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LAW

No. 78/2020

ON ORGANISATION AND FUNCTIONING OF THE PROBATION SERVICE

Based on articles 78 and 83, paragraph 1 of the Constitution, on proposal of the Council of Ministers,

THE PARLIAMENT

OF THE REPUBLIC OF ALBANIA

D E C I D E D:

CHAPTER I

GENERAL PROVISIONS

Article 1

Object

1. The object of this law is the definition of rules and procedures for

a) the organization and functioning of the Probation Service;

b) the enforcement of criminal decisions and orders of the prosecutor for the supervision and execution of alternative sentences, measures of diversion from criminal prosecution, non-custodial sentences against the juveniles or any other activity conform to the legal acts in effect;

c) the individualized treatment of the needs and skills of the person under supervision to ensure their adaptation and reintegration into society;

ç) fulfilment of obligations from the persons under supervision during the probation period.

2. The provisions of this law shall apply to criminal judgments ruled by domestic and foreign courts in compliance with the Code of Criminal Procedure, Criminal Code and the Juvenile Justice

Criminal Code, with the applicable law on the execution of criminal decisions and with bilateral or multilateral agreements ratified by the Republic of Albania.

Article 2
Aim

This law aims at enabling the social rehabilitation and reintegration of persons under supervision, preventing criminal offences and lowering the risk of reoffending, reducing the social costs, as well as contributing to the protection of public interest.

Article 3
Definitions

The following terms in this law have the following meaning:

1. "Alternative sentences" include the prison alternatives, which can be ruled by the Court pursuant to the provisions of the Criminal Code and Juvenile Justice Criminal Code.
2. "Non-custodial sentence against the juveniles" include the sentences provided for by the provisions of the Juvenile Justice Criminal Code.
3. "Restorative justice" has the same meaning as defined by the Juvenile Justice Criminal Code.
4. "Supervised Juvenile" is any person under the age of 18 years old, who has reached the age of criminal responsibility and against whom the competent body of the juvenile criminal justice system has ordered an alternative measure or a non-custodial sentence.
5. "Alternative measures" are measures of diversion from criminal prosecution pursuant to the provisions of the Juvenile Justice Criminal Code, as well as coercive measures with electronic monitoring pursuant to the law in force on the electronic monitoring of persons whose freedom is restricted by a court decision.
6. "Supervision" means activities performed by the Probation Service for the enforcement of alternative measures and alternative sentences, as well as of other orders set forth in special laws, with a view to supporting, advising and reintegrating the person under supervision into society.
7. "Person under supervision" means:

a) the person on whom the court has imposed one of the prison alternatives by decision of the court; or

b) the person against whom the court has ruled a protection order or an immediate protection order, in accordance with the law in force on the measures against violence in family relations, only if the court has decided that the person should be under electronic monitoring; or

c) the person on whom any other coercive measure has been imposed by decision of the court, foreseen by special laws.

8. "Additional care" means the process planned by the Probation Service in cooperation with the person under supervision and with his/her consent to be carried out even after the supervision of the fulfilment of all obligations imposed on him/her, aiming at his/her reintegration into society.
9. "Diversion" has the same meaning as defined by the Juvenile Justice Criminal Code.
10. "Specialist of the Probation Service" is the person in charge of supervising and assisting the person under supervision during the enforcementof the prison alternatives in compliance with the

legislation in force.

11. "Putting on probation" means fulfilling the conditions set by the proceeding authority against the person under supervision for a certain period of time. Putting on probation consists of several activities and interventions, such as control, guidance and assistance for the development of skills and opportunities for employment, along with the treatment aiming at the rehabilitation and reintegration into society of the person under supervision.

Article 4

Principles of activity of the Probation Service

1. The activity of the Probation Services is performed in compliance with the following principles:

a) legitimacy in guaranteeing the fundamental rights and freedoms of the individual and international standards in the area of human rights.

b) proportionality so that the interventions of the Probation Service are necessary to achieve the aim set forth in the law and in the judgment, the means and measures used to restrict as little as possible the rights of the person under supervision and of his family and to be proportional to the need, which dictated their imposition.

c) equality and non-discrimination on any grounds foreseen by the law in force on protection against discrimination.

ç) transparency and communication in a language that is understood through an official interpreter if the person does not speak or does not understand Albanian and in an accessible way for the persons with disabilities, in accordance with the standards and law in force on the inclusion and accessibility of persons with disabilities.

d) respecting the private life of the person under supervision and of his/her family, restricting it only when necessary for the protection of public interest, public order and security, or for the protection of the rights and freedoms of other persons.

dh) confidentiality of the information created and administered due to the function, in accordance with the lawin force on the protection of personal data.

e) principle of control and accountability.

2. While exercising their activity, the Probation Service shall guarantee respect for higher ethical standards, integrity, merit and professionalism, as well as respect for the dignity and integrity of the person under supervision and his/her family, of the victim of the criminal offence and his/her family.

