

BUILDING PROBATION SERVICE CAPACITY: WHAT WORKS?

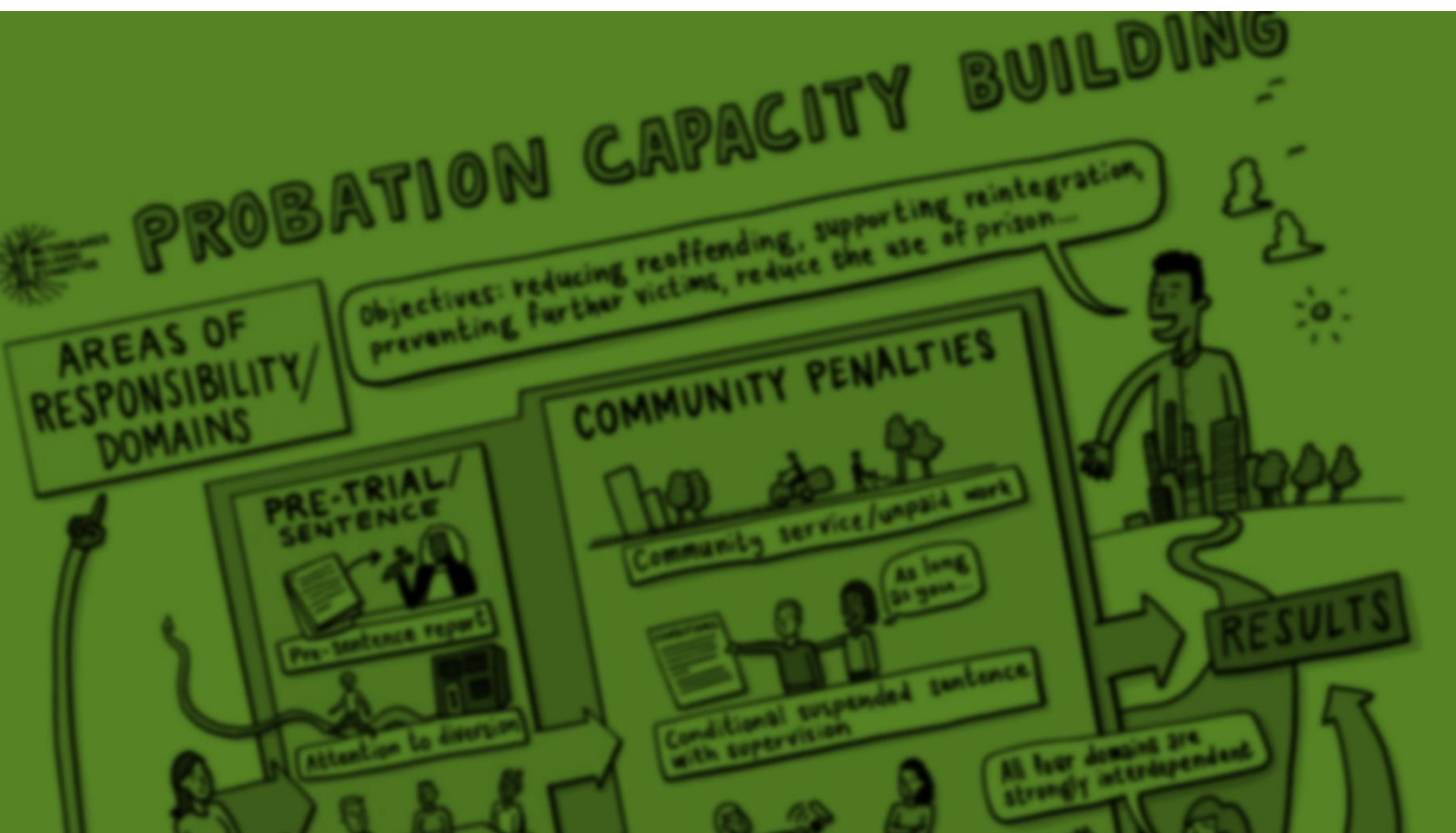
Annex F5 – Country Case Study

ROMANIA

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BUILDING PROBATION SERVICE CAPACITY: WHAT WORKS?

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This country study is an annex to the report "Building Probation Capacity, What Works: Learning from the European Experience of Probation Service Development in the 21st Century."

Any opinions, findings, conclusions, or recommendations expressed in this material are those of the authors and do not necessarily reflect the views of interviewees, of individuals that gave advice or feedback on drafts, or of the institutions that are mentioned in the materials. Any errors are the fault of the authors.

The field studies were carried out before the main report was written. The data - with some exceptions- were updated as far as possible up to and including 2022. Recent developments may shed new light on the described situation.

We are immensely grateful to everyone who has helped to make this study possible.

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Introduction

This country case study summarises the development of the Probation Service in Romania over the first two decades of this century. It describes processes of capacity building including examples of good practice and concludes with brief observations on the current state of play in relation to the service.

Executive Summary

Context

Romania inherited a tradition from the Soviet period of high rates of custody and overcrowded prisons with low staff/prisoner ratios. The few community disposals emphasised punishment and control rather than rehabilitation and reintegration.

The probation system in Romania has developed enormously since the early steps taken in the mid 1990's which involved setting up pilots with an NGO, supported by the Know How Fund (UK). The service has expanded its work across all regions of Romania and its remit to include work in all four probation domains - including preparing social enquiry reports on juveniles, an expanded range and volume of community sanctions and measures, and the post-release supervision of parolees.

Prison numbers have seriously declined during this period although the number remains high in comparison with many European countries. At the same time, persons under probation supervision are more than three times the numbers in prison. Whilst probation supervision appears to have successfully impacted the use of prison, this figure represents a rate of 359, much higher than the European mean of 216, prompting question of possible net-widening.

Probation development and capacity building

In the mid 1990's there was not yet a drive from the Ministry of Justice to change the penal system. However, an NGO was keen to test new approaches to dealing with offenders. Coupled with early-stage negotiations to enable Romania to become a member of the EU, and awareness that poor and overcrowding conditions in the prisons posed a human rights challenge, drivers were in place to undertake new initiatives and to investigate different possibilities.

During a long period before accession (2000-2005), the Romanian authorities and the EU paid continuous attention to the development of probation, one

aim among others being to diminish the number of prisoners. Both Romania and the EU kept probation on the agenda. Romania was able to make use of external funds for the financing of projects that supported the development of probation. Even after the accession date the Romanian authorities successfully continued efforts to find funds for new projects. There was a prolonged focus to further expand and develop probation and learn from the experience of other countries. The international standards (Council of Europe) and membership of the Confederation of European Probation (CEP) formed a background and reference points for this further development.

Success factors

Political and civil servants' will have been significant in achieving success, as has been continuity of projects. The quality of expert staff (both consultants and probation leaders) and their relationship skills also appear to be extremely important.

Delivery of international projects more or less continuously over the last two decades has allowed projects to dovetail and build on each other, whilst consistency in key expert staff has reduced risks of competition or duplication.

