to request and receive information about assistance and counseling; c) to request and receive explanations regarding their rights d) the right to address petitions (requests, complaints, proposals, notifications) to the administration of the institution or body ensuring the execution of the sentence or hierarchically superior bodies, court, prosecutor's office, central and local public administration authorities, public associations, other institutions and organizations, including international.

All the rights and responsibilities of the probation client and the probation counselor are explained at the first meeting with the case manager.

The Law on probation and the Regulation on Probation Planning state that the subject of probation has the right to consult the contents of the personal probation file. The defense counsel, the mediator, the representatives of the organizations carrying out activities in the field of respect for human rights or the protection of convicted persons may consult the content of the probation file, upon request and only with the written consent of the subject of probation. The consultation of the personal probation file is made in the presence of the probation counselor appointed responsible for the case, and in his absence in the presence of a person appointed by the head of the probation office.

Probation clients have the right to file a complaint with the hierarchically superior authority in case of illegal actions by a probation counselor. The procedure against the decisions or acts of civil servants is established in general order by the Administrative Code of the Republic of Moldova³². This is also applied by the NPI because it is a public institution and workers have the status of civil servants.

The decision of the probation counselor can be appealed to the head of the territorial probation office, and, if the decision is maintained, it is challenged to the NPI director, whose decision is final. The decision taken by the NPI director can be challenged at the Ministry of Justice, as a hierarchically superior authority. If the Ministry of Justice does not annul the decision of the NPI director, the subject of the probation may file an appeal in the administrative contentious court in accordance with the Administrative Code. Probation clients can address directly to the ombudsman institution in the Republic of Moldova regardless of race or ethnic origin.

The Law on the Protection of Personal Data ensures the protection of the fundamental rights and freedoms of the natural person with regard to the processing of personal data, in particular the right to the inviolability of personal, family and private life. All employees of probation bodies make a written commitment to keep and not disclose personal data illegally. The law stipulates the obligation not to

³² Administrative Code of the Republic of Moldova, no. 116/2018. Published in the Official Gazette on August 17, 2018.

disclose personal data even after dismissal. The only exceptions to the disclosure of data are those permitted by law.

The Law on State-Guaranteed Legal Aid³³ was adopted in the Republic of Moldova, given the need to protect the right to a fair trial, including the need to ensure free and equal access to legal aid, by organizing and providing state-guaranteed legal aid, by reducing economic-financial impediments from the access to justice. State-guaranteed legal assistance is provided by: a) providing information, consultations and explanations on legal issues; b) preparation of legal documents; c) representation before the public administration authorities; d) defense of the interests of the suspect, the accused, the defendant in criminal proceedings; e) defense and representation of the convict's interests; f) defense and representation of the interests of child victims of crimes, g) defense of the interests of the person in the proceedings for misdemeanor cases; h) defense and representation of the person's interests within the civil process k) defense and representation of the person's interests in the administrative contentious court.

Also, the Code of Criminal Procedure of the Republic of Moldova³⁴ provides for the right to an interpreter. Thus, the person who does not possess or does not speak the official language has the right to get acquainted with all the documents and materials of the case, to speak before the criminal investigation body and in court through an interpreter. Participants in the procedure for the execution of court decisions, if they do not speak the official language, have the right to get acquainted with the documents of the execution procedure and to speak through an interpreter.

10. Developments to be expected

10.1 Developments in coming years

Currently, the National Probation Inspectorate does not have an Assistance Center for probation beneficiaries. Thus, NPI aims to create a day center for the beneficiaries of probation for social, psychological, legal assistance. Thus, based on the *Feasibility Study on the creation of day centers for the reintegration of beneficiaries of the probation service of the Republic of Moldova (January*

³³ Law no. 198/2007 on state-guaranteed legal aid. Published: 05-10-2007 in the Official Gazette.

³⁴ Code of Criminal Procedure of the Republic of Moldova, art.16. Published in the Official Gazette on 05.11.2013.

2021)³⁵, developed with the support of the Council of Europe Program, it is recommended the creation of Regional Centers.

