

# BUILDING PROBATION SERVICE CAPACITY: WHAT WORKS?

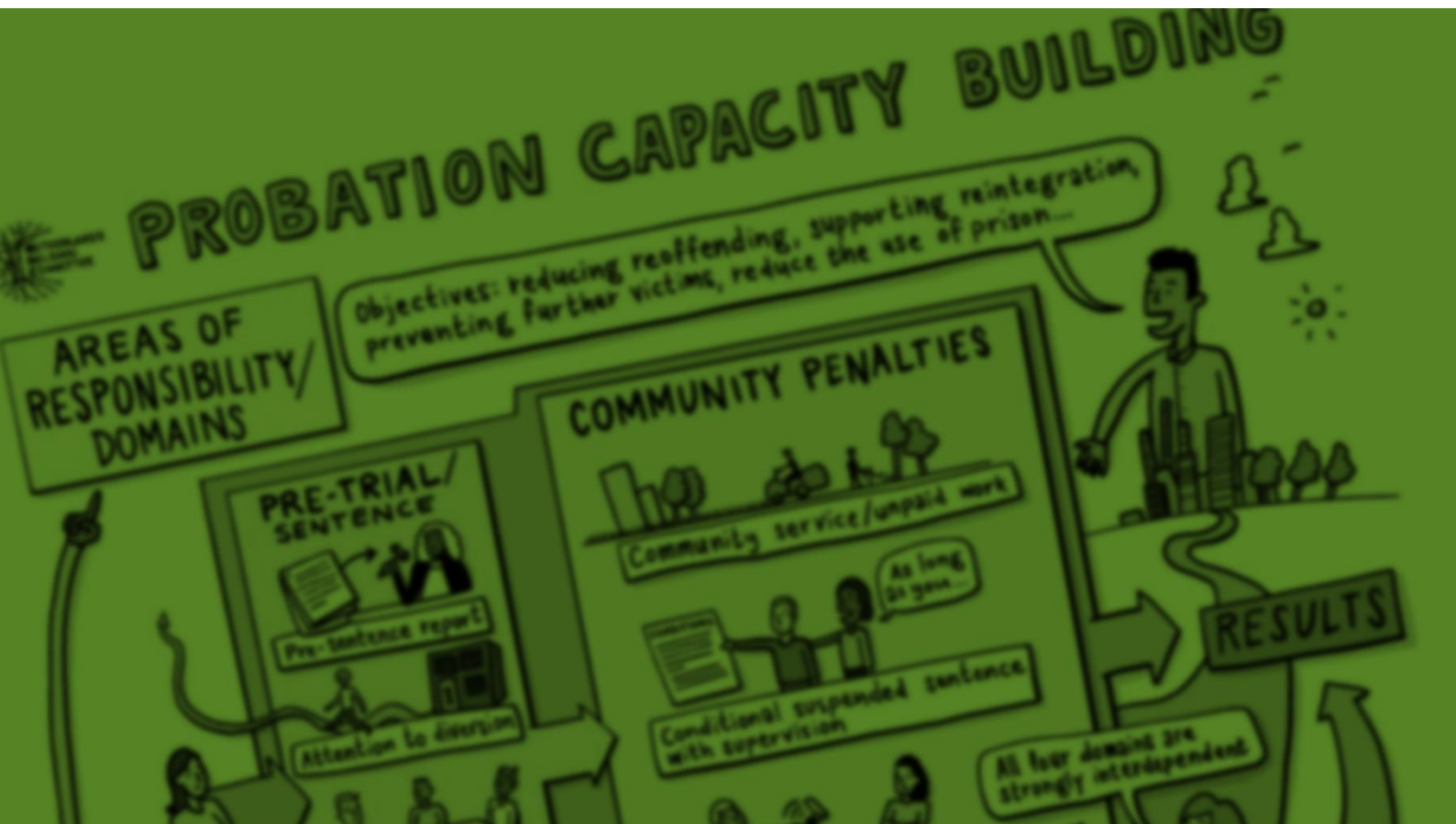
Annex F6 – Additional Country Information

SERBIA

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# BUILDING PROBATION SERVICE CAPACITY: WHAT WORKS?

## Annex F6 – Additional Country Information



This additional information on capacity building in Serbia is an annex to the report "Building Probation Capacity, What Works: Learning from the European Experience of Probation Service Development in the 21st Century."