3. The Probation Service supports the development of positive relations between the specialist of the Probation Service and the person under supervision and when possible seeks the consent and cooperation of the persons under supervision in relation to the interventions affecting them.

Article 5

Mission of the Probation Service

The mission of the Probation Service is the promotion of social inclusion of persons under supervision with a view to preventing the commission of criminal offences and developing the feeling of responsibility towards the society and the victim through rules of social interaction and special interventions.

CHAPTER II
Organisation and functioning of the Probation Service

Article 6
Organisation of the Probation Service

1. The Probation Service is a public legal entity, with its headquarters in Tirana carrying out its activity under the Ministry of Justice.

2. The Probation Service is financed from the state budget and its budget is approved as a separate item in the budget of the Ministry of Justice.

3. Probation service is organised:

a) at central level through the General Directorate of Probation Service;

b) at local level through the territorial branches of the Probation Service.

4. Structure and organisational structure of the Probation Service are approved by order of the Prime Minister pursuant to the definitions of the law in force on the organisation and functioning of the state administration.

5. The labour relations of the staf of the Probation Service in the General Directorate of Probation Service and of the territorial branches are regulated in accordance with the provisions of the law in force on civil servant.

6. The labour relations of the administration staff of the General Directorate of Probation Service and of the territorial branches are regulated in accordance with the Labour Code.

7. The detailed rules for the organisation and functioning of the Probation Service shall be defined in the general regulation of the Probation Service, approved by the Council of Ministers.

Article 7
Functions of the Probation Service

1. The Probation Serviceperforms the following functions:

a) supervise execution of alternative sentences against persons under supervision enforcingthe court decision and the execution order of the prosecutor, which includes the even the supervision of:

i) the sentenced person with drug or alcohol addiction, who undergoes a compulsory rehabilitating treatment;

ii) the sentenced person on conditional release;

b) draft and supervise the manner of implementation of the individual treatment plan of the person under supervision, by taking into consideration the risks and needs for his/her rehabilitation and integration into society;

c) support the person under supervision to overcome difficulties in social reintegration during and after the termination of the probation period.

ç) address problems of the person under supervision regarding employment, housing, education, training and the needs for social protection, in order to reduce the risk of recidivism in the futureand to enable his/her reintegration into society;

d) draft assessment reports and/or report to the prosecution and the court pursuant to the

Criminal Code, Code of Criminal Procedure, Juvenile Justice Criminal Code, law on execution of criminal sentences and other legal and sub-legal acts in force;

dh) systematically collect data about the activity of the persons under supervision;

e) support the improvement of the work practice with persons under supervision.

2. The Probation Service provides services accessible for persons under supervision who are foreign citizens or stateless persons sentenced by Albanian courts.

To this aim, the Probation Service shall cooperate with the probation service agencies and institutions in the countries of origin of the foreign citizens under supervision conform to the bilateral or multilateral agreements ratified by the Republic of Albania, to facilitate the necessary supervising arrangements during the return of these persons to the country of origin.

Article 8

General Directorate of Probation Service

1. General Directorate of Probation Service is responsible for:

a) planning and strategic management of the activity of the Probation Service;

b) submitting to the Minister of Justice periodical reports on the fulfilment of obligations set forth in this law and other laws in force;

c) organising, managing and coordinating the process of supervision of execution of alternative sentences and alternative measures by the territorial branches;

ç) following and fulfilling the obligations set forth in the Juvenile Justice Criminal Code pertaining to the areas of responsibilities of the Probation Service;

d) organising, managing and coordinating the process of electronic monitoring, based on the law in force on electronic monitoring of persons whose movement is restricted by a judicial decision;

dh) carrying out necessary studies and analysis for the drafting of strategic documents in the field of probation service and for the drafting of criminal and social policies;

e) coordinating and preparing standards, methodology of work, in order to unify the practice and improve the activity of the specialists of the Probation Service;

ë) assessing, controlling and inspecting the activity performed by the branches;

f) coordinating and managing human resources of the Probation Service, in accordance with the legislation in force and the regulation of the Probation Service;

g) following the professional training of the specialists of the Probation Service, in cooperation with the institutions, donors or local or foreign organisations;

gj) representing in court proceedings to which the Probation Service is a party;

h) establishing, keeping, updating and processing statistical data in the field of Probation Service;

i) raising the awareness of the public and institutions about the role and activity of the Probation Service;

j) financial administering of the Probation Service institution;

k) signing cooperation agreements or memoranda of understanding with other domestic or foreign authorities with a view to implementing this law;

l) performing any other duty set forth in this law or other laws in force.

2. The rules of procedure of the Probation Service is approved by the Minister of Justice, on the

proposal of the General Director of the Probation Service.