The problem addressed in this project derives from the need to ensure the quality of the process of social reintegration of probation subjects which is not approached as a complex process. For this reason, the resocialization efforts made by each individual institution do not have an expected result, as the process is often not coordinated, efficient and coherent, a rupture that makes it impossible to ensure the continuity of measures and actions taken by each state institution or civil society.

In order to create the Assistance and Counseling Center as a structural subdivision of NPI, the National Probation Inspectorate obtained the support of external partners in providing logistics for the functionality of the Center by obtaining financial support from the Council of Europe and the German Cooperation Agency (GIZ).

Regulating the status of the probation counselor in relation to current and future responsibilities.

Based on the system problems encountered, the high rate of certain categories of crimes, policy documents at national level that include actions in the field, the recommendations of external partners, the National Probation Inspectorate aims to achieve several objectives in order to strengthen and streamline the probation system, the development of the concept of restorative justice, the increase of the competencies of the probation counselor and the increase of the responsibility in the exercise of the function, aspects that would produce the change of the status of the probation employee.

With reference to the modification and completion of the normative framework, the National Probation Inspectorate has submitted multiple proposals for consolidating the probation system and increasing the role of the probation counselor in the act of justice. Thus, in order to change the status of the probation counselor, it is imperative to assign the competencies that would generate the increase of responsibility in the executive-criminal field and to assume some fundamental functions related to the social rehabilitation of the person.

³⁵ Feasibility study on the creation of day centers for the reintegration of beneficiaries of the probation service of the Republic of Moldova, prepared by the Council of Europe: <http://probatiune.gov.md/>.

Concluding reciprocity probation agreements with neighboring states.

In connection with the fact that the Republic of Moldova is only a member state of the Council of Europe, not having the status of a member country of the European Union, by Law no. 131 of 11.07.2014, the Republic of Moldova has accepted the Convention on the supervision of conditionally sentenced or conditionally released prisoners, drawn up in Strasbourg on November 30, 1964.

However, several Council of Europe member states are not party to the Convention, which will make it difficult to enforce sentences involving foreign nationals, or citizens of the Republic of Moldova who have dual citizenship and settle permanently in foreign countries.

11. Important Publications

Annual report of the Ministry of Justice (2019)³⁶

The annual activity report of the Ministry of Justice includes the chapter: *Organization and functioning of probation bodies* which annually indicates a record of the activity of the National Probation Inspectorate in the fields of i. Electronic monitoring and ii. probation programs.

Dolea I., Zaharia V., (2011). *Probation in the Republic of Moldova. Monitoring report*, Bons Offices, Chisinau, 100 p.

This publication reflects the views of probation and community clients on the work of probation counselors and their attitudes towards alternatives to detention.

Johnson, G. (2015), *EU Report on the Use of Electronic Crime Monitoring, Pictographic*, 52 p.

The report provides an overview of the use of e-Monitoring of European criminals and provides an analysis of the evaluation and impact of Community service programs.

³⁶ <http://www.justice.gov.md>. Activity_report for the year_2019.pdf.

Council of Europe, SPACE II, Luxembourg (2015-2019)³⁷

The Council of Europe Annual Penal Statistics, or SPACE (Statistiques Pénales Annuelles du Conseil de l'Europe) cover two projects. SPACE I provides data on imprisonment and penal institutions in Member States while SPACE II collects information on non-custodial sanctions and measures.

List of books and references

- Zaharia, V., Stey H-G. (2011), *Manualul consilierului de probațiune*. Cu drag SRL, Chișinău, 152 p.
- Zaharia, V., Popa, Vl. (2009), *Ghidul consilierului de probațiune*, Bons Offices, Chișinău, 220 p.
- Ciobanu, V., Rotaru, V. (2009), *Justiția Juvenilă. Instituția probațiunii în sistemul de drept al Republicii Moldova. Medierea penală*, Institutul Național al Justiției, Elan Poligraf, Chișinău, 296 p.
- Bolocan-Holban, A., Mihailov-Moraru, V. (2018), *Rolul referatului presentințial la aprecierea personalității făptuitorului*, Asociația pentru Justiție Penală Participativă, Chișinău, 56 p.
- Trocin, O., Csatlos-Dima, I. (2010), *Ghidul consilierului de probațiune specializat în lucrul cu minorii*, Bons Offices, Chișinău, 138 p.

