

The Sector for Probation in the Republic of Croatia

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Summary: The Probation Service (commonly known as the Sector for Probation) in Croatia was established in 2009 with new legislation, and a structure and role in the criminal justice system that are still in development. This paper provides a brief introduction to the Sector for Probation in Croatia, its development, work and challenges.

Keywords: Croatia, probation, courts, Sector for Probation, prosecution, community sanctions, prison, offenders, reoffending.

Introduction

The Republic of Croatia is a European country, located at the seam of Middle and Southeast Europe. On the north it borders with Slovenia and Hungary, on the east with Serbia, on the south with Bosnia and Herzegovina and Montenegro, while a long maritime border separates it from Italy. It is about the same size as Ireland and has a population of 4.3 million. Previously part of the Socialist Federal Republic of Yugoslavia, Croatia declared independence in 1991 and was embroiled in an independence war for almost four years. The war in the former Yugoslavia ended twenty years ago and since then Croatia has been recognised as a successful and developing economy and State. Many people now know Croatia again as a welcoming holiday destination with its lowlands, fairy-tale mountainous regions and coastline with 1,200 islands.

On global and European scales Croatia is a very safe country. In November 2014 it reported 3,853 people (including remand detainees)

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in penal institutions, a rate of ninety-one per 100,000 of population.² Over the last three years the number of prisoners has fallen while the capacity and standards of the prison system have improved, reducing the problem of overcrowding. Justice Minister Orsat Miljenic said, in March 2015, that the reduction of the number of prisoners was partly due to the amendment of the Criminal Code and also to the introduction of the probation system.³

The development of probation

The Probation Service (known as the Sector for Probation) in the Republic of Croatia is a very young service. It was established in 2009, during Croatia's accession negotiations for EU membership, and benefited from the related judicial reforms.⁴ The Croatian national probation system, as a result, is aligned with the EU and Council of Europe's recommendations. The Republic of Croatia became the twenty-eighth Member State of the EU on 1 July 2013.

The concept of probation already existed in the Croatian legal system, though not in its present form. For many years measures had been available for juvenile offenders in Croatia which were very similar to probation measures. For adult offenders a suspended sentence with protective supervision as a sanction, though different in form to probation, was regulated in 1976 by the provisions of the Criminal Code of the Socialist Federal Republic of Yugoslavia. After declaring its independence the Republic of Croatia took over this Act and the sanction was kept and developed.

Croatia's Criminal Code of 1997 introduced the possibility of replacing prison sentences with community work orders. Following further legislative changes, the 1999 Act on the enforcement of protective supervision and community work was enacted, pursuant to which, until the establishment of the Sector for Probation, the enforcement of these two

² <http://www.prisonstudies.org/country/croatia>

³ <http://dalje.com/en-croatia/situation-regarding-prison-capacity-much-better-minister-says/536253>

⁴ The Instrument for Pre-Accession Assistance (IPA) provided assistance to countries engaged in the accession process to the European Union (EU) for the period 2007–2013 to enhance the efficiency and coherence of aid by means of a single framework in order to strengthen institutional capacity, cross-border cooperation, economic and social development and rural development. The IPA 2008 project 'Development of Probation System in the Republic of Croatia' started in June 2011.

sanctions was supervised by so-called ‘commissioners’. Commissioners were persons who, after their regular working hours, performed the supervision based on contracts with the Ministry of Justice (commissioners were mostly employees of the Social Welfare Centre, prison system etc.).

This existing system demonstrated that Croatia was open to the concept of alternative sanctions. As probation has proved to be an effective alternative to imprisonment, existing practices in countries across Europe were studied, and work towards the development of a professional probation service commenced.

The first Probation Act in Croatia was enacted in 2009, though the first probation offices only opened in 2011. Since the beginning of 2013 the professional probation service, the Sector for Probation, has been available to all citizens, and is today recognised as a valued and important part of the Croatian criminal justice system.

Governance of probation

Responsibility for the Sector for Probation and its work is under the direction of the Ministry of Justice. The Sector for Probation is an administrative body, separate from the prison system. Probation Officers are civil servants, employees of the Ministry of Justice. The Sector for Probation is part of the Criminal Law and Probation Directorate of the Ministry and consists of the Central Office and twelve local probation offices across the country. Every probation office has a Chief of the Office, Probation Officers and administrative staff.

