



This journal provides immediate open access to its content under the [Creative Commons BY 4.0 license](#).
Authors who publish with this journal retain all copyrights and agree to the terms of the above-mentioned CC BY 4.0 license

DOI: 10.2478/seeur-2025-0055

PROBATION AS A NECESSITY IN THE REPUBLIC OF NORTH MACEDONIA

Betim Jahja, PhD (c)
LAW Faculty, South East European University
Tetovo, North Macedonia
b.jahja@seeu.edu.mk

Ismail Zejneli
LAW Faculty, South East European University
Tetovo, North Macedonia
i.zejneli@seeu.edu.mk

ABSTRACT

As a result of the shortcomings that accompany the enforcement of institutional measures and sanctions on perpetrators of criminal offences, a system of community-based sanctions and measures has emerged. These are intended to relieve the criminal and penal system, maximize the principle of individualization, improve the reintegration of offenders into society, reduce recidivism, and protect society. The organizational units that implement such measures and sanctions are known as probation services.

This paper analyses international standards, the emergence and development of probation, a comparative analysis, and the establishment of probation under the Law on Probation in the Republic of North Macedonia, as well as perspectives for the full and effective functioning of the probation service. The probation service is a special organizational unit formed within the Administration for the Execution of Sanctions under the Ministry of Justice.

The probation service is tasked with implementing community-based penalties, including measures such as suspended sentences under supervision, community work, and home confinement. It also follows the enforcement of conditional release decisions issued by the courts. Through its activities, the service assists offenders in their social reintegration and rehabilitation, contributing to public safety and the reduction of the prison population. In addition, the service prepares assessments of the risk level of defendants during ongoing criminal cases and provides the court with recommendations regarding the appropriate form of sanction.

Keywords: probation, probation service, reintegration

INTRODUCTION

BASIC CONCEPTS AND INTERNATIONAL STANDARDS

Modern conditions for the implementation of institutional measures and sanctions, in Macedonia and more broadly, are marked by many shortcomings, such as the excessive duration of criminal proceedings, the large number of detainees in the prison population, overcrowded prisons, and the high costs of correctional institutions, insufficient post-penal treatment and community support, and high rates of recidivism.

Most countries, faced with such problems, have moved toward the development of community-based sanctions and measures aimed at relieving the penal and penitentiary systems, maximizing the principle of individualized sentencing based on assessments of the offender's needs and risks, improving their reintegration into society, and reducing recidivism and costs. To achieve these goals, the need was recognized for establishing specialized organizational structures known as probation systems. Thus, probation as a concept has surpassed its original meaning and today (as a system) encompasses all probation activities undertaken at different stages of criminal proceedings and the enforcement of sanctions.

Interest in affirming non-institutional measures and sanctions is also evident in international documents that seek to establish standards and good practices. Among the most important are United Nations Standard Minimum Rules for Non-custodial Measures, adopted by the General Assembly in 1990, so called **Tokyo Rules**¹. The Tokyo Rules are structured into eight chapters, which highlight key aspects of criminal justice system and the essential elements for the effective application of alternative measures and sanctions:

1. General principles
2. Pre-trial stage
3. Trial and sentencing
4. Post-sentencing stage
5. Application of alternative measures
6. Personnel
7. Volunteers and other community resources
8. Research, planning, policymaking, and evaluation

The main objectives of the Rules are:

- encouraging the wider use of non-custodial measures as humane and effective alternatives to imprisonment, while ensuring adequate legal safeguards for persons subject to them;
- fostering active participation of the community in the criminal justice process and strengthening the offender's sense of social responsibility;

¹United Nations Standard Minimum Rules for Non-custodial Measures (The Tokyo Rules) Adopted by General Assembly resolution 45/110 of 14 December 1990

- ensuring that such measures are implemented in a manner consistent with each state's political, economic, and cultural conditions;
- maintaining a balance between the protection of victims' rights, offenders' rehabilitation, and the broader interests of public safety; and
- Promoting penal policies that priorities proportionality, human rights, and social reintegration over excessive reliance on custodial sanctions.