³⁷Annual statistics on probation:

https://www.coe.int/fr/web/prison/home/-/asset_publisher/ky2olXXXogcx/content/council-of-europe-publishes-annual-statistics-on-probation?inheritRedirect=false.

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

National Probation Inspectorate of Moldova

1, Vasile Alecsandri Street

MD-2009, Chisinau, Republic of Moldova

Phone: 00373 22280978

www.probativne.gov.md

probativne@probativne.gov.md

Ministry of Justice of Moldova

82, 31 August 1989 Street,

MD-2012, Chisinau,

Phone: 00373 22201431

www.justice.gov.md

secretariat@justice.gov.md

National Administration of Prisons

35 Titulescu Street,

MD-2032, Chisinau, Republic of Moldova

Phone: 00373 22409717

Fax. 00373 22409788

www.anp.gov.md

anp@anp.gov.md

ANNEX 1



SUMMARY INFORMATION ON PROBATION IN MOLDOVA



General Information

- Number of inhabitants: 3,5 million
- Prison population rate per 100,000 inhabitants: 166,5
https://wp.unil.ch/space/files/2021/04/210330_FinalReport_SPACE_I_2020.pdf.
- Link to Probation Service: www.probatune.gov.md
- Links to websites: www.justice.gov.md (Ministry of Justice)
- Member of the CEP in: 2012

Characteristics of the Probation Service

The probation bodies are constituted by the National Probation Inspectorate and its territorial subdivisions. The National Probation Inspectorate is an administrative authority subordinated to the Ministry of Justice.

The National Probation Inspectorate has the status of a legal entity, has a treasury account, stamp with the State Coat of Arms and its own name

The National Probation Inspectorate fulfills its attributions on the entire territory of the Republic of Moldova through its territorial subdivisions, whose activity it organizes, coordinates and controls in accordance with the legislation.

The territorial subdivisions of the National Probation Inspectorate are the regional probation inspectorates north, center and south and 38 probation offices set up in each second level territorial administrative unit.

The activity of the probation offices is organized according to the directions of activity: a) the pre-sentence and juvenile probation; b) community, penitentiary and post-penitentiary probation; c) monitoring the execution of the punishment with unpaid community work and other alternative punishments to detention.

Tasks

- To draw up reports for psychosocial evaluation of the personality of the suspect, accused and defendant, at the request of the interested bodies
- To ensure the execution of court decisions regarding unpaid work community and deprivation of the right to hold a certain position or to exercise a certain activity
- To exercise the control of the convicted persons who have the obligation established by the court
- To provide assistance and counseling to the subjects of probation, at their request
- To coordinate the activity of execution of educational measures
- To implement social adaptation programs for persons released from criminal punishment
- To set up workshops for the execution of punishment in the form of unpaid community work
- To carry out preparatory activities for the release of detainees in penitentiary institutions
- To collaborate with the law enforcement bodies, as well as with the central and local public administration authorities

Number of staff (average numbers in 2021)

- Probation officers:	238
- Probation managers, all levels: ³⁸	72
- Administrative support staff, all levels:	12
- Community service supervisors:	---

Total: 252 (at local level) + 53 (at central level) = 305

- Daily average number of offenders dealt with: >33

³⁸ The managers of the territorial offices are also probation counselors.

New developments

In recent years, the National Probation Inspectorate has implemented the Strategy for the development of the probation system (2016-2020), which led to the following achievements:

I. Development and strengthening of institutional capacities: a) Development of the legislative framework of operation of the probation system; b) Organization of regional probation inspectorates; c) Development of instructive-methodical centers; d) Creation of the Electronic Monitoring Center and extension of the application of electronic monitoring e) Establishment of community service workshops. f) Development of the material base.