Article 9

Territorial competence of the territorial branches

1. The territorial branch, where the person under supervision has his/her place of domicile or residence, is competent for the enforcement of prison alternatives, decided by a final court decision and for carrying out the supervision within its territory of competence.

2. The territorial branch of the place of domicile or residence of the person who is being assessed is competent for drafting the assessment report. If the person being assessed is placed in an institution for the execution of criminal decisions, the territorial branch of the judicial district where the institution is located will be the competent branch. In special cases, the other territorial branches can cooperate to gather the information for the drafting of the assessment report.

3. In case of conflict of competence between the territorial branches, the conflict shall be resolved by the General Directorate of the Probation Service within 5 (five) days from the day of being informed of this conflict.

Article 10

General Director

1. The General Director represents the General Directorate of Probation Service in relations with third parties, organises and controls its activity and is responsible for the proper functioning of the Probation Service institution.

2. The General Director of the Probation Service is appointed, released or dismissed by a decision of the Council of Ministers, on the proposal of the Minister of Justice.

3. The applicant for the General Director of the Probation Service shall meet the following criteria:

a) to be an Albanian citizen;

b) to have completed at least the second cycle of university studies or an equivalent diploma in the branches: psychology, law, social work or sociology, in accordance with the law in force on higher education in the Republic of Albania;

c) to have a work experience of not less than 10 years in the profession, of which at least the last 5 years he/she should have been involved in the field of human rights or community services;

ç) to have no prior criminal convictions for a criminal offence with a final court decision;

d) not to have been subject to the disciplinary measure of dismissal or not to be subject to any effective disciplinary measures;

dh) to have integrity and a pure moral figure.

Article 11

Director of territorial branch

1. The Director of the territorial branch is responsible for the management, coordination and control of fulfilment of the tasks by the specialists of the territorial branch of the Probation Service.

2. The Director of the territorial branch is appointed, released or dismissed in accordance with the law in force on civil servant.

3. Apart from the general criteria set forth in the law in force on civil servant, the director of the territorial branch of the Probation service shall meet the following criteria:

a) to have completed at least the second cycle of university studies or an equivalent diploma in the branches: psychology, law, social work or sociology, in accordance with the law on higher education in the Republic of Albania in effect;

b) to have a work experience of not less than 5 years in the profession.

Article 12

Specialist of the Probation Service

1. The specialist of the Probation Service is appointed, released or dismissed in accordance with the law in force on civil servant.

2. Apart from the general criteria set forth in the law in force on civil servant, the specialist of the Probation Service shall meet the following criteria:

a) to have completed at least the second cycle of university studies or an equivalent diploma in the branches: psychology, law, social work or sociology, in accordance with the law in force on higher education in the Republic of Albania;

b) to have a work experience of no less than 1 year in the profession.

3. In the course of exercising his/her activity the specialist of the Probation Service is guided by the principles of impartiality, professionalism and upholding professional and ethical-moral integrity.

4. The specialist of the Probation Service cannot perform other public or private functions or duties in conflict with his/her functional and legal duties, with the exception of teaching, academic and scientific activity.

Article 13

Rights and Duties of the specialists of the Probation Service

1. The specialist of the Probation Service is responsible for:

a) supervising alternative measures, non-custodial sentences pursuant to the Juvenile Justice Criminal Code, prison alternatives in accordance with the Criminal Code as well as other measures defined by special laws;

b) drafting the individual assessment reports for the persons under supervision to be submitted to the prosecution and court in accordance with this law and other laws in force;

c) assisting, advising and reintegrating the person under supervision into society.

2. The specialist of the Probation Service, to the extent necessary to perform functional duties, has the right:

a) to access, during the criminal proceeding,general data aboutthe subject under assessment and about the circumstances under which the offence has been committed, which do not constituteinvestigation secret or confidentiality and during the judicial proceeding to access the information administered in the judicial file in accordance with the terms and conditions set forth in the Code of Criminal Procedure;

b) to access information administered by other state institutions in accordance with the rules foreseen by the legislation in force.

Article 14

Conflict of Interest

1. The Specialist of the Probation service has the obligation to avoid any conflict between the public and private interest in the performance of the duty.

2. The Specialist of the Probation Service, in the course of performance of the tasks related to the supervision and assistance to the person under supervision, declares all cases of conflict of interest, according to the provisions of the law in force on prevention of conflict of interest in exercising public functions.

3. The Specialist of the Probation Service is obliged to request withdrawal from supervising and assisting the person under supervision in case of factual and constant conflict of interest with him/her.

4. The declaration of conflict of interest and the request for withdrawal are submitted for decision to the director of the respective territorial branch of the Probation Service. In cases when conflict of interest is declared by the director of the respective territorial branch or by any interested person, the acts are submitted for decision to the General Director of the Probation Service. The content of the request and the decision is informed to the parties immediately and in any case not later than three days from the decision of the General Director.