Beyond the global level, the need for the development and affirmation of probation is also present regionally. The Council of Europe has adopted a number of documents for the establishment and promotion of probation measures and sanctions, including²:

- European Convention on the Supervision of Conditionally Sentenced or Conditionally Released Offenders (1964)³
- Recommendation R(92)16 on the European Rules on community sanctions and measures⁴
- Recommendation R(97)12 on staff responsible for implementing these sanctions and measures⁵
- Recommendation R(99)19 on mediation in penal matters⁶
- Recommendation R(2000)22 on improving the implementation of the European Rules on community sanctions and measures⁷
- Recommendation R(2003) on conditional release, which urges member states to establish and operationalize probation services⁸

According to the European Probation Rules⁹, probation refers to the practical application of community-based sanctions established by law and ordered by the courts. It encompasses a variety of activities, including supervision, counseling, and support, all aimed at facilitating the offender's reintegration into society and enhancing public safety. In addition, the Rules define the probation service as "a body with a legal mandate to carry out the aforementioned responsibilities and obligations."

In many European Union member states—including the Netherlands, Belgium, Slovakia, Austria, and the United Kingdom—probation institutions operate as integral elements of their respective criminal justice systems. Moreover, in the majority of EU member states, probation institutions assist the judiciary by compiling pre-sentence reports or gathering background information about defendants for the court's consideration, thus providing judges with necessary information about the character and social ties of defendants when determining the most appropriate measure to secure their presence during criminal proceedings¹⁰.

²Kambovski, V., Criminal Law – third substantive part, Kultura, Skopje, 2006 година

³ <https://rm.coe.int/168006ff4d>

⁴ <https://search.coe.int/cm?i=09000016804d32f8>

⁵ <https://rm.coe.int/16804e8c38>

⁶ <https://search.coe.int/cm?i=090000168062e02b>

⁷ <https://rm.coe.int/16804e8c38>

⁸ <https://search.coe.int/cm?i=09000016805df03f>

⁹ <https://rm.coe.int/16806f54e6>

¹⁰For extensive information see: Kalmthout, A.M.; Durnescu, I. (eds.). Probation in Europe, Wolf Legal Publishers, 2009

According to the basic principles contained in the European Probation Rules, it is clear that great importance is attached to probation in terms of the resocialization of offenders and the protection of society, based on the rehabilitative doctrine of punishment, which rests on the belief that people can change. A restorative orientation of the Rules is also evident, reflected in their focus on the offender, the victim, and community safety.

COMPARATIVE ANALYSIS

Because of the differences in regulation and functioning, countries have different organizations of probation systems in terms of legal framework, structure and positioning, types of activities, competences, and more.

To provide a general overview of probation services in Europe, the basic features of several services will be presented, together with general data for those countries. The data include population size, prison population rate (number of prisoners per 100,000 citizens), characteristics of probation services, their tasks, and staffing¹¹.

Austria

- **Population:** 8.4 million
- **Prison population rate:** 103 per 100,000 citizens

Characteristics of the Probation Service

In Austria, the organization **NEUSTART** (*Association for Probation and Social Work*) functions as a private, non-profit entity financed by the Federal Ministry of Justice. Its activities are regulated by a framework agreement concluded in 1994, which outlines the respective rights and responsibilities of both parties. The organization's mission focuses on **preventing crime and mitigating its effects**, an approach realized through three main lines of action:

1. Assistance and support to victims
2. Rehabilitation and reintegration of offenders
3. Broader crime-prevention initiatives

Probation, viewed as a tool of special prevention, can be applied to both adult and juvenile offenders found guilty of criminal acts.

Tasks of the probation service:

Probation activities are ordered by the court or the public prosecutor. In addition, the Association also carries out the following activities: electronic monitoring, mediation in criminal proceedings, supervision of community service, post-penal assistance for individuals who have completed their prison sentences and are not subject to probation but voluntarily seek assistance with accommodation, assistance within

¹¹ Confederation of European Probation, <http://cep-probation.org/>

post-penal care in 2 of the 9 federal states, vocational training for probation clients, aftercare services, and victim support during criminal proceedings throughout Austria.