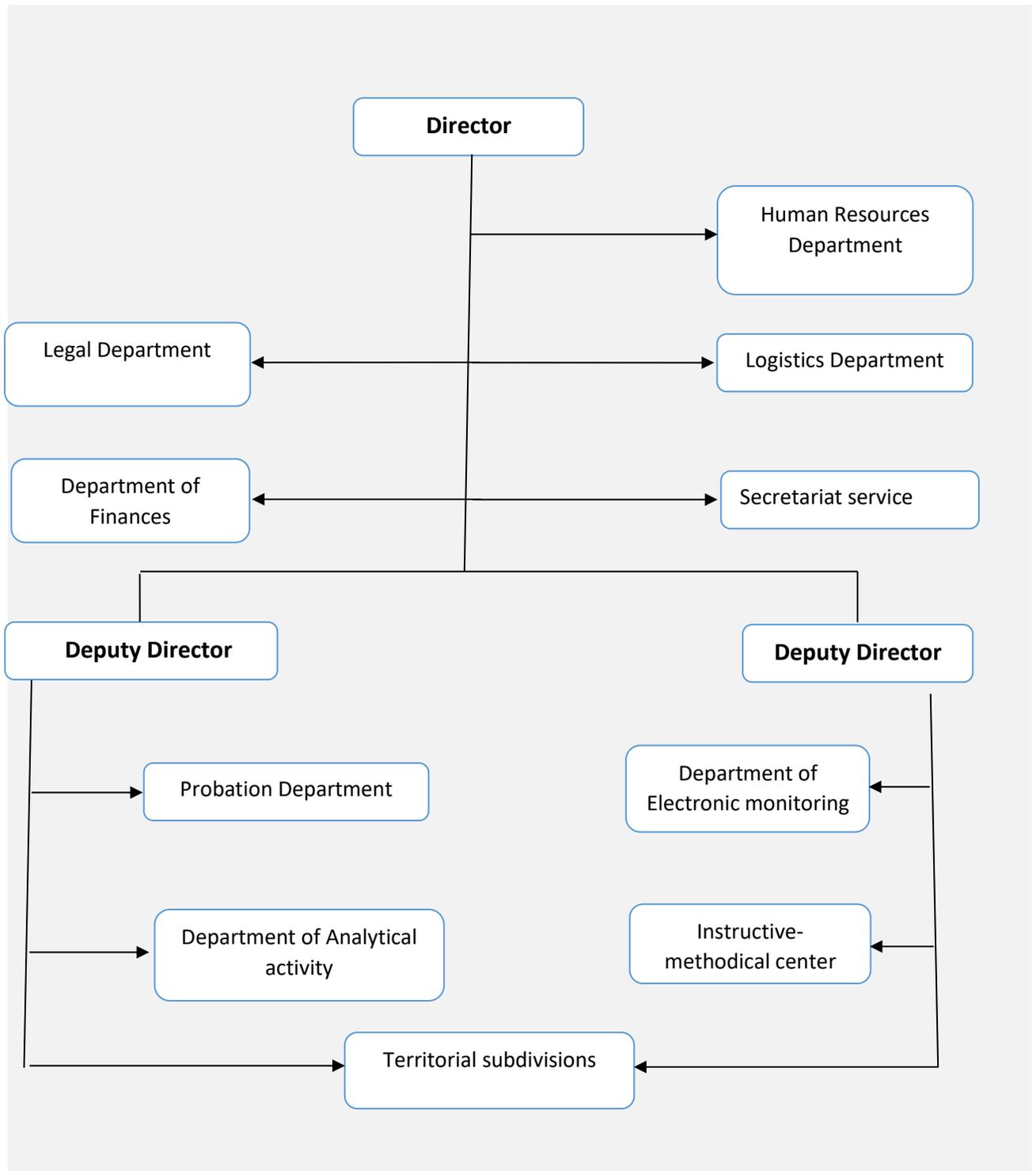
II. Strengthening the probation activity: a) Approval of multiple working methodologies (clear and simplified procedures, tools, classification of convicted persons), b) Development of probation programs. c) Recruitment of staff with psycho-social profile in the positions of probation counselor, d) Development of a mechanism for initial and continuous training.