The Central Office manages co-ordination and service development. It includes the Department for Probation Tasks, Department for Probation Tasks During and After Enforcement of Prison Sentence and Conditional Release, Department for Legal Support to the Probation System, and the Department for Strategic Planning, Development and Analytics. Probation supervision and direct services are delivered through local probation offices in Bjelovar, Dubrovnik, Osijek, Požega, Pula, Rijeka, Sisak, Split, Varaždin, Zadar and Zagreb. Some offices cover larger and some smaller territorial areas depending on population size and distribution.

Probation Officers hold a degree in law, psychology, social pedagogy, social work or pedagogy, and are authorised to perform probation tasks in accordance with the Probation Act. At present, 113 posts are

envisaged for the Sector for Probation, twenty-two at the Central Office and ninety-one at the local probation offices. To date, eighty-four posts have been filled: thirteen at the Central Office and seventy-one at probation offices. All cases are managed through the Sector for Probation Information System (PSIS), an electronic database accessible by all employees via a web interface. PSIS is used as a registry of all persons supervised and also as a management programme supporting administrative processes.

With its growing workload (1,040 cases in 2011 and 3,072 cases related to all stages of criminal procedures in 2014), the Sector for Probation has become an important partner in the criminal justice system, acknowledged and valued by judges, state attorneys, police and the prison system.

Probation in practice

The Law on Probation 2009 defines the purpose of probation work as protection of the community from an offender's offending; re-socialisation and re-integration of offenders in the community; and provision of support to victims of crime, their families and families of offenders. Probation Officers, when implementing probation sanctions, are expected to work closely with the family members and the various institutions and bodies in the community that can contribute to an offender's social integration.

The Sector for Probation in Croatia supervises adult offenders only, and probation tasks are performed through the entire criminal process from pre-trial to post-release supervision. Child offenders (from fourteen to eighteen years of age) are the responsibility of the social welfare system. A new Law on Probation (OG 143/12) was adopted by the Croatian Parliament in December 2012 and entered into force on 1 January 2013 along with the new Criminal Code (OG 125/2011 and 11/12). The Probation Act prescribes the probation tasks that are to be performed, and states that the clear goal of probation is to protect the community. It regulates probation tasks during all phases of the criminal process.

Probation Officers supervise the enforcement of obligations ordered by the public prosecutor and deliver reports to the public prosecutor and courts even before criminal proceedings are initiated. During criminal proceedings and upon request of the court, the Sector for Probation

delivers reports relevant for the determination of the type and measure of sanctions. Most probation cases relate to the enforcement of 'alternative sanctions' as part of final court judgments, namely community work and suspended sentences with protective supervision and/or special obligations.

The Sector for Probation has a role in prison sentence management through the enforcement of protective supervision during conditional release from prison. During this phase Probation Officers provide reports to the prison/penitentiary and to court in relation to conditional release and the change of prison sentence. The Act also envisages the possibility of supervision of offenders by the Sector for Probation even after the completion of the prison sentence in its entirety.

In the phase prior to a criminal trial, the Probation Act provides for two specific probation tasks in relation to the public prosecutor's office: supervision of obligations during the decision-making process in the prosecution and providing a report on the offender at the request of the public prosecutor. For the court, a Probation Officer can provide a report to assist in determining measures to ensure the presence of the accused.

Although provided for by the Probation Act, in this phase, prior to trial, reports by the Sector for Probation are seldom requested. There is, however, a constant increase of supervision and enforcement of obligations based on the decision of the public prosecutor during the decision-making process.

A prosecutor may, having obtained approval of the victim or aggrieved party, conditionally postpone or withdraw a criminal prosecution if the accused accepts responsibility and completes an obligation to perform, for example, community work, psychosocial therapy, drug/addiction treatment, or pays compensation. In such cases, the prosecutor sets a deadline by which the accused must complete the designated obligations. Upon completion the prosecutor has the authority to discontinue the prosecution. Public prosecutors mostly assign cases to the Sector for Probation local offices when community work, drug treatment and psychosocial therapies for dealing with violent behaviour are ordered.