Staffing: A total of 429 full-time positions and 950 volunteers (nine services with 25 departments).

England and Wales

- **Population:** 56.1 million
- **Prison population rate:** 150 per 100,000 citizens

Characteristics of the Probation Service

In England and Wales, the probation system is responsible for supervising offenders aged 18 and above. Its functions are carried out under the **National Offender Management Service (NOMS)**, which coordinates correctional and rehabilitative activities. The central purpose of the probation service is to enhance public safety by preventing reoffending and supporting offenders' rehabilitation.

Tasks of the Probation Service

- **Preparation of court reports:** compiling pre-sentence assessments to support judges in determining suitable sanctions.
- **Supervision and case management:** monitoring individuals placed under community or release orders and designing tailored intervention plans that address factors linked to offending behavior while minimizing risks to others.
- **Implementation of programs:** organizing and delivering evidence-based rehabilitative activities, including accredited courses, and overseeing the operation of probation residences and hostels.

Staffing: A total of 17,881 employees: 5,073 probation officers, 4,707 probation service officers, 2,122 probation managers, and 5,206 administrative support staff.

From this general overview of probation services in the above-mentioned countries, it is clear that there are both similarities (such as organizational positioning within ministries of justice and types of probation work) and differences (such as working with minors and the implementation of probation by the private sector) compared to the probation system in North Macedonia. It is equally clear that there is no ideal organizational or substantive solution that could be uniformly applied across all countries.

Overview of Various Alternatives to Imprisonment

The following sanctions are foreseen as alternatives to imprisonment in modern legal systems:

- Monetary fine
- Other sanctions, including community-based sanctions and measures
- Conditional sentence
- Conditional release (parole)

- Restrictions such as house arrest, curfews, and bans enforced through technological means such as electronic bracelets and GPS
- Assistance and supervision programs—including drug treatment, drunk-driving and alcohol programs, anger management, and domestic violence programs
- Obligation to perform community service

Victim-orientated measures:

- Restorative justice
- Restitution, compensation, and mediation

PROBATION IN THE REPUBLIC OF NORTH MACEDONIA

In its efforts to more successfully incorporate European standards, the Republic of Macedonia carried out reforms in all areas of social life. With the amendments to the Criminal Code in 2004¹², significant changes were made in substantive criminal law, especially in the system of criminal sanctions, introducing alternative measures as a special category of sanctions alongside existing ones: suspended sentence, judicial admonition, exemption from punishment, and conditional release.

Types of Alternative Measures (introduced by the 2004 amendments to the Criminal Code of RNM)

- Suspended sentence
- Suspended sentence with protective supervision
- Conditional termination of criminal proceedings
- Community service
- House arrest

Measures Applied During Criminal Proceedings

- Suspended sentence
- Suspended sentence with protective supervision
- Conditional termination of criminal proceedings
- Community service
- House arrest
- Judicial admonition

Measures Applied After Imprisonment

- Conditional release (parole)

Procedural Measures before Sentencing

- Conditional deferral of criminal prosecution
- Waiver of criminal prosecution
- Restorative justice, plea bargaining, mediation

¹²Criminal Code of Republic of North Macedonia, Official gazette no. 19/2004.

- House arrest

The legislative amendments created a basis for the existence and application of alternative measures and marked a step toward establishing a probation system. However, in practice, they did not produce the expected results: the measures were not applied, and no effective body was created for their practical implementation.

3.1. Sentencing Policy of Macedonian Courts (2012–2015) Before the Law on Probation

Of the total number of criminal sanctions imposed, an average of 57.5% were custodial sentences, while 42.5% were alternative measures. Of all sentences, 55.5% were imprisonment, 40.8% fines, 1.7% driving bans, 1.4% additional fines, 0.5% expulsion of foreigners, and 0.1% bans on exercising a profession or duty.