Article 15

Professional training system of the specialists of the Probation Service

1. The General Directorate of the Probation Service is responsible for the drafting and development of the strategy for the professional training of the specialists of the Probation Service for the improvement of their role and the level of professional responsibilities.

2. The training programme is drafted in two main directions:

a) initial training, which is organised for the specialists of the Probation Service under probation;

b) continuous training, which is conducted for the specialists of the Probation Service confirmed in office, upon termination of the trial period.

3. For the purpose of applying this article, the Albanian School of Public Administration, on the request of the General Directorate of the Probation Service shall organise training for topics related to the supervision of alternative measures, prison alternatives, as well as assisting and rehabilitating the persons under supervision.

4. The trainings according to the topics defined in paragraph 3 of this Article, may be organised even in cooperation with the School of Magistrate or with domestic or foreign agencies accredited for the provision of trainings.

Article 16

Initial training

1. Initial training aims at providing to the specialists of the Probation Service on trial period, with the proper theoretical and practical professional knowledge for the supervision of alternative measures, non-custodial sentences according to the Juvenile Justice Criminal Code, the prison alternatives according to the Criminal Code as well as assisting and reintegrating the persons under supervision into society.

2. The program of the initial training defines the rules and condition for the training modules or courses, for assessing the knowledge upon completion of the initial training, as well as for issuing the certificate upon successful completion of the initial training program.

3. The initial training program is drafted by the Ministry of Justice in cooperation with the General Directorate of the Probation Service.

Article 17

Continuous training

4. The continuous training program aims at updating the professional knowledge and skills of the specialists of the Probation Service with specific theoretical and practical professional knowledge, to adapt to the developments of the legal framework and international standards.

5. Attending the program of the continuous training is compulsory and upon completion of fulfilling the obligation, the specialist of the Probation Services is issued the relevant certificate.

6. The specialists of the Probation Service, responsible for the supervision of the juveniles in conflict with the law, shall attend the specialised continuous training on juvenile criminal justice, in accordance with the Juvenile Justice Criminal Code.

7. The specialists of the Probation Service, responsible for the supervision of persons with disabilities, vulnerable persons or persons with special needs, shall attend specialised programs of continuous training.

8. The continuous training program defines the training methods, the training schedule and modules and the conditions for issuing the certificate of participation.

9. The continuous training program is drafted by the Ministry of Justice in cooperation with the General Directorate of the Probation Service

CHAPTER III

PROBATION SERVICE SUPPORT DURING THE JUDICIAL PROCESS

Article 18

Obligation to submit the assessment report

1. The Probation Service, on the request of the prosecutor or the court, submits the assessment report on the juvenile in conflict with the law, on the person being investigated, on the defendant or the person being supervised, not later than 14 days from the receipt of the request:

a) during the stage of preliminary investigation;

b) before the decision of the alternative measure of diversion from prosecution and at the end of its execution;

c) during trial before the judgment is rendered;

ç) during the stage of execution in the case of:

i. supervision of the sentenced person under probation;
ii. examination of the conditional release request;
iii. early termination of the probation period;
iv. completion of the alternative sentence or completion of fulfilment of certain obligations;
v. non-fulfilment of obligation by the person under supervision;

d) any other cases foreseen by the legislation in force.

2. The assessment report introduces data, which help the prosecutor or the court in their decision making at any stage of the criminal proceeding, based on the detailed information and analysis of circumstances, causes of committing the criminal offence and the attitude submitted by the Probation Service in a clear and well-reasoned manner.

3. The Specialist of the Probation Service in charge of the supervision of the person being supervised, apart from the reports set forth in paragraph 1, letter "ç" of this Article, carries out mainly assessments and drafts periodical assessment reports when and how the prosecutor and/or court requires, depending on the supervision period, but in any case, not less than one report. These assessment reports contain information and well-reasoned recommendations for the manner of the fulfilment of obligations decided by the court and for the behaviour of the person under supervision, which are included in the file of the Probation Service. A copy of the periodical assessment report is made available to the person under supervision, his/her representative or legal guardian and defence lawyer.

4. While drafting these reports, the specialist of the Probation Service is guided by the principle of professionalism, non-discrimination, objectivity, and impartiality.

5. The assessment reports, set forth in paragraph 1 and 3 of this Article, are drafted conform to the standard templates approved with the order of the Minister of Justice, on the proposal of the General Director of the Probation Service.

Article 19

Probation Service Report

1. The Probation Service, when assessing a juvenile, shall draftthe individual assessment report based on the provisions of the Juvenile Justice Criminal Code, of this law and the legislation in force.

2. The Individual Assessment Report, in the case of a juvenile in conflict with the law, contains data about:

a) the level of psychological development and way of living of the juvenile in conflict with the law;

b) education and schooling;

c) health condition;

ç) individual characteristics of the juvenile;

d) family and social environment and other conditions of the juvenile, which allow for the assessment of the characteristics of the personality of the juvenile, the accountability and level of his/her responsibility, behaviour and his special needs;

dh) the risk of reoffending;

e) the relevant measures to promote his/her development and integration into society;

ë) any other data which is considered as useful for the purpose of drafting the assessment report.