When a criminal trial is ongoing, a court may request reports from the Sector for Probation for the purpose of determining the types and measures of criminal sanctions. Though this type of report is not often requested yet, experience in practice show that the probation report can significantly help the court in finalising decisions on sanctions and

measures. In the longer term it is expected that there will be an increase in requests for such assessment reports.

Croatia is part of the legal system of Continental Europe in which judges decide on guilt and sentence at the same time. Allowing for findings of innocence, judges are not inclined to request assessment reports before the conclusion of the trial and finding of guilt.

Community work orders

In court, on a finding of guilt, the most frequently imposed sanctions supervised by Probation Officers are community work orders. A community work order can be a stand-alone sanction (as a substitute for imprisonment), or combined with a protective supervision order.

A court may replace a fine of up to 360 days' income or a prison sentence of up to one year with community work. In doing so, one day's income is replaced with two hours of community work or one day of imprisonment with two hours of community work. Offenders in Croatia may be ordered to complete a maximum of 730 community work hours.

Probation Officers, in assessing offenders for community work, are responsible for confirming the offender's consent in replacing a prison sentence with community work and for organising and supervising the enforcement of community work orders. Offenders are placed with community and not-for-profit beneficiaries to perform their community work hours. Agreements are concluded with the beneficiaries outlining rights and obligations. The unpaid humanitarian, ecological and communal work is for the benefit of general national and local community interests.

There has been a continuous increase in judgments ordering community work, particularly since the new Criminal Code entered into force which expanded the possibilities of replacing prison sentences with community work orders. Under the new Criminal Procedure Act (OG 152/08, 76/09, 80/11, 121/11, 91/12, 143/12, 56/13 and 145/13) all prison sentences of up to six months are replaced with community work orders, except in cases where the purpose of punishment through community work cannot be achieved. Prison sentences up to one year may also be replaced with community work orders at the discretion of the judge.

This new practice has contributed to an increased caseload for the Probation Officers and, at the same time, to a decrease of the prison population. Of no less importance are the significant budget savings on

offender time in prisons (considerably more expensive than community sanctions), in addition to the benefits of community work for the local community. During 2014 offenders in Croatia performed a total of 490,710 community work hours under the supervision of the Sector for Probation.

The most challenging issues in managing community work include finding appropriate placements for offenders with health problems, those who have been repeatedly sanctioned and those addicted to drugs. On the other hand there have been many positive experiences. Some offenders have proven to be very good workers and have been hired by the beneficiaries where they performed their community work. Others have taken up volunteering positions after completing their community work orders.

During the serious flooding in Croatia in 2014, the Sector for Probation responded by organising assistance in the affected areas by offenders performing their community work orders directly in the affected areas or by working with services where humanitarian aid was collected and delivered. A group of thirty offenders who provided direct assistance in the flooded areas were housed in a volunteer camp and were involved in flood damage recovery (carcass removal, cleaning streets, pumping water out of buildings etc.) until the closing of the volunteer camp. During these activities offenders performed a total of 11,000 community work hours in flood relief work.

Protective supervision and special obligation orders

Apart from community work orders, Probation Officers also enforce protective supervision and special obligation orders which can be ordered with community work and a suspended sentence. For the enforcement of protective supervision orders, Probation Officers draft for each offender a special individualised treatment programme and are in constant contact with the offender. For the enforcement of special obligations orders, Probation Officers co-operate closely with police authorities. A signed co-operation protocol is in place between the Sector for Probation and the police. During the supervision, probation clients are obliged to co-operate with the Probation Officer through visiting the probation office, providing information to the Probation Officer, and consenting to home visits by the Probation Officer.

Release assessment and post custody supervision

In prison sentence enforcement, a Probation Officer may prepare reports at the request of the sentence enforcement judge, prison or penitentiary during the decision-making process on an inmate's leave application, suspension of imprisonment or conditional release. The Probation Officer completes an assessment of the conditions for and risks to the inmate's acceptance in the community, evaluates the possibilities for the continued enforcement of obligations and gathers information on possible accommodation and employment for the offender. The report of the Probation Officer addresses the specific circumstances of the release request without proposing approval or rejection of the request.