The process of probation capacity building in Romania highlights several important characteristics of capacity building and significant potential **"success factors"**:

1. **Ownership and "translation" of change.** Romanians were eager to learn from countries with a long and substantial experience in probation (England and Wales, the Netherlands, Norway). However, at the same time they were able to own changes and to translate the international experience and knowledge to their own situation.
2. **Partnership Approach.** Similarly, approaches that inspire not tell, prepare and pilot (rather than aim to immediately implement on a large scale), and support owned local solutions, all assist development.
3. **Continuity of Projects.** Probation capacity building projects have followed each other without interruption; there was no, or very little, time gap between successive projects.
4. **Experts' professionalism.** International project leaders /experts were "impressive", experienced, skilled, and responsive. There was mutual respect and regard.
5. **Holistic Approach.** Projects were all-encompassing in the sense that attention was paid to a range of "enablers" (for instance: legislation, strategy, funding, partnership with judiciary, and training).
6. **Ensure legislative provision.** Much effort over the years has been successfully invested in providing the legislative background. Alongside

the legislation processes judges, public prosecutors and probation officers were regularly and timely informed about the legislative changes.

- 7. Engagement with European/International bodies and learning.** The Romania service has actively and closely followed the activities and development of guidance by the Council of Europe. Romania became an active member of CEP and hosted several conferences. A well-known academic was for some time the Director of the Romanian probation service before becoming a professor of probation in Bucharest.

Probation in Romania; The Current Situation

Whilst the main focus of this research has been capacity building, brief commentary may be made, based on the model, on the current probation situation.

Probation has nowadays 3,5 times more offenders under supervision than offenders in prison. The caseload for probation officers is however very high (105 offenders per probation officer).

The number of prisoners is decreasing while the number of probationers is growing rapidly (an indication of "mass supervision"); at the same time the crime rate is going down, but the number of road offences is increasing. A major source of new cases for the probation service are traffic violations. Probation seems to be "net widening" for road offences, but also for property offences and corruption.

The previous remark, i.e., caseload size, has an impact on the possibility of targeting more serious offenders. A question is whether probation officers have sufficient time to influence the behaviour of offenders.

The number of pre-sentence reports for adult offenders remains limited. This hinders the potential that pre-sentence reports can deliver to the courts in terms of influencing which cases a probation sanction could be used and which cases they could be avoided.

Probation is not involved in preparing prisoners for release and a small proportion of prisoners receive supervision and guidance from the probation service.

This leads us to the conclusion that although what has been built up is remarkable, there are a number of issues that could be addressed including offering sentencing advice and considering non-custodial options where possible and useful, targeting more serious offenders, and better preparing prisoners for their release.

Section 1. Facts and Figures

Prison Rate and Population

	Probation Service (2000)	Recent/Current (2021)
Prison population total (including pre-trial detainees /remand prisoners)	48,267	22,250
Prison population rate (per 100,000 of national population)	215	116
Pre-trial detainees / remand prisoners (percentage of prison population)	22,4%	10,4%
Occupancy level/Overcrowding	?	120,5%

SPACE STATISTICS (SPACEII - 2020)

General data (2020)

- Country Population on 1.1.2020: 19,530 631
- Total number of persons under the supervision of probation: 69,812
- Probation Population Rate: 357 (European mean: 219); relatively high
- Caseload: 120 (European mean: 45); relatively high
- Turnover rate 32 per 100,000 probation clients (European mean: 46), relatively slow

Reports (2019)

- Number of presentence reports in 2019: 5011; ratio 8,6 per staff member. (In 2017 in 79% these reports concerned juveniles, 21% adult offenders.)
- Number of advisory reports with respect to conditional release in 2019: 1592; this is twice as much as in 2018. Ratio 2,7 per staff member (2019).
- Other reports in 2019: 4244; ratio: 7,3 per staff member. Those reports are prepared during the probation period, to reflect or request specific changes of the probationers' situation or conditions.

Supervision

- Total number of persons under the supervision of probation agencies: 69812 (Stock 31-1-2020_
- Total number of persons placed on Probation during 2019: 36339 (Flow)
- Forms of supervision before sentence: NAPForms of supervision after the sentence:

		Stock Flow
Total	69812	36339
Mixed sanctions or measures	---	--
Fully suspended custodial sentence with probation	68743	35312
Partially suspended custodial sentence with probation	NAP	NAP
Conditional pardon or conditional discharge (with probation)	NAP	NAP
Community Service	NAP	NAP
Electronic Monitoring	NAP	NAP
Home arrest (curfew orders)	26	85
Semi-liberty	NAP	NAP
Treatment	NAP	NAP
Conditional release	637	667
Others (Serving the penalty of fine by Community Service)	406	275

Budget (2019): € 14 324 379

Section 2. The current situation (Domains and Enablers)

The Four "Domains" of Probation

Domain 1 - Pre-Trial and Pre-Sentence

- Pre-sentence reports are prepared in almost all cases of minors (compulsory in cases against minors; absence results in nullification of sentences). Reports are requested less frequently for adult cases (those reports are optional at the requests of public prosecutor and court). They may include those held in pre-trial detention as well. A report may be requested by either prosecutor or judge. The role of the report was, in the first years of development, to focus on assessment, not upon advice/proposals for sentence. Now it is mandatory to give a proposal regarding the educative measures for juveniles and proposal regarding the necessary measures to reduce the risk of reoffending in case of adults. In most of the community sentences no reports are made. Judges that the researchers met during an interview, expressed satisfaction with the reports, it is however unclear whether they represent their colleagues regarding their confidence in the probation reports.
- No other activities in the pre-trial phase, other than pre-sentence reports, take place, for example advising about prosecution or not, or about alternatives to pre-trial detention.

Domain 2 - Community Sentences and Measures

Postponement of sentence: introduced in New Penal Code 2014. For those whose sentence would be less than 2 years, not for high-risk cases. Probation supervision will last for 2 years.

There are **mandatory control measures** attached to postponement:

- a) report to the Probation Service on the dates set by the latter;
- b) receive visits by the probation officer appointed to supervise them;
- c) give notice of changing domicile and of any travel longer than 5 days, as well as of their return date;
- d) give notice of changing jobs;

- e) provide information and documents of a nature that will make it possible to check into their livelihood.

Optional measures:

- a) take school classes or a vocational training;
- b) perform community service for a duration between 30 and 60 days, in the conditions ordered by the Court, except for the case where their health precludes them from performing that service. The daily number of hours to be performed shall be established as under the Law on Serving Penalties;
- c) attend one or more social reintegration programs operated by the Probation Service or given in cooperation with community entities;
- d) comply with medical checkups, treatment or care;
- e) not communicate with the victim or the victim's family, with the persons together with whom they committed the offense or with other persons as established by the Court, or to not go near such persons;
- f) not be in certain locations or attend certain sports events, cultural events or public gatherings established by the Court;
- g) not drive certain vehicles established by the Court;
- h) not own, use, and carry any category of weapons;
- i) not leave Romanian territory without securing agreement from the Court;
- j) not take or exercise the position, profession, occupation or activity they used in the commission of the offense.

Also, among other optional obligations are **community service** programmes.

Suspension of prison sentence by probation under supervision. This is the main activity of probation. Prison sentences to up to 3 years may be suspended and accompanied by probation supervision. Length= period of imprisonment + 2-4 years.

Community Service is mandatory in all cases of suspended sentences. The maximum number that can be imposed is 240 hours (Criminal Code - art. 93. 3; Law for executing of the punishments; 1 day of CS = 2 hours of work.) In 2019 40% of the caseload consisted of offenders who had to perform community service.