Of the alternative measures imposed, 94.3% were suspended prison sentences, 3.4% suspended fines, and 2.3% judicial admonitions. Other measures (suspended sentence with protective supervision, conditional termination of proceedings, community service, and house arrest) were practically unused, except for two cases of community service in 2012. Notably, 65.14% of prison sentences were for six months to one year¹³.

3.2. Government Strategies before the Law on Probation

To increase the effectiveness of lighter sanctions, the government adopted two important strategies:

- **Strategy for the Development of the Probation Service (2013–2016):** This strategy, part of wider penal reform, aimed to establish a law on probation and create a functional probation service in Macedonia. It envisioned a “new, specialized, and sustainable service that would work with offenders in a structured way across all stages of the criminal process to help or compel them to live crime-free lives, thereby increasing community safety.”

- **National Strategy for the Development of the Penitentiary System (2015–2019):** Adopted in December 2014, it noted that alternative measures were not applied in practice and set as a strategic goal the establishment of a probation service.

3.3. The Adoption of the Law on Probation (2015)

The long-awaited reform culminated in the adoption of the Law on Probation in 2015.¹⁴

The law regulates probation tasks and the procedure for executing:

¹³Statistical data, State statistical office of Republic of North Macedonia, 2012, 2013, 2014, 2015.

¹⁴Law on Probation, Official Gazette, No. 226/2015

- Alternative measures (suspended sentence with protective supervision, community service, and house arrest)
- Obligations imposed during criminal proceedings
- Conditional release imposed by court decision
- The status of persons subject to probation measures
- Supervision of enforcement

Structure of the Law on Probation:

- 40 articles in four chapters:

Chapter I: General Provisions

Chapter II: Competences of the Administration in carrying out probation tasks

Chapter III: Status of persons subject to probation tasks

Chapter IV: Execution of probation tasks

The law provided the normative and institutional preconditions for applying alternative measures under the Criminal Code and procedural guarantees for their determination under the Criminal Procedure Code (Article 506).¹⁵

The legislator grouped probation tasks into two main categories:

1. **Execution of special obligations** during criminal proceedings, including risk assessments of the defendant, serving as a tool for courts in selecting sanctions, provided as recommendations through risk assessment reports.
2. **Execution of alternative measures** imposed by court decision: protective supervision with suspended sentences, community service, house arrest, and conditional release.

Strategy for the Development of the Probation Service (2021–2025)¹⁶

In 2021, the Strategy was adopted, foreseeing a wide range of results to be achieved by multiple institutions. This comprehensive strategic document serves as a roadmap for reforms aimed at reducing crime, strengthening public and community safety, and enhancing the resocialization and reintegration of offenders.

Between 2021 and 2022, the implementation of the strategy included:

- Drafting and adopting regulations (laws, amendments, and bylaws)
- Implementing specific activities (e.g., strengthening human and technical capacities of the probation service)

¹⁵ Criminal Procedure Code, Official Gazette, No. 150/2010.

¹⁶ <https://www.merc.org.mk/Files/Write/Documents/01087/мк/Стратегија-за-развој-на-пробациска-служба.pdf>

- Developing institutional cooperation in probation (roundtables with relevant institutions, quarterly meetings, etc.)

The strategy's action plan defined specific activities under each goal and result, with clear timeframes and indicators for implementation.

3.4. The Probation Service

The probation service operates as a specialized unit within the Administration for the Execution of Sanctions and functions under the authority of the Ministry of Justice of the Republic of North Macedonia.¹⁷ It supervises the enforcement of non-custodial sentences, specifically alternative measures such as suspended sentences accompanied by probationary supervision, unpaid community work, and home confinement, together with the enforcement of conditional release imposed by court decisions. The Probation Service supervises convicted individuals, supporting their rehabilitation to enhance community safety and help lower prison populations.

Probation officers are civil servants employed by the Administration for the Execution of Sanctions, Ministry of Justice. The service is composed of a multidisciplinary team of law graduates, psychologists, and social workers trained to perform probation tasks in accordance with national legislation and international standards. Convicted persons are required to contact the Probation Service if the court imposes on them a non-custodial sentence or measure, that is, if the court decision assigns an alternative measure or if they are conditionally released from serving a prison sentence.

