

THE ROLE OF THE COMMUNITY: OPPORTUNITIES AND CHALLENGES

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Overview of the national system of execution of sentences in the community

First of all I would like to underline that the Probation Service was introduced in Italy first for juveniles and subsequently for adults. The Probation Service for Juveniles, which developed from the setting up of Juvenile Courts (Decree dated 20 April 1934 and subsequent amendments, including the Act dated 25 July 1956), is regulated by an Act dated 16 July 1962. The Probation Service for Adults, which came into being with the Penitentiary Act and the establishment of community measures as an alternative to imprisonment, is governed by Act N° 354 dated 26 July 1975.

They both fall within the responsibility of national public powers, and make sure that the judgments are executed, cooperate with public and private organizations to facilitate the reduction of crime and the social reintegration of the offender.

The National Probation Service for adults in Italy is a public service within the Department of [Juvenile and Community Justice](#), which in turn falls within the Ministry of Justice. This Department has a General Directorate, called General Directorate for the execution of sentences in the community and probation during the proceedings (it. Direzione Generale Esecuzione Penale Esterna: DGEPE).

The 2015 Decree of the President of the Council of Ministers concerning "*Regulation on the organization of the Ministry of Justice and reduction in directorates-general and staff*", established the Department of Juvenile and Community Justice (it. Dipartimento di giustizia minorile e di comunità). Such Regulation, besides providing measures for the reorganization and rationalization of the offices of the Ministry of Justice, establishes the new Department for juvenile and community justice with the purpose to bring together the juvenile world, which from several aspects of the management of the execution of sentences in the community has had a leading role, and the adults' world.

The unification of the two systems aims at strengthening the execution of sentences in the community for adults especially from the point of view of the **construction of a network to take in charge the offender and prevent the risk of recidivism.**

This Directorate has the task to establish the guidelines for the local probation offices (it. UEPE- Uffici di Esecuzione Penale Esterna), that are operating in towns where the offices of the Supervisory Judge are located.

The probation offices take care of adults and are called upon to carry out activities that are generally related to specific requests of the Supervising judge or the Supervisory Courts or to requests from the Directorate of penal institutions.

Their institutional tasks involve **interviews**, **observation** and **treatment interventions** for the application and execution of measures or alternative sanctions to imprisonment or community and security measures.

The probation offices coordinate institutions, social services and public and private healthcare services, social cooperatives, associations and voluntary organizations active in the area, in an integrated perspective of intervention.

The **supervision activity** carried out by the probation offices includes either the support activity and the control activity of the offender. In compliance with Rule 12 of R(2010)1, controls and motivation are promoted in cooperation with local social-health services (healthcare, employment, accommodation, etc) and volunteers.

At the 58 probation offices present on the Italian National territory, the staff belonging to social work and other professional sectors such as the officers of organization and relationships, accountants, psychologists, and free-lance and experts in psychology and social work is employed.

Social workers working in these probation offices carry out supervisory and/or assistance tasks for the persons assigned to measures alternative to detention as well as support and assistance tasks for the persons assigned to supervised liberty. Social workers' tasks are better described in article 72 of the Penitentiary Act.

The reforms and recent legislative developments

For a long time, the issue of the creation, also in our country, of a modern system of community measures and sanctions, as well as in other European countries and, mainly, in line with the standards established by the last European standards on probation R (2010)1, has finally been adopted, together with the topics of the effective compliance of detention with the Penitentiary Act principles, from the debate to the policies on penalty and the legislative and governmental action.

Recently, measures have been adopted focusing on the access to alternative measures (widening access to these opportunities, removing some of the obstacles that in recent years have precluded the possibility of access by repeat offenders, even for minor offences), mainly in order to reduce overcrowding and make the penitentiary system more efficient as indicated by article 3 of the European Convention on Human Rights.