3. The Probation Service, while drafting the individual assessment report conform to paragraph 2 of this Article, shall seek the opinion of the Unit for the Protection of the Child Rights of the jurisdiction where the juvenile resides.

4. The assessment report, in case ofan adult under investigation, defendant or under supervision, contains data about:

a) family situation;

b) social environment of the person;

c) education and vocational training and previous employment history;

ç) personality, general behaviour and analysis of behaviour;

d) the risk for reoffending;

dh) behaviourtoward the victim of the criminal offence and substitution for the damage caused;

e) any other data which is considered as useful for the purpose of draftingthe assessment report.

5. While conducting the individual assessment, the specialist of the Probation Service shall meet freely with the juvenile in conflict with the law or with the person under investigation, the defendant or the person under supervision.

6. Every state institution, public entity or private subject shall cooperate with the Probation Service and shall make all the necessary information available for the preparation of the assessment report in accordance with the rules and deadlines foreseen by the special laws in force.

7. The Probation Service shall report the conclusions resulting from the supervision process objectively, impartially avoiding any influence. The individual assessment report is signed by the specialist of the Probation Service and by the person subject of the assessment report, if possible, and, when this is a minor, it is signed by his/her legal guardian and defence lawyer. A copy of the individual assessment report is made available to the person under supervision, in the case of a minor,to thelegal guardian and to the defence lawyer.

8. In the event of an objective impossibility to draft the assessment report, within the deadlines set by the prosecution or the court, or when some additional data are required to draft the report, which require the deadlines to be postponed, the Probation Service shall notify the prosecutor or the court of the impossibility of drafting the assessment report within the defined deadlines by submitting the relevant reasons. In any case, the Probation Service shall draft the assessment report not later than 7 days from the date of giving the notification of the reasons for the postponement.

9. Upon termination of the probation period, the Probation Service shall draft the final report consisting of :

a) personal information of the person under supervision;

b) data of the criminal judgment, which determines the sentence or the alternative measure;

c) the date when the sentence or alternative measure starts and ends;

ç) the reason for termination of the sentence or alternative measure; and

d) a progress report on the fulfilment of the obligations of the sentence or alternative measure.

CHAPTER IV
ACTIONS OF THE PROBATION SERVICE FOR THE SUPERVISION OF THE EXECUTION OF ALTERNATIVE SENTENCES

Article 20
Actions performed to enforce the orders for the supervision of alternative sentences

1. The actions that the Probation Service shall take to enforce the execution order include:
a) verify and determine the territorial competence;
b) establish first contact and interview the person under supervision;
c) inform the person under supervision of the rights and obligations entitled during the supervision process;
ç) establish a risk assessment system;
d) draft an individual treatment plan in cooperation with the person being supervised.
2. The law in force on the execution of criminal sentences and the General Regulation of the Probation Service provides for the detailed rules for the supervision procedure of persons sentenced with alternative semi-libertysentences, suspension of the execution of imprisonment sentence and placement under probation, home confinement, suspension of imprisonment sentence and the obligation of community service, as well as with conditional release.

Article 21
Preparatory actions of the Probation Service

1. The director of the territorial branch of the Probation Service, after having administered the order of the execution issued by the prosecutor, conform to the legislation in force on the execution of criminal sentences and after having verified the territorial competence, assigns the specialist responsible for the supervision within 2 days from the date of administration of the execution order.
2. The specialist of the Probation Service in charge of the supervision, within 7 calendar days from the date of administration of the execution order, shall verify the voluntarily fulfilment of the obligation of establishing contact with the Probation Service by the person under supervision.
3. When the person under supervision, upon termination of the 7-day deadline has not voluntarily fulfilled the obligation of establishing contact with the Probation Service, the specialist in charge of the supervision notifies him/her of the obligation to establish contact. The notification defines the place and address of the Probation Service, the date and time of the meeting, the telephone and electronic contact details of the specialist of the Probation Service in charge of the supervision, as well as of the consequences arising from failure to fulfil the obligation.
4. The notification, defined in paragraph 3 of this Article, is delivered through postal service. To deliver the notification, the Probation Service has the right to access the electronic database of addresses.
5. If the person under supervision is not found, the Probation Service notifies the prosecutor, the latter acts conform to the requirements set forth in the Code of Criminal Procedure and the law in force on the execution of criminal sentences.

Article 22

Establishing first contact with the Probation Service

1. The person under supervision shall contactthe responsible specialist of the Probation Servicewithin 5 calendar days from the date of receipt of notification. In case of failureto appear within the set deadline, a second notification will be sent through the police officer, competent for the territory, and the Judicial Police serviceon the following day after the deadline ends.