The Probation Service cooperates with judicial bodies, other relevant institutions, and non-governmental organizations. It supports and supervises offenders in fulfilling the conditions and obligations imposed by the court as part of the sanction or non-custodial measure. The Probation Service directly reports to the court, which decides on the further execution of the sanction, including in cases of non-compliance with obligations.

At the end of 2017, the first probation office was opened for the jurisdiction of the Basic Court Skopje I. In 2018, probation offices were also established in courts exercising extended jurisdiction in Veles, Kumanovo, Tetovo, Bitola, Prilep, Ohrid, Shtip, and Strumica, with probation staff engaged, and in 2019, the first cases were initiated. With amendments to the Law on Courts, probation offices were also established in the jurisdictions of other courts with extended jurisdiction, namely in Gostivar, Kicevo, Kavadarci, Struga, and Gevgelija. The total number of employees in the Probation Sector is 28.

3.5. Statistical data

According to the statistical data of the Probation Sector at the Ministry of Justice of the Republic of North Macedonia, a slight upward trend in probation cases is observable.

¹⁷Law on Probation, Official Gazette, No. 226/2015

- **In 2021**, by type of probation measure imposed: risk assessments during criminal proceedings were carried out in 52 cases; suspended sentences with protective supervision were imposed in 99 cases; community service in 125 cases; and supervision of conditionally released convicted persons in 243 cases, totaling 451 cases.
- **In 2022**: risk assessments during proceedings were carried out in 59 cases; suspended sentences with protective supervision in 99 cases; community service in 125 cases; and supervision of conditionally released persons in 192 cases, totaling 475 cases.
- **In 2023**: risk assessments during proceedings in 90 cases; suspended sentences with protective supervision in 157 cases; community service in 14 cases; and supervision of conditionally released persons in 222 cases, totaling 483 cases.
- **In 2024**, a more significant increase was noted: risk assessments during proceedings in 166 cases; suspended sentences with protective supervision in 331 cases; community service in 6 cases; and supervision of conditionally released persons in 290 cases, totaling 793 cases.

CHALLENGES

Despite the adoption of the Law on Probation and the establishment of a dedicated strategy for developing the probation service, challenges in this area remain substantial. First, there is a fundamental gap in the legislation itself – the probation service is not designated as the competent authority for implementing alternatives to detention, that is, measures ensuring the defendant's presence during proceedings. This represents a serious shortcoming, since such measures are inherently close in nature and substance to alternative sanctions. Evidence from EU member states suggests that probation bodies are usually more effective than the police in carrying out such non-custodial measures. Therefore, amendments to the Law on Probation and the Criminal Procedure Code are necessary to clearly delegate these responsibilities to the probation service¹⁸.

Secondly, the practical application of alternative sanctions remains uneven. While the Basic Criminal Court in Skopje increasingly applies suspended sentences with protective supervision and other probation measures, courts in other regions still rarely opt for their use. This limits probation's role in reducing prison overcrowding and diminishes its resocialization impact. Judges nationwide need to be encouraged and trained to use these measures more frequently¹⁹.

Although some progress has been achieved in building the capacities of probation officers and raising awareness about the role of probation, there is still a need for further strengthening of expertise and human resources. This is particularly important, as public perception and trust in probation as an alternative to imprisonment remain underdeveloped.

¹⁸<https://ojs.srce.hr/index.php/eclic/article/view/9012/5100>

¹⁹ MONITORING OF IMPLEMENTATION OF STRATEGY FOR PROBATION SERVICE IN REPUBLIC NORTH MACEDONIA (2021-2025) Monitoring period: year 2024, Helsinki Committee for Human Rights

Institutional cooperation is also a key segment. While there is a satisfactory level of coordination among courts, probation services, and correctional institutions, challenges remain in improving communication, increasing transparency, and strengthening accountability among all system actors.