Other mandatory measures are keeping appointments; notify residence, travel, change of job. Optional obligations: treatment or courses, various prohibitions. The probation officer is required to report to the Supervisory Judge. The format is similar to that used for pre-sentence reports.

Probation now mainly targets low risk offenders (a combination of first offenders and types of offences). Much of the probation caseload- over 40% -

comprises traffic offenders. More than 80% are first time offenders. Recently the number of suspensions went up remarkably because of a large influx of traffic crimes.

Electronic Monitoring is not implemented nor are there any plans to implement it.

Programmes (behavioural intervention) can either be required by the court as part of a sentence or undertaken at the request of the convicted person (probationer) after the information received from the probation service as part of the assistance and counselling process.

They are:

- Individual programs/technics: "OTO program" (One to One Individual Counselling Program), Motivational Interviewing, Pro-social Modelling, SEED approach
- Group programs: Development of social skills, (minors and adults), "STOP! Think and change", RRR - Reducing the Risk of Reoffending, Drink and Drive Rehabilitation, Anger Management, My choice, Civic Education and Roma mentoring.

Domain 3 - Custodial Pre-Release

Probation is not involved in the preparation for release, except for some group work; probation officers provide some on-demand assistance. A probation officer is a voting member in the conditional release commission. Attached to the minutes of the conditional release proposal (through the care of the probation counsellor within the competent probation service according to the law in whose jurisdiction the penitentiary is located), the recommendations regarding the supervision measures and the obligations provided in the Criminal Code which may be applied by the court, if the remaining sentence left unexecuted on the date of release of the convicted person is 2 years or more.

The number of conditional release reports was in 2017 962, 2018 753, in 2019 1592, so an enormous growth.

Domain 4 - Post-Release

Supervised Conditional Release (parole): The Probation service is involved in supervision in case the prisoner is conditionally released, and the remaining

sentence is 2 years or higher; numbers are relatively small, but growing (54 in 2014, 514 in 2018, 556 in 2019, 637 in 2020).

The Four “Enablers” of Probation

Legislation and Leadership	The Organisation
<ul style="list-style-type: none"> • Legislation is developed in all 4 domains • Probation legislation is inspired by the European Probation Rules • High turnover of leadership • Commitment in the early phases to really develop probation • The leadership was successful in attracting funding from the EU and other sources. Funding from and partnerships with EU-institutions and countries have been going on uninterruptedly. • The service became a member of CEP and have been very active (members in the board, conferences organised in Romania) • Although the caseload is still very high, the leadership has successfully pleaded for significant expansion of the service 	<ul style="list-style-type: none"> • Infrastructure is well-developed • The organisation has grown constantly, and has spread over the country (two offices in each county) but has fallen behind the increase of the workload • From 2014 the probation service was given the possibility to manage the budget for the entire probation system • A national policy regarding Human Resources is in place as well as a Code of Conduct. Staff is recruited following a contest among five categories of educational background: law, social work, psychology, sociology and pedagogy. After being appointed, they follow one year of supervised practice and induction training that take place according to the existing resources. During their career probation officers are expected to attend different courses that would enhance their professionalism. However, most of these courses were organized and delivered within different European programs and the Ministry of Justice has no distinct budget for training of

	<p>probation counsellors (apart from co-financing) (PiE, 2013)</p> <ul style="list-style-type: none"> • The Probation Department cooperates with academics to adapt the university courses to the educational needs of the candidates and future probation counsellors (employees of the probation organisation are teaching in university courses). For new incomers intensive induction training is usually delivered (drafting evaluation reports, supervising the offenders in the community, and assistance of convicted persons). Continuous training comprises various courses delivered according to the training needs identified through the annual assessment.
Partnerships	Practice
<ul style="list-style-type: none"> • Partnership with prisons is limited, however, Probation services can deliver special programs to inmates based on local protocols with prisons and pre-release programs. These programmes are delivered in partnership with the socio-educative departments of the prisons. Most of them are meant to help prisoners to socially reintegrate after release. (PiE) • The relationship with the judiciary was recently 	<ul style="list-style-type: none"> • Good risk assessment procedures (SERN, see further); an automated version is available in the IT-network. There are 5 levels of seriousness. • Formats for reporting to the courts • Most of the methodology employed by the probation services is cognitive-behavioural based in the systems framework. In this way the intervention at the individual level could be complemented with the social dimension. (PiE)

investigated. 85% of judges thought that pre-sentence reports were either quite useful or very useful in the sentencing process. 94% of Court Presidents indicated that they believed the law should be changed to provide more opportunities for community sentences. (PiE)

- From 2014 (new Criminal Code) all public entities must cooperate with the probation service as a legal obligation. This is the reason that no special nation-wide partnership agreements with employment agencies, health units etc. were developed. However, as cooperation is a decentralized process, a national database is accessible for the judiciary to impose obligations; mainly public entities are registered in this database, rather than private entities.
- NGO's can be authorized by the court to participate in the implementation of community sanctions and measures (e.g., to implement treatment programs, to have a community service placement etc). Not many NGO's requested to be authorized by court. This might be a sign that, in comparison with the start of probation, the involvement of society has diminished; however, it is the perception that the acceptance of the public about community

- A range of specialized intervention programmes are in place.
- Systematic analysis and research have played an important role in adapting legislation and reforms of the probation system. For instance, research supported the development of SERN – the Romanian Risk and Needs Assessment tool developed with the support of Correctional Services Canada (see Motiuk, 2017).
- Research related to road traffic crimes in probation resulted in developing a special program for this target group.

<p>sanctions and measures has increased.</p> <ul style="list-style-type: none">• All the services have local protocols with different institutions, agencies or NGO's that could help with the social reintegration of offenders. (PiE)• Links with universities have contributed to scientific interest and training on a scientific basis.	
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Section 3. Characteristics of Capacity Building in Romania

The following points were highlighted in reports and/or meetings. They are presented using the following structure:

- Why build Probation?
- Who was involved?
- What has been developed within the Probation “Domains”?
- How has the probation function been “enabled”?
- Summary of capacity building in Romania including the international dimension

As noted in the historical section (see Appendices) and in the tables on domains and enablers, the following points stand out:

Why Build Probation?

- In the mid 1990's an NGO took the initiative to introduce some elements of probation, to align the developments in Romania with Western Europe. There was no immediate problem that had to be solved; something new could be tried out. Several years later the crime rate increased remarkably, as well as the prison population (which was one of the highest in Europe); human rights violations and prison overcrowding were experienced as problems, to which probation could contribute to a solution by offering alternatives to prison sentences.
- In the beginning priority was given to juveniles (pre-sentence reports were made mandatory).

Who was involved?

- The first initiative was from an NGO in Arad. The project that started on their initiative was with the help of the Know How Fund (UK). The Open Society Foundation supported the probation pilots financially. At the ministerial level there was enthusiasm: several Ordinances and Legislation were prepared and passed at high speed.
- From 1999 the development of probation was followed and stimulated by the EC; in the yearly progress reports it was mentioned in a positive light and expected to contribute to decrease overcrowding of the prisons and reducing the length of pre-trial proceedings.
- On the Romanian side considerable effort was undertaken to start new international projects. Romania was and continued to be open to receive

assistance from other countries. The probation department was active in finding new development possibilities via international support.