2. If the person is not found even after the second notification set forth in paragraph 1 of this Article, the specialist of the Probation Service shall draft and submit to the prosecutor the non-fulfilment report.

3. The Specialist of the Probation Service in charge of the supervision of the juvenile under supervision carries out the notifications as provided for in this Article, through his/her legal guardian or legal representative defined in the judgment.

4. The specialist of the Probation Service shall examine the reasons recorded, which prevented the person under supervision from establishing contact. In cases when deemed as necessary, the specialist of the Probation Service is entitled to request an official confirmation from the state institutions or private subjects that have issued the act.

5. The specialist of the Probation Service during the first contact with the person under supervision verifies his/her identity and informs him/herof the aims and objectives of the supervision, of the rights and legal guarantees, of the obligations according to the judgment, as well as of the consequences deriving from failure to fulfil them, in a language that he/she understands.

6. During the first meeting, the specialist of the Probation Service intends to establish a positive relation with the person under supervision, and takes the necessary information for the assessment of the economic, social and health conditions, along with any other necessary information for the preliminary assessment.

7. The actions performed during the first meeting are recorded in the minutes, which is signed by the specialist of the Probation Service and the person under supervision. When he/she is a juvenile, the minutes are signed even by his/her legal guardian or legal representative.

Article 23

Individual Treatment Plan

1. The Probation Service assesses the personality of the person under supervision, in order to clarify the needs for physical, affective or social deficiencies, his willingness to work and his professional skills. The Probation Service, based on this assessment, on personal, family and social data, as well as on the extent of the sentence, drafts the individual treatment plan of the person under supervision in accordance with the respective alternative sentence. This plan is approved by the director of the respective territorial branch.

2. The individual treatment plan is discussed with the person under supervision. This plan may change depending on the progress made.

3. The individual treatment plan is signed by the specialist of the Probation Service and theperson under supervision and, when this is a minor, it is signed by his/herlegal guardian and his/her defence lawyer. A copy of the individual plan is submitted to the person under supervision,

his/her legal guardian, when this is a minor, even to the defence lawyer.

4. When the court imposes the obligation of the person under supervision to participate in a rehabilitation program, the individual treatment plan shall describe the content, duration and manner of its performance.

5. When the court imposes the obligation to perform community service, the individual program of supervision shall contain a description of the work, its location and duration.

6. The responsible specialist of Probation Service maintains regular contact with the person under supervision during the entire probation period. The specialist of the Probation Service and the person under supervision agree and sign the program for carrying out the supervision.

7. The detailed rules in relation to the data contained in the individual treatment plan and the manner of its development are determined by order of the Minister of Justice on the proposal of the Director General of the Probation Service.

Article 24

Administering of data during the supervision of alternative sentences

1. The responsible Probation Service specialist opens a personal file of the probation service for each person under supervision, he/she administers therein all the acts issued by the Probation Service during the criminal process and execution of the respective judicial decision.

2. The personal file of the probation service and its content, once the probation period is over, shall be handled in accordance with the conditions and requirements defined in the law in force on archives.

3. Each territorial branch of the Probation Service exercising the functional duties shall keep, in paper format the following registers:

a) register of persons under supervision;

b) register of requests-complaints;

c) register of violations and non-fulfilment of the obligations determined in the judicial decision;

ç) register of non-profit organisations, state institutions or private entitiesproviding counselling and assistance of any form to the persons sentenced to one of the prison alternatives.

d) register of assessment reports requested by the court or prosecution.

4. The right to access the content of the personal file of the probation service during the probation belongs to the person under supervision or to his/her legal guardian, the defence lawyer, the judge and prosecutor.

5. The format, content and the manner of establishing and administering of registers, set forth in paragraph 3 of this Article are determined by order of the Minister of Justice on the proposal of the Director General of the Probation Service.

6. The storage and processing of the personal data administered in the personal files of the Probation Service and the data in the registers set forth in paragraph 3 of this Article, shall be handled in accordance with the conditions and requirements defined in the law in force on the protection of personal data.

Article 25

Actions taken in application of decisions foreseen in the framework of Juvenile Justice Criminal Code

1. In the context of the Juvenile Justice Criminal Code, the Probation Service supervises the enforcement of judicial decisions of:

a) diversion from criminal prosecution;

b) non-custodial sentences.

2. The Probation Service is guided by the principle of the best interest of the child and provides the juvenile with social, educational, psychological, medical and physical assistance in accordance with the individual needs and in accordance with his/her age, gender and personality, with a view to rehabilitating and reintegrating him/her into social life.

3. The Probation Service, with a view to supervising the decisions set forth in paragraph 1 of this Article, shall take the following actions:

a) verify and determine the territorial competence;

b) conductthe first meeting with the juvenile, immediately and not later than 7 days from the date of receipt of the request from the court or the prosecutor, in the presence of his/her defence lawyer, parent or legal guardian and psychologist;

c) inform of the rights and obligations that the juvenile is entitled during the supervision process;

ç) analyse the behaviour of the juvenile, the personality, family conditions, nature of the criminal offence committed by him/her and other circumstances, with a view of drafting an individual treatment plan in cooperation with the juvenile, parent or his/her legal guardian and child protection structures.