After the inmate has been approved for supervised conditional release, additional obligations may be ordered as well as protective probation supervision for the duration of the conditional release. The task of the Probation Officer is to supervise the offender's compliance with the obligations and to provide assistance and support to the conditionally released offender during the process of his or her readjustment to life in the community.

The Act on Judicial Co-operation in Criminal Matters with the EU Member States (OG 91/10, 81/13 and 124/13) entered into force on 1 July 2013. It provides for judicial co-operation between Member States on the mutual recognition and enforcement of judgments and decisions on which probation and alternative measures sanctions are imposed (EU Council Framework Decision 2008/947/PUP of 27 November 2008). This legislation enables Croatian offenders subject to community sanctions imposed in other EU jurisdictions to complete their sanction obligations in Croatia. It also enables EU nationals sentenced in Croatia to complete their sanctions in their home jurisdiction if their home State has transposed the Framework Decision.

In recent years, the Sector for Probation in Croatia has established itself as a professional and effective provider of probation services and has achieved exceptional results. The caseload is constantly increasing. In 2013 the Service received 3,304 new cases, and 3,618 new cases in 2014. About 90 per cent of all cases have been successfully completed. Currently the Sector for Probation supervises over 3,000 cases. Most are community work orders (2061) and conditional release orders (633).

In 2014, the majority of offenders supervised had committed property crimes (33.1 per cent). 90.6 per cent of offenders were male and 9.4 per

cent female. According to Sector for Probation data, 42.9 per cent of probation clients were previously sanctioned and had previous court convictions.

Development of probation work

The financial and expert assistance of the EU has been important in the development of the Sector for Probation in the Republic of Croatia. Within the framework of the EU IPA 2008,⁵ through the twinning project 'Development of the Probation Services in Croatia', Probation Officers have completed educational programmes in skills development and in individual work with criminal offenders (e.g. motivational interviews, pro-social modelling, case management, etc.).

There are particular challenges facing the Sector for Probation in its work. Whilst the war in the former Yugoslavia ended 20 years ago a significant number of Croatian men in combat in the period 1991 to 1995 developed post traumatic stress disorder (PTSD).⁶ Violent behaviour, intolerance, a rejection of the social code of conduct and problems or violence within the family can be related, in some cases, to PTSD. The disorder increases the chance that sufferers may commit crimes, although, of course, not all military veterans with PTSD have offended. People with PTSD often have other disorders as well, such as depression or anxiety. In many cases one can also find alcohol and drug abuse. In their work Probation Officers have met probationers suffering from PTSD and recognise that people with PTSD need a different approach. Whilst working with offenders suffering with PTSD is not unique to Probation Officers in Croatia it is a particular challenge necessitating training, skills development, joint-working with other services and sensitivity.

At present new legislation is being drafted which may increase responsibilities for the Sector for Probation. A new project 'Support for further development and strengthening of the Sector for Probation in Croatia'⁷ has been implemented through which official probation vehicles have been acquired and a new pilot project for the introduction of electronic monitoring in Croatia is being developed. Croatia is

⁵ <http://mirenje.pravosudje.hr/Default.aspx?sec=466>

⁶ <http://cep-probation.org/news/254/1210/interview-jana-špero->

⁷ EuropeAid/ 137-103/IH/ACT/HR (Programme: Transition Facility IPA/2013/24986 (Annex of C(2013) 8057 final))

exploring the possible use of electronic monitoring in the criminal justice process to help reduce resorting to deprivation of liberty while ensuring effective supervision of suspects and offenders in the community. It could also help in preventing crime. At the same time, it is important to evaluate the use of electronic monitoring technology in a well-regulated and proportionate manner to reduce any potentially negative effects on private and family life of a person.

The Sector for Probation has developed rapidly in size and in its role and contribution to the criminal justice system in Croatia in the short time since its inception. It has a skilled and dedicated staff committed to delivering the best possible service for the people of Croatia. It is learning as well as expanding its knowledge and experience through engagement with partner services, research and participation in European and other international projects. While much has been achieved there remain many challenges ahead for probation in Croatia. We look forward with optimism and hope that probation will continue to make a valued and important contribution to reducing offending, improving the resettlement of ex-offenders in their communities and enhancing public safety in Croatia.