- The international experts (programme manager, experts) turned out to be highly skilled and impressive: open, eager to learn and adaptive to the Romanian situation. They matched well with the Romanian representatives. (Durnescu and Haines, 2012)
- It is striking that the turnover rate of the Directors of probation was high in the years from 2000 till 2015 (5 directors).
- Considerable attention was given, In the projects, to the courts as they had to understand the pre-sentence reports and to impose the alternative sentences and measures.
- The contacts between probation and prison remained sparse.

What has been developed within the Probation Domains?

- In the first decade a lot of attention was given to pre-sentence reports, especially for juveniles. The pressure was so high that cases were on a waiting list. The number of pre-sentence reports for adults was and is limited.
- The Community Sanctions and Measures “postpone of sentence” and “suspension of prison sentence under probation supervision” were developed. As part of those sentences Community Service was often applied as a mandatory obligation. Other mandatory conditions were also often applied, including behavioural programmes.
- Probation was and is not active towards prisoners (no systematic preparation for release). A representative of the probation service is a member of the commission that advises the court about conditional release and the conditions that need to be attached.
- With respect to conditionally released prisoners, probation is active for those offenders whose remaining prison term is 2 years. For other released prisoners, with or without conditions, probation does not have any obligation.

How has the Probation function been enabled?

- Attention has been paid to development in all four “enabler” areas. These include -Legislation laying the basis for activities in the four domains and for the probation organisation, including requirements for the functioning of probation officers. The probation law of 2013 is clearly influenced by the relevant probation regulations of the Council of Europe.
- Although the changes in the political and top management leadership have been rapid, the changes that were introduced and implemented had a lasting effect.

- A gradual expansion of the budget has enabled the establishment of probation offices in all counties.
- Ample time was deliberately used to involve probation staff and judges in implementing the new Criminal Code, including non-custodial options and regulations on the organisation of probation (formulated in 2009; came into force 2014).
- A good assessment instrument was developed with the technical assistance of a representative from the Correctional Service Canada, between 2011 - 2019. There is a formalized Statement of Cooperation, since 2016, between National probation Directorate and Correctional Services Canada to transfer knowledge and expertise from one jurisdiction to another.
- Probation officers are trained during their career, making use of recent and constantly updated insights in the effectiveness of probation work and probation employees. An occupational standard for the probation counsellor is available- describing what kind of activities and criteria a probation employee should deliver and meet. The training is divided in initial training and Continuing Professional Development (CPD) as suggested by the European standards regarding staff (e.g., CoE Guidelines). Trainings are carried out by probation colleagues and/or by external experts. External funds (EU, Norway grants), next to the state budget, are used to finance the CPD. Both types of trainings are carried out either by trainers from the probation system or by external experts, depending on the situation and the topic of the training.
- The relationships between public prosecutors and judges on the one hand and probation on the other hand are maintained by the chief probation officers of every county. Regular meetings are established, especially with judges involved in criminal matters to discuss the working procedures. To strengthen this cooperation process additional activities will be implemented in the period 2019-2024 under the Project "Correctional" funded by Norwegian Financial Mechanism 2014-2021.
- Since the establishment of the probation service, public communication strategies (e.g., under the project Probation in Romania funded by DFID) were developed and one staff member was trained to deliver external communication. This remained mainly reactive, not pro-active. In the project "Correctional" funded by Norwegian Financial Mechanism 2014-2021, implemented in the period 2019-2024, a component is included for improving communication. It is planned to review and improve the communication tools, to analyse how probation is covered in the online media, to develop a new communication plan including staff training, and organising Open Days events in each probation service.

Section 4. Concluding observations on capacity building and probation in Romania

(For a more detailed note on conclusions, and materials on which they are based including an historical account of the service's development and of capacity building projects, see Appendices 1-3 of this country study.)

Capacity Building

The capacity building model has been helpful in understanding the process of probation service development, including rationale for probation development, key actors, the domains in which the service works, and the service's enablers. It also worked well in analysing the capacity building projects that were undertaken.

The process of probation capacity building in Romania highlights several important characteristics of capacity building and significant potential "success factors".

Five "stand-out" success factor points are summarised here:

- 1 Romania was open to receive advice from abroad and has succeeded in organising international projects in succession. The international projects have contributed to a gradual expansion and development of the probation service.
- 2 An eagerness to belong to the EU has led to the willingness to develop probation in the light of problems experienced such as a rise of criminality and prison overcrowding. In the EU-progress reports the need to develop probation continued to be expressed; the national authorities were encouraged to pursue the activities involved in building up a probation system. In this sense both sides (EU and Romania) made use of the reporting system of the EC during the accession period.
- 3 It seemed that there was a balance between the external project leaders from abroad and the Romanian counterparts. There was an eagerness to listen to each other and to see how, with respect to national experiences and sensitivities on the one hand, and the long experience of countries with a mature probation system, the best possible outcome could be reached. The experts were outstanding. There was inspiration from abroad, not a copying of foreign systems. In other words, probation approaches and systems/processes were not imposed by experts;

knowledge and experience were supplied; the international experts stimulated the national experts to find their own solutions.

- 4 The strategy that was used was integral, including paying attention to description of tasks, hiring and training of staff, influencing the judiciary and the public. Ample opportunities were created to consult a large group of people within the probation service and the ministry.
- 5 The projects were flexible, adaptations of the work plan were possible. International aid included training, programmes (e.g., sex offenders), and practical/material assistance e.g., furnishing of offices (which is, in most capacity building projects, unusual).

Probation in Romania; The Current Situation

Whilst the primary focus of this research has been capacity building, commentary may also be made on the current situation based on the domains and enablers model (although the limited scale, particularly in-country, of this research must be noted).

- Romania has built up from scratch a fully-fledged probation system that nowadays helps other countries to develop probation, just as Romania was assisted by other countries when starting its journey in probation.
- Probation has nowadays 3,5 times more offenders under supervision than offenders in prison. The caseload for probation officers is very high (120 offenders per probation officer; SPACEII 2020). (The number of probation officers has grown considerably in 2021 and 2022.)
- The number of prisoners is decreasing while the number of probationers is growing rapidly (mass supervision); at the same time the crime rate is going down, but the number of road offences is increasing.
- A great source of new cases for the probation service are traffic violations. Between 2015 and 2018 there was a large increase (a doubling) of road crimes (in total 30,500) in the probation service: it is the largest category of offenders (half of the offenders are sent to probation). Under the previous law, suspended sentences for traffic related crimes – from drunk driving to accidents with victims – were not monitored by anyone. Now it is the responsibility of the probation service. Probation seems to be net-widening in terms of road offences. Probation appears also to be a powerful alternative for property offences and corruption, and a moderate alternative for drug related offences (Durnescu, 2019).
- The issue of net-widening has recently attracted attention by the Council of Europe and has led to an important publication in which the data on prison detention rate and the probation detention rate have been combined. During the period in which the most influential capacity

building projects took place in Romania, this issue was not yet identified as such. It now has gained some traction, including in Romania.