4. The Probation Service shall supervise the fulfilment of conditions and obligations arising from the measure of diversion from criminal prosecution and prison alternatives. In the event of nonfulfillment of the obligations determined in these decisions, the Probation Service shall notify immediately in writing the prosecutor by providing him/her with the assessment report, the time, the place, the manner and the circumstances of nonfulfillment, as well as the personal situation of the juvenile.

5. The Probation Service shall notify at the same time the juvenile, his/her legal guardian and the defence lawyer of the consequences of nonfulfillment of the obligations and of the rules of review in cases of nonfulfillment.

6. The detailed rules on the supervision of the enforcement of judicial decisions defined in paragraph 1 of this Article, shall beset forth in the General Regulation of the Probation Service.

7. The template of the report defined in paragraph 4 of this Article shall be adopted by order of the Minister of Justice.

Article 26

Obligations of the person under supervision in case of change of domicile

1. The person under supervision is obliged to inform in writing and seek the consent of the responsible specialist of the Probation Service with regard to change of domicile or residence, work

place or for any frequent movements within the country by submitting the relevant documents. The Probation Service shall grant or refuse the consentwith arguments,after having reviewed the respective documents.

2. In urgent cases, the Probation Serviceshall deliver both electronically or by phone the notification of receipt of consent, and the notification of granting or refusing the consent. In any case, the person under supervision shall send in writing, within 3 days, the address of the place he will be staying and the relevant documents proving the change of domicile, residence, work place or movement within the country.

3. In the case of the sentence of home confinement, the procedures for changing the domicile or residence are regulated according to the provisions of the law in force on execution of criminal sentences.

4. If the new domicile or residence of the person is outside the territorial competence of the territorial branch of the Probation Service initially in charge of the supervision, the latter shall send the personal file of the probation serviceto the territorial branch of the Probation Service whose territorial competence falls under the new domicile or residence of the person under supervision.

5. Thespecialist responsible for the supervisions, within three days, shall notify the local bodies of State Police and the prosecutor who has issued the execution order of the change of domicile, residence, work place or of any frequent movements within the country to.

6. Detailed rules on the reasons for changing the domicile or residence, workplace or any frequent movements within the country and on the manner of conducting the supervision shall be defined in the general regulation of the Probation Service.

Article 27

Support for the person under supervision

1. The responsible specialist of the Probation Service shall assist and support the person under supervision for his/her social reintegration by referring him/her to the institutions and competent state structures for employment, housing, vocational training and responsible structures for social services in the local government units, based on the information administered during the entire process and the assessment of the personality and social environment of the person under supervision. With regard to the juvenile in conflict with the law, the responsible specialist of the Probation Service provides support also for the juvenile to attend the relevant education.

2. The support and assistance provided to the person under supervision during the entire period of the supervision consist of specialized interventions in accordance with his/her needs, in order to avoid the risk of committing other criminal offences or to normalise the relations with the victim and her family.

3. Once the probation period is over, the person under supervision is not bound to maintain contact with the Probation Service, unless this is requested by him/her. In these cases, the Probation Service refers the case to the responsible structures of social services at the local government units, it also provides the required counselling to the person under supervision, with his/her consent.

4. Foreign citizens or stateless persons under supervision are treated by taking into consideration their condition and specific needs. The specialists of the Probation Service shall take positive actions to avoid discrimination and to resolve specific problems that these persons might

face once the probation period is over.

5. Detailed rules and procedures for the support and assistance provided for persons under supervision by the specialist of the Probation Service are set forth in the General Regulation of Probation Service.

Article 28

Support for the victim

1. The responsible specialist of the Probation Service supervises the fulfilment of obligationsto repair damage caused by the person under supervision during the commission of the criminal offence

2. The responsible specialist of the Probation Service shall cooperate with certified mediators depending on the cases referred and shall handle them through restorative justice and mediation in accordance with the law in force on mediation for dispute resolution.

3. If the person under supervision is a juvenile, the procedure set forth in paragraph 2 of this Article, may be applied only with the consent of the juvenile, conform to the rules set forth in the Juvenile Justice Criminal Code.

4. The specialist of the Probation Service shall take the necessary measures for the mediation process to take place with the participation in person of the juvenile, his/her legal guardian, psychologist and the victim. During the mediation process, with the consent of the parties, the employee of the Child Protection Unit, the prosecutor and/or other persons designated by him/her may participate.

5. Any action taken during the mediation process is recorded in the minutes. The specialist of the Probation Service ensures that this record becomes part of the personal file of the probation service of the person under supervision

6. The specialist of the Probation Service shall preserve the confidentiality of the information he/she becomes aware of during the mediation process, unless the information serves to prevent a criminal offense.