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# Additional information on Capacity Building in Serbia.

## Assessment, Council of Europe 2006

In 2006, three assessments by experts were carried out by the Council of Europe.<sup>1</sup> In one of these reports by Professor Jacqueline Tombs we read: *“My report emphasises the importance of appreciating that the potential success of alternative sanctions and measures depends on how well they are implemented from the outset. This means that the objectives behind the introduction of alternatives must be clearly articulated and that their implementation must be closely monitored, reviewed, evaluated, and revised in light of how well key objectives are being met.”* (page 3).

A pilot project was advised: *“A Working Group, composed of representatives from the Prison Administration, the service for the administration and enforcement of alternative sanctions, the Ministry of Labour, the judiciary, the prosecuting authority, social welfare centres, mediation services and any other relevant agency concerned with the implementation of alternative sanctions, should draw up the detailed parameters of the pilot project.”* (page 9)

In the other assessment reports, extensive consideration is given to the legal framework for the imposition of probation sanctions and which organizational conditions must be met in order to obtain an effective probation organization. Many of the recommendations are still valid.

## OSCE project, “Support to the establishment of alternative sentencing in Serbia” (2008-2010)

This project was also integral and holistic. This is apparent from the evaluation that has been carried out.<sup>2</sup> Much attention has been paid to the objectives of the probation service and its enablers: legislation (particularly the bylaws),

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<sup>1</sup> Assessment reports by the Council of Europe Experts: Prof. Jacqueline Tombs, University of Stirling, Scotland; Mr Raymond Swennenhuis, Dutch Probation Service, Netherlands; Mrs Luisa GANDINI, Regional Probation Office, Italy, on the Systems of Alternative Sanctions and Probation in Serbia, Assessment visit 11- 12 October 2006, Belgrade, Document elaborated by the Directorate General I - Legal Affairs In the framework of the CIDA Project “Assistance for the Reform of the Correctional System in Serbia” Strasbourg, 24 November 2006

<sup>2</sup> Prof. Dr Nataša Mrvić-Petrović, Faculty of Law, Union University, Belgrade, Evaluation of the OSCE Project Support to The Establishment of Alternative Sentencing in Serbia and Functioning of Alternative Sentencing System; 2010; Report kindly shared by the International Office of Reclassering Nederland (Dutch Probation Organisation)

establishing a mission, vision and strategy, the need for staff expansion and training, building understanding among the public prosecutors and the courts for the importance of probation and which cases qualify for probation, many training courses for judges from the Judicial Academy, organizing round tables with, among other things, courts and municipalities, organizing study visits to the Netherlands, conducting a media campaign. The evaluation report shows that many of the project's objectives have been achieved. However, it also appears that flanking actions failed to materialize: the important by laws (which regulate the normative framework in more detail) were not forthcoming, the expansion of the probation organization started later and in smaller numbers. Yet more important is that although the judges' confidence in alternative sanctions was growing, the call from politics to increase the severity of sanctions: *"At the same time, by increasing the penalty range and by diminishing possibility of reducing the sentence for certain crimes as well as by establishing stern conditions for the determination of probation, the legislator and the executive authorities which initiate legislative activity, have sent a clear message to the judicial authorities that penal policy must be tightened by enforcing prison sentences for a longer duration than it was so far. Lack of clear legislation, frequent changes of penal legislation and slowness in the creation of conditions for the Commissioners' Service to start its work, adversely affected the interest of the judiciary for the implementation of alternative sentences."* (page 10)

Another problem appeared to be that, while the project was underway, the legislator was going to introduce house detention and house arrest, which would optionally be accompanied by Electronic Monitoring. While in the project the attention went out to *"improving the enforcement and facilitating the implementation of alternative sanctions"*, the legislator directs focused on *"the creation of preconditions for the introduction of home imprisonment (with or without electronic monitoring). It can be concluded that the legislator's expectations have changed and that the alternative sentencing (as a more humane response to crime) is no longer the focus of attention, but the emphasis is relocated the introduction of the so-called disciplinary measures, even before alternative sanctions are fully implemented in practice."*

Despite initial enthusiasm and commitment, also from the ministry and the judiciary, and the fact that many planned actions within the framework of the project had been carried out, there had been stagnation in the introduction and implementation of community service, protected supervision in the context of a suspended sentence and of conditional release.