Following the pilot judgment *Torreggiani and others v/ Italy* the Italian Government fielded legislative actions aimed at reducing prison entry flows and improving the access to community sanctions and measures.

Because of the lack of indoor living space in prison, the following measures aiming at relieving the prison system and at safeguarding prisoners' human dignity have been approved.

With the introduction of Probation in the adults' world, already present in case-law and Parliament, probation offices had to cope with a certainly more important challenge, a "cultural revolution" even more than a legal one, which requested them, notwithstanding the serious and prolonged and instrumental lack of staff, a rapid intervention, as well as a different operational approach, and forms of cooperation with ordinary judges, lawyers, public and private agencies and volunteers present in the community. In particular, the different perspective is mainly due to the fact that probationers present a status different from the traditional benchmark of probation offices.

Probation, in fact, has the purpose to empower, even more than condemn, the offender, by encouraging social reintegration and rehabilitation in an environmental context which is no more that of deviance, enabling at the same time the victim to have the consequences of the offence restored more quickly.

The Probation for adults is based on the above-mentioned issues, giving priority to restorative conducts.

Even among many difficulties, the integration brought to the current legislative system is a significant step towards the establishment of a model of Restorative Justice and Community Justice according to which the correct functioning is also preparatory for the disclosure of an adequate culture of **penal mediation** and **restorative justice**, which surely Probation will contribute to develop even in Italy.

It has to be underlined that the law provides that the accused person, in applying for a request to be admitted to probation, submits the treatment programme to the judge (or the certification of his/her request) delivered by the territorially competent probation office (U.E.P.E.), carrying out the socio-family survey.

Strategies for the near future

As for the strategies for the near future, probation offices, in compliance with what is provided for in Rule 1 of R(2010)1 strategically aim at **reducing recidivism** through the establishment of positive relationships with offenders, to control, orientate and assist them better in their social reintegration.

The Probation system in Italy, has in fact the aim to deter the repetition of the offences, through a dialogue, and confidence with the offender. The methodologies used to this purpose cannot disregard the fundamental rights of offenders: each intervention takes into

account the dignity, the health, the security and the welfare of convicts (Rule 2); in order to deal each case with justice and equity probation interventions are carried out in full compliance with the individual needs of the offenders, without discrimination on the basis of race, colour, sex, language, religion, etc.

To ensure the compliance with the community measure or sanction, the supervision (support and control) takes into account the peculiarities and needs of offenders; the supervision is not limited to a mere control of the offender but also includes important support and guiding actions of social workers and psychologists taking care of the offender. If necessary, it provides for other interventions directly carried out by the probation service, or by other organizations, for the training, the professionalization, working integration and care of the offender.

Each single person is carefully assessed by probation offices, since the treatment programme, especially in the case of community measures and sanctions, is as more effective as it manages to take into account the characteristics of each offender in order to ensure that each case is dealt with justice and equity.

The full compliance of the probation offices with the *principle of minimum intervention* is a fundamental requirement in the handling and execution of community sanctions (Rule 5), and enables to avoid the excessive and unjustified tightening of prescriptions, mainly with respect to the seriousness, the nature of the crime, the real risk level of recidivism and aggressiveness of the offender.

Improving risk assessment

In order to improve risk assessment, the Directorate General for the execution of sentences in the community and probation during the proceedings is defining an instrument of assessment of recidivism risk level (according to what is provided for by Rec (2014)³ on Dangerous offenders) which can be employed, even jointly, by social workers, psychologists, criminologists, professional educators and legal experts properly trained and continuously trained.

The improvement of the management of risk levels in the people who ask or find themselves to benefit from a community measure or sanction, from the state of liberty or detention, can then be better ensured even by probation offices in Italy, through the definition and improvement of the tool.

In Italy some Universities have carried out studies on recidivism but, presently, notwithstanding numerous efforts, the Administration is not yet able to intervene in a targeted manner to increase and ensure a national standard of risk assessment by probation offices either to limit the risks for the collectivity, or to provide the judiciary homogeneous criteria to grant community measures and sanctions.