Article 29

Non-fulfilment of obligations imposed by the court

1. When the responsible specialist of the Probation Service finds that the person under supervision has failed to fulfil the conditions and obligations imposed by the court, he has the duty to verify the facts and the preventing circumstances and notify the prosecutor.

2. When the state institutions or private entities find that the persons under supervision has failed to fulfil the conditions, within 5 daysreport to the Probation Service, who informs the prosecutor.

3. The responsible specialist of the Probation Service shall draft the report of nonfulfillment of the obligations imposed by the court, which contains information on the circumstances of nonfulfillment, the explanations provided by the person under supervision, the assessment of the Probation Service for the case and the recommendation for the actions to be taken in accordance with the level of the risk of the violation. This report is immediately submitted to the prosecutor.

4. Detailed rules on handling cases of nonfulfillment of the obligations by the persons under supervision shall be defined in the General Regulation of the Probation Service.

Article 30

Cooperation with the Ministry of Justice

1. The Probation Service, pursuant to the rules of the European Convention on supervision of conditionally sentenced or conditionally released offenders or to the rules defined in other international acts ratified by the Republic of Albania, shall cooperate with the Ministry of Justice for the enforcement of the prison alternatives.
2. The procedures of cooperation, according to paragraph 1 of this Article, are determined by order of the Minister of Justice.

Article 31

Cooperation with state institutions, private entities and civil society organizations

1. The Probation Service shall cooperate with the General Directorate of Prisons and General Directorate of State Police during the admission, supervision and risk assessment of persons under supervision.
2. The Probation Service shall cooperate with state institutions, local government units and other bodies, which provide services for the rehabilitation and reintegration of persons under supervision.
3. The Probation Service shall cooperate with institutions of higher education for research and studies in order to improve the work practice with persons under supervisions.
4. The Probation Service shall cooperate with private entities, organisations of civil society and international organization working in the field of rights of sentenced persons and community services, in order to promote the reintegrationof persons under supervision into society.

Article 32

Inspection

1. The activity of the specialists of the Probation Service to uphold the provisions of this law, shall be subject to inspection from the structures responsible for inspection in the General Directorate of the Probation Service and the Ministry of Justice.
2. Once the inspection is finished, the persons authorised to conduct the inspections shall prepare the recommendations either for the Minister of Justice or the General Director of the Probation Service or the Director of the Territorial Branch, depending on the case, to take the necessary measures for the violations observed.
3. The detailed rules for carrying out inspections, the rights and duties of the inspectors and the of the subjects inspected shall be defined in the General Regulation of the Probation Service.

Article 33

Administrative and judicial complaint

1. The person under supervision has the right of administrative and judicial complaint against the actions of the specialist of the Probation Service assigned for his/her supervision.

2. The administrative complaint is submitted first to the director of the territorial branch where the specialist of the Probation Services exercises his/her function and then to the General Director of the Probation Service.

3. The administrative complaint is examined within 14 days from its submission, unless this law provides for special deadlines, in compliance with the rules provided for in the Code of Administrative Procedure.

4. The person under supervision has the right to complain against the decision of the General Director of the Probation Service to the prosecutor or the competent court of the location of execution, in compliance with the provisions of the Code of Criminal Procedure and the law in force on the execution of criminal sentences.

CHAPTER V

TRANSITORY AND FINAL PROVISIONS

Article 34

Transitory provisions

1. Upon the entry into force of this law, the current staff of the General Directorate of the Probation Service and of the territorial branches of the Probation Service shall enjoy the status of the civil servant, shall continue to maintain their positions under the same conditions that they have been previously employed in the General Directorate of Probation and the in the Territorial Branches, if they meet the employment criteria set forth in this law.

2. The administrative staff continue to remain in office even after the entry into force of this law.

3. The procedures for the supervision of execution of alternative sentences, initiated before the entry into force of this law, continue to be followed according to the provisions of the legislation in effect.

Article 35

Sub-legal acts

1. The Council of Ministers, within 6 months from entry into force of this law, is in charge of approving the General Regulation of the Probation Service.

2. The minister of Justice, within 3 months from the entry into force of this law is in charge of approving the sub-legal acts implementing article 18, paragraph 5; 23, paragraph 7; 24 paragraph 5; 25, paragraph 7 and 30, paragraph 2 of this law.

Article 36

Repeals

Upon the entry into force of this law, decision of the Council of Minister no. 302 dated 25.3.2009 "On adoption of Regulation "On organisation and functioning of the probation service and definition of standards and procedures concerning supervision of execution of alternative sentences" shall be repealed.

Article 37

Entry into force

This law shall enter into force 15 days following publication in the Official Gazette.

SPEAKER

Gramoz Ruçi

Passed on 25.6.2020