At the systemic level, the greatest challenge continues to be the problem of prison overcrowding, which has reached alarming levels. Probation has the potential to contribute to resolving this issue, but its limited legal competencies and uneven application significantly reduce its impact.

CONCLUSION

Probation in the Republic of North Macedonia represents an essential tool for the modern transformation of the penal system and for overcoming the traditional punitive-repressive approach. It has the capacity to contribute to reducing overcrowding of prisons, improving the effects of resocialization, and strengthening the rule of law as a fundamental value of a democratic society.

However, its effectiveness is significantly constrained by several factors: an insufficiently harmonized and clearly defined legal framework, uneven judicial practice in applying alternative sanctions, institutional and staffing weaknesses of the probation service, as well as inadequate horizontal and vertical coordination among relevant institutions.

These structural and functional limitations reduce the potential of probation to be affirmed as a genuine alternative to imprisonment and as a mechanism for improving the efficiency and fairness of criminal justice. Probation must be strengthened as a specialized and professionally profiled service, with clearly defined competences, stable resources, and institutional support.

Only under such conditions can trust be built among judges and the wider public, enabling more frequent and appropriate application of alternative sanctions. In this way, probation can fulfil its dual role: alleviating pressure on the prison infrastructure while simultaneously contributing to the creation of a fairer, more humane, and more efficient criminal justice system that reinforces social stability and promotes the rule of law.

REFERENCES

1. United Nations Standard Minimum Rules for Non-custodial Measures (The Tokyo Rules), Adopted by UN General Assembly Resolution 45/110 of 14 December 1990.
2. Kambovski, V. Criminal Law, General Part, Third Revised Edition, Skopje, 2006.
3. Kalmthout, A. M., & Durnescu, I. (eds.). Probation in Europe. Wolf Legal Publishers, 2009.
4. Confederation of European Probation. Available at: <http://cep-probation.org/>
5. Criminal Code, Official Gazette of the Republic of Macedonia, No. 19/2004.
6. State Statistical Office. Statistical Yearbook of the Republic of Macedonia, 2012, 2013, 2014, 2015.
7. Law on Probation, Official Gazette of the Republic of Macedonia, No. 226 of 25.12.2015, entered into force in November 2016.
8. Law on Criminal Procedure, Official Gazette of the Republic of Macedonia, No. 150 of 18.11.2010.
9. Can Law on Probation Improve the Implementation of the Measures for Providing the Defendant's Presence in the Criminal Trials in Macedonia? (2019), Faculty of Law Osijek, Croatia, EU and Comparative Law Issues and Challenges Series – ECLIC.
10. Monitoring of Implementation of the Strategy for Probation Service in the Republic of North Macedonia (2021–2025), Monitoring period: 2024, Helsinki Committee for Human Rights.
11. Abadinsky, H., Probation and Parole, Theory and Practice, 7-th Ed., Prentice Hall, 2001
12. Arnaudovski, Lj. and GruevskaDrakulevski, A., Penology, 2-ri Avgust, Stip, 2013
13. Arnaudovski, Lj., Court Management, 2-ri AvgustStip, 2010
14. Buzarovska, G., Alternative Measures in Macedonian Criminal Legislation, Macedonian Review for Criminal Law and Criminology, Vol. 13, No. 2., 2006, p. 213-232
15. Buzarovska, G.; Andreevska, S.; Tumanovski, A., Application of the Pretrial Detention Pursuant to the Criminal Procedure Code of 2010 – Legal Analysis, OSCE, Skopje, 2015
16. Corre, N. and Wolchover, D., Bail in Criminal Proceedings, 3-rd ed., Oxford University Press, 2007
17. Haddad, J.B. et al, Criminal Procedure, Cases and Comments, 5-th ed. Foundation Press, New York, 1998 10. Hucklesby, A., Bail Support Schemes for Adults, The Policy Press, University of Bristol, UK, 2011
18. Hucklesby, A.; Marshall, E., Tackling Offending on Bail, The Howard Journal, Vol. 39, No.2, 2000, p. 150-170
19. Kambovski, V., Criminal Law – substantive part, Kultura, Skopje, 2004