## Strengthening the Alternative Sanctions System (2011-2014)

This EU project was carried out by Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) in Germany. For 3 years a consultant from England and Wales with great experience was the residential twinning advise between September 2011 to November 2014. The final report is detailed, comprehensive and worth reading.<sup>3</sup> The project was huge and focused on a multitude of enablers. A lot of training and study visits took place, strategies were developed, there was attention to strengthening the normative framework (legislation), the advantages to invest in probation was shown in a robust business case. A risk and needs assessment tool was developed and tested out. The environment of the probation organization was worked upon (round tables with and training of the judiciary, contact with municipalities for workplaces for Community Service, and on rehabilitation possibilities. Many recommendations are still valid today (in line with the impact assessment study described above).

The project faced several constraints:

- “The resources needed were simply not sufficient. When the project began there were only six commissioners in a country of over seven million people. ”
- “The implementation of Electronic Monitoring had already commenced – this meant that some poor practice was already entrenched.”
- The network of NGO’s delivered much less service to offenders than originally assumed.

The government was under pressure (partly because of comments made annually by the European Commission in the "progress" reports) to reduce overcrowding in the correctional facilities and improve prison conditions. For that reason, the government placed great emphasis on House Arrest and House Detention, with Electronic Monitoring as an optional tool.

The project report also mentions as one of the constraints that Electronic Monitoring had already started before the project started. With hindsight that had an enormous impact on the position of probation. When these alternatives to prison and pre-trial detention were introduced, it was not foreseen that these alternatives would primarily be characterized by rehabilitation. As the report states: *“The level of support from the Serbian Government for Alternative Sanctions is unclear. The current use of electronic monitoring as a form of “house*

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<sup>3</sup> Final Report November 2014; a project funded by the EU under The European Union IPA 2010, Programme for Republic of Serbia. The report was kindly made available by the EU office in Belgrade.

*judgment" suggests a very repressive approach."* (page 7). The probation organization was given the responsibility to implement these alternatives. Quantitatively, these sanctions proved to be a great success: the numbers increased enormously. As a result of these sanctions, however, it had the largest share in the work of the probation service and that it overwhelmed the rehabilitation component of the probation work.

## **Strengthening the probation and the system of alternative sanctions in Serbia (2017-2022)**

This MATRA project was carried out by the Netherlands Helsinki Committee and the Center of International Legal Cooperation in the Netherlands. Its intended long-term impacts comprised a viable decrease of overcrowding in correctional institutions through a more proper use of alternatives to imprisonment, as well as a decrease of recidivism, because of more efficient pre- and post-penal supervision and active support towards successful reintegration.

The focus in further developing the Serbian Probation service was to contribute to strengthening the capacities as outlined in the norms of the European Probation Rules. In advance of the project, it was assessed that the Probation service of Serbia had limited time for supervising conditional sentences and conditional release, and for implementing community service sentences. More specifically, the project's overall objective was to contribute to an effective and proficient functioning of the criminal justice sector in Serbia, where the main actors in the judicial chain - probation, penitentiary, prosecutors, and judges - cooperate with each other and with civil society organisations (CSO's).

In this project many activities took place: training of probation officers in core correctional skills, the revision and testing out of an assessment tool and reporting format (for pre-sentence reports), a small pilot of pre-sentence reports, round tables with judges and public prosecutors, articles by couples of a Dutch and Serbian judge or prosecutor on certain topics (pre-sentence activities, domestic violence), a system map of the probation system, study visits, attention to post penal care.

The main recommendations of the project were:

On the organization:

- Increase the number of staff significantly.
- Create more differentiation in tasks (attaching electronic tags and controlling community service can be done by staff with less formal qualifications).
- Invest in a good working relationship with the public prosecutors and courts; create mutual trust.

On the content of probation work:

- Invest in risk- and needs assessment in the framework of pre-sentence reports: this leads to a good selection of cases in which probation can be successful.
- Increase the number of community service sanctions and suspended sentences with protected supervision.
- Involve the probation service in the preparation of release, including advising about the conditions that are to be imposed on the offender.
- Expansion of work in those domains can lead to
  - a decrease of the prison sentences
  - which will bring along financial savings