III. Strengthening national and international partnerships and promoting probation work: a) Establishment of probation advisory council and district advisory councils.³⁹ b) Maintaining existing partnerships and establishing new partnerships.

<i>Probation during the different stages of the criminal procedure</i>	<i>Pre-Trial Phase</i>	<i>Trial and Enforce-ment Phase</i>	<i>Post Release Phase</i>
Preparing pre-sanction report	X		
Supervising etc. sanction of probation		X	X
Supervising etc. conditional sentence		X	X
Supervising etc. special measures drug addicts		X	X
Supervising etc. community service		X	X
Supervising training or learning projects	X	X	X
Interventions with young offenders	X	X	X
Supervising etc. suspended sentence		X	
Assistance/support of offenders in prison/detention		X	
Preparing pre-release reports, prisoners		X	
Supervising conditional release/parole			X
Supervising post custody, sex offenders			X
Preparing victim impact reports		X	

³⁹ Regulation on the organization and functioning of the Probation Advisory Council, approved by the order of the Ministry of Justice no. 529/2017.

ORGANIZATIONAL CHART
of the National Probation Inspectorate



ANNEX 3

The structure of the pre-sentence report

1. The pre-sentence report includes information on:

- 1) the psychosocial profile of the suspect, the accused, the defendant, the family environment, as well as the evolution of the person from an educational and professional point of view;
- 2) social environment, mobility (geographical, social, professional);
- 3) social and individual problems, including psycho-emotional problems that the person faces;
- 4) health problems, addictions with criminogenic impact;
- 5) attitude towards the deed, consequences, victim.

2. The pre-sentence report is structured in six chapters as follows:

1) Introduction:

- a) the name and surname of the suspect, accused or defendant;
- b) date, month and year of birth;
- c) domicile or residence;
- d) the legal qualification of the deed for which the person is suspected, accused or charged;
- e) the body that requested the elaboration of the pre-sentence report;
- f) the date of requesting the elaboration of the pre-sentence report;
- g) the name and surname of the probation counselor who drew up the pre-sentence report.

3) Sources of information:

- a) sources contacted;
- b) documentary sources.

3) Data on the personality of the suspect, the accused or the culprit:

- a) family and social environment, which describe the areas of well-being (safety, health, achievement, degree of supervision and care in the family, self-respect, responsibility, inclusion);
- b) level of training;

- c) employment.
 - 4) Data on the behaviour of the suspect, accused or culprit before and after the alleged act.
 - 5) Factors that influence or may influence the general conduct of the person for whom the preparation of the pre-sentence report was requested:
 - a) factors likely to inhibit the development of criminal behaviour;
 - b) factors likely to accentuate the development of criminal behaviour.
 - 6) Prospects for reintegration into society.
3. The sources of information that were used in the preparation of the pre-sentence report shall be summarized, indicating both the persons with whom the meetings took place and the documents consulted. Sources of information include:
- 1) number of meetings;
 - 2) refusal to cooperate.
4. In the case of minors, the pre-sentence report contains data on the manner in which the parents or other legal representatives fulfill their obligations regarding their upbringing, education and supervision.
5. The prospects for reintegration into society are estimated after analyzing all the data contained in the present statement and must be presented objectively and motivated. In order to establish the prospects for reintegration into the company, the probation counselor analyzes:
- 1) the degree of involvement of the person for rehabilitation;
 - 2) the degree of involvement of family members, as the case may be, of other legal representatives or other close persons in order to rehabilitate the person;
 - 3) the opportunities that the person has regarding the studies or the occupation of a job or the involvement in some treatment and rehabilitation programs;
 - 4) educational or probationary programs in which the person may be included for the purpose of rehabilitation.

6. The probation counselor formulates his conclusions regarding the opportunity or inopportuneness of applying a certain criminal measure in relation to the personality of the evaluated person, the need for probation or educational programs.