The considerable development even in our country of probation work, besides requesting the definition and scientific validation of new tools, such as those to employ for the assessment and management of risk levels of the offender, will need a concrete compliance of the probation officers with the new typologies of persons assigned or who request to be assigned to community measures or sanctions.

Enhancing the role and increasing the presence of volunteers

The development of penalties and sanctions executed in the community, in the course of last years was carried out through initiatives aiming at encouraging the replacing of mono professional “social work” with multi-disciplinary work as it is provided for by European Prison Rules (92)16 and 2010 (1).

To this purpose the inclusion of some adequately trained penitentiary police units within probation offices is being planned, to carry out more effective and regular forms of control of community measures and sanctions.

The Penitentiary Act, since its approval, has given the volunteers a role of great importance in the implementation of the re-education purpose of the penalty, executed either in prison, either under alternative measures in the community.

As per art. 78 of the Penitentiary Act, voluntary workers may cooperate with the probation service centres in relation to the assignment to the probation service, semi-liberty and providing assistance to released prisoners and their families.

The Italian Penitentiary Administration in order to encourage and enhance the activity of support of volunteers in the execution of alternative measures to detention, recently spread directions to territorial structures with which the will to enhance and further qualify the presence of volunteers at the probation offices is confirmed.

As it has happened for a long time in many European countries, volunteers can play also in Italy a strategic role in carrying out rehabilitative programmes and activities in favour of persons under community measures and sanctions, mainly of those who have a low risk level.

Implementing the new model of restorative and community justice

The cooperation between volunteer organisations and probation offices has provided proof even of the taking care of the persons submitted to the new community measures and sanctions among which *the suspension of the proceedings with probation during the trial and community works*, even taking full account of the needs of the victims of crime, in line with what is provided for by Recommendation (2010)1.

The victim, in fact, is informed by the probation offices (where there are workers with a particular professional expertise) on the majority of decisions concerning the offender which

have been adopted by the judicial authority in the course of the execution of the community measure or sanction.

The offices are completely aware of the importance of rehabilitation of the offender, of his responsibility, and consequently of the awareness of the damage caused to the victim of the crime.

In line with what is provided for by Rule 97 of the Recommendation (2010)¹, in the last years the probation offices have taken particular care of the interventions of **restorative justice**, with an increasing involvement of the offender, the victim and, mainly of the community.

Conclusion

In the Italian System of execution of sentences in the community, both “networking” and “the Community” have a strategic role in taking charge of the offender under a community measure or sanction, because the complex offender’s needs require the joint action of several agencies and organizations and multi-disciplinary interventions. This results from the assessment that both the offender’s needs and public security needs require strict cooperation and contribution from different public agencies present in the community, as far as the partnership with other public or private organisations and communities is concerned. Such an approach is traditionally present and rooted in Italy, in keeping with the basic principles of European rules to promote the social inclusion of offenders. The work of the probation offices is co-ordinated and complementary with that of the institutions, the social services operating within the territory (Rule 12).

The involvement of several agencies and professionalism in the definition and management of the tailored treatment programme certainly encourage the good progress of community measures or sanctions.

The operational agreement with the services provided by agencies is defined through a global vision of social dynamics, investing in prisoners’ personal and familiar affairs with an integrated perspective of intervention. This coordination is carried out according to the general guidelines of the Directorate General for the Execution of Sentences in the Community and probation during the proceedings within the Department of [Juvenile and community justice](#). Mainly following the approval of Law nr. 328, 8 November 2000, which has significantly improved social planning, there has been a progressive widening of the network of public and private subjects taking part in the planning of social policies.

I strongly think that it is important to enable the system to modify the belief that the only possible penalty is prison.

Investing on community measures is not only an obligation to comply with internal and constitutional rules but also implies a social issue contributing to the reduction of recidivism.