- The enormous influx of low or medium level of risk offenders in the probation system has an impact on the possibility of targeting more serious offenders. The question is also whether the probation officers have sufficient time to influence the behaviour of the offenders.
- The number of pre-sentence reports for adult offenders remains limited. This is hindering the role that pre-sentence reports can have on the courts in influencing which cases a probation sanction could be used and in which cases they could be avoided. However, this connects with an earlier assumption that resistance in the judiciary to receiving advice and recommendations was not overcome on a large scale. It is also striking that during the pre-sentence phase no other activities than working on pre-sentence reports take place; so, for instance no advice about the decision on prosecution or on pre-trial detention and its alternatives are given.
- Another issue remains the fact that the partnership with prison is limited. Probation is not involved in preparing the prisoners for release and a small - albeit growing - number of prisoners receive supervision and guidance from the probation service.
- This leads us to the conclusion that although what has been built up in Romania is remarkable, several issues could be addressed, to be able, for example, to offer sentencing advice and consider non-custodial options where possible and useful, target more serious offenders, and better prepare prisoners for their release.

APPENDICES

Appendix 1 - Historical Development of Probation in Romania¹

Romania inherited the Soviet tradition in which high rates of custody and few community disposals were the norm. After communism collapsed, pluralist politics re-emerged in 1989. In that period in the prisons the conditions were poor and substandard, there was overcrowding, and a low ratio prisoners/staff. Between 2000 and 2005 probation is mentioned in the Progress Reports on Accession to EU.

Before 1992: Ideas like educating the inmates or assisting them after release were introduced for the first time in the Romanian legislation in 1874 by the Law of prison regime. According to this law each prison had to set up a supervision committee with the aim of educating the inmates and assisting them after release. This idea was emphasized in the Criminal Code from 1936. In article 50 of this Code, it was stated that each county court will co-ordinate the activity of a patronage society (NGO) responsible for the social reintegration of ex-inmates - especially of minor ex-inmates. That was in effect a real after-care service in a modern sense intended to deal with "la crise de la liberation".

1992: Introduction of suspended sentence with supervision.

In the mid-1990s: there was no evidence that the Romanian authorities were aware of a specific problem with the criminal justice system and were not, therefore, seeking solutions from outside. In 1996, a non-governmental organization (NGO), Europe to Europe, approached the local representatives of the judicial and executive estate (prison governor, president of the local court and social services directorate) in Arad, inviting them to cooperate in testing some elements of probation in their local area. As stated in the Preamble of a later Ministerial Order granting official sanction to the project, the rationale for the experiment was to 'correlate' the Romanian realities with international conventions on human rights and 'to adapt Romanian legislation to the European principles of probation' (Preamble, Ministerial Order No. 510/19973). Therefore, there was no concrete or urgent problem that probation was called upon to solve, but rather setting up a probation system just seemed to be a (neutral) part of the modernization process that Romanian society was

¹ Largely based on the chapter on Romania in Probation in Europe.

undertaking at that time. In fact, in the mid-1990s, there was a very limited and mostly absent understanding in Romania, at central and local government levels, about the meaning and role of probation. The trigger for the introduction of probation in Romania was, therefore, nothing more than the offer of an experimental project from an independent NGO and the official response could simply be characterized as 'well, why not'.

1994 to 1997: crime rates increased significantly (from 421 to 496 per 100,000 inhabitants). Due to the limited range of sentences and to the sentence patterns the custodial rate was one of the highest in Europe (225 versus 85 average European level). The prison system faced human rights and administrative problems (overcrowding). The Ministry of Justice started in 1996 to promote a more creative way of implementing justice.

1997: An experimental centre of probation in the prison of Arad was started. This experiment brought together civil society (NGO's), National Administration of Prisons, local courts and local authorities. The intention was to test some elements of probation (e.g., pre-sentence reports, supervision in the community) in the existing penal and social context of Romania. That was the start of the probation system. From the very beginning the experiment was supported by the Know How Fund of the UK. In 1998 this was continued in the "Probation in Romania" project which had the aim of establishing probation on a national level. By the end of 2000 eleven experimental probation centres had been established in Romania, all of them coordinated by a probation department within Ministry of Justice.

Considerable attention was given to the judiciary to discuss International Guidance Documents and the role pre-sentence reports could play in the sentencing process. Due to the lack of articles in the Criminal Procedure Code these reports were not admitted as proofs but only as extra-judicial, circumstantial elements in the process of punishment individualisation. The effect was that only few judges based their final decision on the findings of the pre-sentence report.

2000: Approval of a Governmental Ordinance regarding the organisation and functioning of the services for social reintegration and supervision of offenders (probation services). This stage of the probation development in Romania focused on the development of the infrastructure around the country. The government also adopted Ordinance 92/2000 regarding methodological norms. It prescribes the specific activities of the probation counsellor, terms and conditions of the probation practice.

The relevant provisions for probation work included in these two are: suspended sentence under supervision (art. 86 ind.3), supervised freedom for juvenile (art. 103) and community service for juveniles (art. 103 lit. c). As a result of the work undertaken during the initial phase a policy decision was taken that

the probation projects target their activities on juveniles (aged 14 – 18 years) and young adult offenders (aged 18 – 21 years), with a priority on juveniles.

2004: the competence for victims was by law added to the probation system: new demands were added to the probation system for which it had not been prepared: to offer psychological counselling and other forms of assistance to victims of crime (for a period of maximum 3 months, and the victims under 18, for a period of 6 months). The name of the organization changed from “social reintegration and supervision services” to “services for victim protection and social reintegration of offenders.”

2007/2008: Article no. 482 of the Criminal Code was revised. According to this article a pre-sentence report had become mandatory for all cases with minors on pre-trial phase, during the crime investigation, at the request of police or prosecution. The consequences of this provision were significant. The pre-sentence report was from now on no longer just a helping instrument for the court and sentencing but had become a tool for the investigation (police/prosecution). The number of requests increased in such a measure that the probation service did nothing more than producing pre-sentence reports in the context of a chronic lack of resources. This led to delays of penal procedures at police and prosecution level. Subsequently in 2008 article no. 482 was changed by making the pre-sentence report mandatory for the judge in all cases with minors but optional at the request of the police or prosecution.

2009: a new Criminal Code was enacted; it took to 2014 before it entered into force as time was needed to allow the entire justice system to understand the impact of the new code and to prepare its implementation. The draft Code involved a reformation of probation, including a new philosophy, new tasks, new procedures, new organisational needs and resources. That is why the whole probation system was being prepared for the impact of the new code. Representatives of the probation system contributed to drafting two new laws: one on the execution of non-custodial sanctions and measures and the other on the organisation and the activity of the probation system according to the new Criminal Code. The provisions of the new Criminal Code were appraised in regional training sessions for local probation staff. The new law regarding reorganisation of national probation system provided a significant development of the probation system (attaining autonomy, creation of specialized departments and functions at central level, increasing number of local offices, recruitment of/specialising the personnel).

Looking back on what the drivers were for the establishment of probation it is interesting to note that a form of aftercare for released prisoners already existed in the first half of the last century. However, the changes that accompanied the first attempts to introduce probation in a modern sense were focussed on pre-sentence reports and community sentences, especially for young offenders. Control during conditional release was exercised by the police. (See also:

Probation and Probation Services in the EU accession countries, 2003, Chapter 1 and 8).

Note on projects and CEP

- Several projects were carried out (three are mentioned in appendix 2)
- Characteristics of those projects were that knowledge and experience were provided; the Romanian partners were enabled to find their own way that fitted the national situation.
- The projects all had a rational strategy regarding what to achieve and how; they focused on all the enabling factors (legislation, staff, training, instruments and procedures).
- The projects were flexible: during the project activities could be changed if needed.
- Romania continued to attract several projects after EU accession. The Head Office followed the funding possibilities closely.
- In two of the early projects the name of an enthusiastic minister of justice was mentioned several times: supporter of probation, open to new developments.
- Although the role of NGO's diminished in the course of time, they had an important role in stimulating new developments; they supported the change processes.
- Judges overall were slow to be convinced of the advantage of pre-sentence reports; there was an apprehension that their independence and professionalism would be threatened if pre-sentence reports would contain sentence options or recommendations. This however, changed over time, even enthusiasm was displayed.
- The need for the development of probation was mentioned several times in progress reports of the European Commission. It was always related to the need to decrease the number of pre-trial detainees, to shorten the duration of pre-trial detention and to limit the overcrowding or prisons.

CEP

- Romania became an active member of CEP in 1999. Prominent probation officials in Romania became Board Member. Ioan Durnescu became professor of probation and is very active nationally and internationally. Romania is active in assisting other countries in developing probation.

Appendix 2 - International Capacity Building Projects

2.1. British Government's Department for International Development (DFID) Probation in Europe Project; one of the most significant and the largest of these projects.

Initially, a pilot project was established in Arad (a medium-sized city in the West of Romania) in 1996 to establish the feasibility of probation in Romania. This pilot project ended in 1998 with the decision of the DFID to initiate a new project at the national level. This new project ran between 1998 and 2003 and had as main partners Swansea University and the Romanian Ministry of Justice.

Both parties considered the Probation in Romania Project to be a considerable success. By the year 2002, there were 40 Probation Offices established adjacent to 'county' courts, covering the whole of the country and effectively constituting a national service employing 180 probation officers and managers.

A central unit in the Ministry of Justice had been established in the year 2000 and was able to guide and support the development of probation at a national level.

The prison population in Romania in 1995 was 45,309; by 2007, this had fallen to 39,031 (Prison Brief for Romania 2011). While the number of convicted persons decreased and the number of conditionally suspended sentences and fines increased slowly, the number of suspended sentences under supervision (and therefore under probation supervision) increased from 445 in 2000 to 1,538 in 2004. For juveniles, the impact was greater, with the numbers incarcerated falling from 4,091 in 1999 to 1,794 in 2004 a decrease achieved mainly through increased use of diversion from prosecution without recourse to further criminal justice interventions.

Success factors:

The project was educational and knowledge based. British partners worked with Romanian colleagues to assist them, first, in developing an understanding of what probation could be in the Romanian context and, second, to equip those in Romania with the knowledge, skills and confidence to realize their objectives. It was a partnership, in which both sides were engaged in a joint–mutually agreed–venture.

For instance, at the strategic level, it was the Probation Department in the Ministry of Justice that drew up a five-year plan—at the request of the Minister—for the development of probation. The final draft was discussed with the British

colleagues and then sent back for consultation to the staff in the local probation teams. It was only after a considerable process of consultation between Romanian staff at central and local levels and with the British team that the five-year plan was considered final—and submitted to the Minister of Justice for approval.

There was recognition of the following factors:

1. What 'works' in one country cannot be simply transferred to another and somehow replicated. There is no robust, reliable and enduring answer to the question what is probation and how do you do it?
2. The project gave due recognition to the practical importance and relevance of history, culture and social circumstances in the borrowing state, Romania.
3. The project respected the historical, institutional, etc. factors of the Romanian partners. (Example: suspended sentence and supervised freedom (for juveniles) were already provided in the law. Judges and other stakeholders were therefore inclined to perceive these developments as enabling the effective implementation of these pre-existing but unutilized measures.)

The change methodology comprised five key elements:

1. clear agreement about the goal (to establish a national probation service capable of delivering effective probation services as an integral part of the criminal justice system);
2. recognition of and respect for whose country it is and whose probation service it is, leading to a delineation of the respective responsibilities of partners (principally that the decision-making authority and responsibility rest with the Romanian partners);
3. clear (if only emerging and flexible) agreement about 'next steps' towards achieving the project goal;
4. recognition that the essential object of transfer is knowledge;
5. to start the process with an exit strategy

Thus, the joint project was more strategic and enabling, respectful and reflexive than a simple aim to 'impose' lessons or a range of practical instruments from England and Wales, or anywhere else, to Romania.

There was a deliberate recognition that there was no a priori model—no blueprint.

Complexity was embraced, knowledge was the primary object of transfer, and the notion of partnership provided an effective model of practice. It was believed that probation was not a 'thing' that is the known preserve of any state and that what constitutes probation changes over time; that, for probation to

'work' in any country, it is knowledge that is the critical factor, not emulation; and that penal reforms work best when they are culturally and socially sensitive.

Romania has not witnessed a growth of politically driven penal populism or the type of carceral hyperinflation.

In an evaluation report of country studies under the DFID, it was concluded that the probation project was highly successful: strong and enduring consultant/beneficiary partnerships, good balance between central and regional development, exploring innovative ways of addressing important issues, high sustainability, developing strong ownership by the Dept of Probation as the project progressed (See: Evaluation of DFID Country Programmes, Country Study: Romania 1997-2003, July 2004)

2.2. Project NHC: Introducing Probation in Bucharest, Romania

September 1, 2000 - August 31, 2003, with an extension till May 31, 2004

Overall objective:

The long-term objectives of the project were:

1. The introduction of a well-functioning and sustainable probation service in Romania, including the provision of probation services itself and the training of probation staff.
2. A contribution to decreasing the number of people in prison to improve the living conditions for those who are imprisoned and to improve the working conditions for prison staff.

The short-term objectives of the project were:

1. Establishment of a well-functioning, well-organised and sustainable probation service for those convicted in Bucharest.
2. Formulation of a viable model of probation for other parts of Romania.

Project results

According to the original project proposal of March 2000, the project had the following concrete results:

1. At the end of the project, this probation service has a well-trained staff of 27 people (1 case manager, 1 project leader and 15 probation officers and 10 probation councillors).
2. In the first year of the project approximately 600 clients will use the services of the probation service. In the first year priority is given to

juveniles between 16-21 years of age. If the Law on Probation comes into force the target group will also consist of adults. In the second and third year this number will increase substantially as the new Law on Probation introduces several new probation activities (such parole and conditional release).

3. It has developed itself a clear and realistic strategy for the future (Strategic Plan), which is also used for raising financial means for continuation of the service.
4. The probation service has a good network in the local community, co-operates with organisations with similar interests, and is well known there.
5. As a result of the pilot project the Probation Service co-operates with specialised organisations that can provide specialised services to the clients of the Probation Service.
6. The probation model is well known to all those in Romania who have an interest in probation, including all major governmental bodies, courts and prosecution offices, human rights organisations and social organisations.
7. As a by-product, a model for education of probation staff is defined.

Results

The main result of the project, the Bucharest Probation Service (BPS), is an established state service. Its tasks and responsibilities are described by law. It has a budget, which is part of the state budget. The staff of the BPS are state employees. The training module for new probation staff is based on the one developed for this project. The BPS has developed a network within the chain of justice and with the local community. It has a strategic plan.

The Romanian partners developed a Strategic Plan in 2002, during their participation in a work visit in the Netherlands. The plan described goals, partners, a SWOT analysis on the probation and six priorities for the following years. The six priorities were worked out in an action plan. In this respect the project contributed to the further development of the probation service in Romania. According to the Ministry the probation approach developed within the project had been multiplied at a national level, either in terms of strategy or in terms of practice of probation services.

During the project different aspects were introduced: preparing and writing pre-sentence reports, networking in the chain of justice and with organisations with a social and educational task, developing special programs for specific target groups.

In the first year of the project 2000/2001 the number of clients of the experimental centre was limited. This was mainly the result of the experimental character of the probation in Bucharest and the limited legal framework. The

situation improved after September 2001 when the ordinance regarding probation entered into force and state probation services were created.

The increase of clients was also the result of the fact that now prosecutors can also request the probation service to write and present pre-sentence reports. Previously only the judge had the authority to do so. During the entire project period a substantial number of judges and prosecutors in Bucharest were informed about the new legislation on probation.

The authors of the final report described two *issues*:

1. The input from the Dutch partners was concentrated in activities in Romania once every 6 months and consisted of training, public relations and networking, and a steering committee. An important reason for this concentration was to save money (less costs for international travel). As a result of this the Dutch partners could not very closely monitor the progress in the project and provide necessary assistance if needed and requested.
2. The main potential obstacles for a further growth of the probation service were described as the limited financial resources of the probation service in combination with the - maybe too - high ambitions of the Ministry. Despite the growth the probation service has gone through in the last four years its capacity (in terms of qualified staff and financial resources) needed further strengthening.

The policy makers at the Ministry were urged to set realistic goals and provide the necessary resources, not only probation staff, but also offices, equipment, auxiliary staff etc.

The flexibility of the MATRA program was considered as contributing to the success of the project.

2.3. Strengthening the capacity of the Romanian probation system for delivering effective alternative to prison interventions, Norway Grants

Description

Considering the new laws expanding the alternative to prison sanctions the role of probation within the correctional system is significantly greater for the full and successful implementation of the provisions regarding the execution of non-custodial punishments. The project aims at improving the overall performance of the probation service to fulfil its new tasks by targeting the achievement of key outcomes such as developing the organisational management, improving its working tools, capacity, and practice, and

enhancing the working conditions of the probation staff and the functioning of the probation to enable it to deliver effective alternative to prison interventions. The target group of the project is represented by probation staff, particular categories of persons under probation supervision (drug/ alcohol addicts, vulnerable groups such as Roma and minors) as well as other relevant stakeholders. The role of Rogaland Probation Office as Donor Project Partner is to provide expertise for developing specific management tools for the institutional management in probation in line with its best practices and experience.

Summary of project results

Having in mind the new legislation expanding the alternative to prison sanctions falling under the responsibility of the probation, the need for this project promoted by the National Probation Directorate arose to adequately prepare the probation system to address shortcomings and vulnerabilities to face upcoming changes. The objective of the project was fully achieved, consisting of improved overall performance of the probation service to fulfil its new tasks by targeting the achievement of key outcomes such as developing the organizational management, improving its working tools, capacity and practice and enhancing the working conditions of the probation staff to enable it to deliver effective alternative to prison interventions. The following outputs were delivered after implementing the main activities of the project:

- 4 strategic documents for the development and management of the probation system were developed (e.g., strategy for the development of the probation system 2015-2020, corresponding action plan, staff selection and recruitment strategy, procedure for the coordination of the probation services);
- 439 legal practitioners (probation staff, judges, prosecutors) were trained on alternatives to prison; - 432 probation staff participated in training courses on implementing the probation working tools developed in the project (e.g., working and occupational standards in probation, case management working procedure, My Choice Programme, Civic Education Programme);
- 127 offenders (101 adult and 26 young) were made subject to community-based programmes as an alternative to prison (e.g., My Choice and Civic Education Programmes);
- 26 Roma offenders were involved in the developed mentoring programme as a motivational tool for encouraging their pro-social behaviour, positive attitude and skills development;
- 9 probation services and the headquarters of the National Probation Directorate revamped;
- 42 probation services and the headquarters of the National Probation Directorate endowed with furniture, IT equipment and other goods.

As regards the changes that have occurred for the probation system as beneficiary since the start of the project, the statistics available at the end of 2017 show a constant upward trend in the number of persons under probation supervision (195% increase compared to 2014) and a reduction of prison population, facts which support the increased importance given to the application of alternatives to prison.

Independent evaluation

(Institut für Berufliche Bildung, Arbeitsmarkt und Sozialpolitik, October 2019)

RO23-0005 has contributed a great deal to the development of the probation system. In 2014 the numbers subject to probation supervision exceeded the numbers in prison for the first time). Staff numbers have increased substantially from 278 probation counsellors in 2013 to 551 in 2019.

The rapid expansion of the probation service has required investment to improve the working conditions of staff. A standardised working place has been introduced for probation offices along with improved working conditions (IT equipment, furniture, alarm systems, air conditioning, other goods), and a software system SERN (Scale for Evaluation of the Risks and Needs).

There are about 69,000 people on probation of whom about 60% are subject to a suspended sentence with supervision and 30% subject to a postponement of penalty.

On the face of it, probation has contributed to the fall in the prison population. However, much of the probation caseload- over 40% - comprises traffic offenders. More than 80% are first time offenders. It has been suggested by a national Probation expert that much of probation work is with low level offenders who would not necessarily be facing imprisonment. This is known as net widening. There is a case for a strategic review of the role of the probation service to ensure its potential is being fully deployed.

Three new programmes have been developed for offenders subject to probation. These can either be required by the court as part of a sentence or undertaken at the request of the convicted person (probationer). This increases the range of options which can be used instead of imprisonment or detention. But there is a question about how much of its focus is on alternatives to prison.

Grants have been used to develop specific management tools for the institutional management of probation services including the development of standards for staff and partner agencies and the development and roll out of a case management system. A probation manual has been elaborated, printed and disseminated to probation staff and stakeholders.

On prisons and probation, the 2014 law has reduced the maximum sentence for certain offences, introduced a day fine system designed to match financial penalties to an offender's disposable income and reformed the law in respect of juveniles. The scope for probation involvement in the justice system has been increased but this may have been at the expense of fines rather than prisons.

The probation service has used funds to increase awareness of the benefits of alternatives to detention and promote their work.

Romania has adopted a balanced approach to invest in the capacity of an expanding probation service. But there are questions about whether the expansion of probation in general is at the expense of imprisonment or is widening the net of penal supervision unnecessarily.

Appendix 3 - Sources of information

While preparing this study we were fortunate in being able to discuss the development of the probation system in Romania with a range of people previously or currently significantly involved in this work. We are especially grateful to the support provided to us by Iuliana Carbutaru, Probation Inspector, National Probation Directorate, Ministry of Justice, and to Ioan Durnescu, Professor of Probation, University of Bucharest. They arranged meetings, provided helpful insight, comments on the draft study, and additional references.

Interviews: Meetings, face to face or virtual, were held with former Deputy Heads of the Service and other leaders and senior managers of the Probation Service, NGO representatives, with international experts on probation involved in the process of capacity building, judges, and probation officers.

Literature: A range of written sources were drawn on, in particular -

Romania: Challenges and Paradoxes of the Probation System; Interview with Mihai Dima,

Director General of the Romanian Probation System; in: Justice Trends Magazine, 2018

Getting back on Track: a look at Probation in Romania, In Civil Liberties Union for Europe, <https://www.liberties.eu/en/news/a-day-at-the-probation-office-in-romania/11072>

Antonio Sandu, *The Establishment of Probation Systems in Romania and the Republic of Moldova*, WLC 2016: World LUMEN Congress. Logos Universality Mentality Education Novelty 2016 | LUMEN 15th Anniversary Edition, <https://www.futureacademy.org.uk/files/images/upload/WLC2016FA107F.pdf>

Factsheet Romania Probation Measures and Alternative Sanctions in the EU
https://www.euprobationproject.eu/national_detail.php?c=RO

Ioan Durnescu and Kevin Haines, *Probation in Romania: Archaeology of a Partnership*, British Journal of Criminology, June 15, 2012

Ioan Durnescu, *Mass, deep and lived supervision*, Dublin, 2019,
<https://www.cep-probation.org/wp-content/uploads/2019/10/Mass-deep-and-lived-supervision-Dublin20984.pdf>

Anton V. van Kalmthout, Jenny Roberts, Sandra Vinding, Probation and Probation Services in the EU accession countries, 2003,

Motiuk, Larry, (2018). *Development and Delivery of a Scale for the Evaluation of Risk-Needs (SERN) in Romanian Probation Services* (Research Report R-402). Ottawa, Ontario: Correctional Service of Canada.

Rapid Assessment of Correctional Services Programmes Under the Norway Grants 2009-2014, Annex F, Country Reports, INBAS, Institut für Berufliche Bildung, Arbeitsmarkt und Sozialpolitik, October 2019

Strengthening the capacity of the Romanian probation system for delivering effective alternative to prison interventions, Norway Grants,
<https://eeagrants.org/archive/2009-2014/projects/RO23-0005>

System Map Romania and chapter Romania in Probation in Europe; CEP;
<https://www.cep-probation.org/knowledgebases/romania/>

Appendix 4 - Excerpts from reports of the European Commission

Conclusion from these reports:

- From 1999 till 2005 probation was mentioned 4 times
- It was applauded that the probation service was being established and funds were found to hire staff in many counties.
- Probation was always linked to the need to decrease overcrowding in the prisons and reducing the length of pre-trial proceedings.

Regular Report EC 1999:

Probation is not mentioned, and prison just once.

Regular Report EC 2000:

In December 1999, the Ministry of Justice presented a package of draft laws on justice reform to the government. These proposals addressed many of the human rights reforms identified in previous regular reports: making the judicial process more efficient; changes to bring Romanian law in line with European standards (on issues such as decriminalisation of homosexuality, domestic violence, libel, offence to authorities, and verbal outrage); and new laws regarding the execution of punishments, probation and alternatives to pre-trial detention. However, difficulties in finding sufficient support within Parliament have meant that only the proposals dealing with probation and amending the Civil Procedure Code have been adopted (through government ordinances). A considerable amount of important legislation remains blocked in Parliament and further progress still needs to be made in reforming legislation related to political and civil rights. (21)

Regular Report EC 2001:

New legislation has clarified the rights of asylum seekers and refugees, and the introduction of probation represents an important reform of the penal system. (23)

Overall prison conditions are often extremely poor and prisons remain severely overcrowded. A particular problem with pre-trial detention is that the periods of detention can be excessive up to half of the possible sentence. In order to address these issues, important reforms of the Romanian penal system have been initiated. *An ordinance establishing a probation system entered into force in October 2000 and 11 experimental probation centres have been set up in seven counties.* The Penal Code was amended through an Emergency Ordinance in November 2000 to further improve the provisions on conditional release from prison. These are positive developments. However, a major constraint on the effective implementation of these laws is the severe shortage of probation officers. (25)

Significant progress has been made in the field of human rights.*The introduction of probation represents an important reform of the penal system* and several initiatives have been taken to address trafficking of human beings. (30)

Significant progress has been made in the field of human rights. The introduction of probation represents an important reform of the penal system and several initiatives have been taken to address trafficking of human beings. (101)

Regular Report EC 2002:

Significant progress has been made in the field of human rights.... *The introduction of probation represents an important reform of the penal system* and several initiatives have been taken to address trafficking of human beings. (20)

Romania's progress with improving civil and political rights has been mixed. Several important reforms have been initiated.*Progress has been made with the development of a probation system*, although Romania's prisons are overcrowded, and conditions remain extremely poor. (29)

An important and *positive development* over the reporting period has been *the evolution of the probation service*. A total of 28 regional probation services have been established, and a budget allocation has been made for hiring 210 staff (although there have been certain difficulties in finding suitably qualified personnel). These regional services have laid the foundations of an effective probation system. (32)

The development of a probation system has continued although prison conditions remain extremely poor. (38) In line with the measures set out in the Action Plan, *the foundations have been laid for an effective probation system. New probation centres have been opened and specialised probation officials have been recruited and trained*. Despite this development, there has been no significant reduction in the use of pre-trial detention. (134)

Regular Report EC 2003:

The development of a probation system has continued although prison conditions remain extremely poor.

Approximately 4,100 prison detainees are held in pre-trial detention (just under 9% of the total prison population). Due to overcrowding it is not always possible to separate pretrial detainees from convicted criminals, as is required by both domestic Romanian legislation and international treaties ratified by Romania. The revised Constitution has significantly reduced the legal limit for pre-trial detention - it is now 180 days whereas previously it was half of the maximum period of imprisonment for the crime with which an individual is charged. Amendments to the Code for Penal Procedure in June 2003 have also placed a limit of one year (exceptionally two in the case of particularly serious crimes) on detention before the first court ruling on the charges. Judicial review is applied both during the pre-trial detention and during the judicial phase.

Romania's prison population is high compared to the size of its population. Overcrowding remains the most serious problem, and despite the building and modernisation of some prison facilities, the number of inmates exceeds the

capacity of the prison system by approximately 25% (although this represents an improvement compared to the previous period). While efforts have been made to improve prison

facilities, overall prison conditions are very poor: the quality of food is below acceptable standards; educational and cultural activities are insufficient; and staff shortages mean that many inmates spend all day locked in their cells.

Alternatives to imprisonment are very limited, which is a major cause of the overcrowding. *The probation system is still in the process of being developed and only exists in half of Romania's counties.*

Regular Report EC 2004:

No mention of probation, but mention of bad conditions in prisons, overcrowding and ill-treatment.

Monitoring Report EC 2005:

The structure of the prison system was reorganised in October 2004, as a result of which the National Prison Administration (ANP) now comprises 35 prisons.....The ANP has continued to make progress in its demilitarisation programme and the new working culture has helped it recruit over 4,000 new staff.

Nevertheless, understaffing remains a problem with 20% of the ANP's 15,411 positions vacant. The prison population has fallen from 41,929 in June 2004 to 38,805 in July 2005, thus approaching the official maximum capacity of 37,635 places. The decrease in average prison overcrowding to 103% is due mainly to the effective use of alternatives to prison sentences. Nevertheless, the picture in individual prisons can vary from 50% capacity to 200%, due to the practice of detaining prisoners in the prisons closest to the court dealing with their case. In July 2005 a total of 2,874 people were held in preventive custody in the prison system. The ANP has been under-funded for many years and, while considerable efforts have brought about improvements in areas such as meals, visits, parcels and access to media sources, the living conditions for prisoners remain very cramped:

While not part of the ANP, the 41 probation centres play an essential role in supervising the social reintegration of prisoners; such centres are, however, understaffed and under-funded. (16)

Monitoring Report EC 2006:

No mention was made of probation or alternative sanctions.