

## Report for 39th PCCP Working Group Meeting

23 September 2025, Krakow

Daniel Danglades

Revision of the 2012 Recommendation concerning foreign prisoners

### PROBATION SECTION

This new section represents a significant advancement in addressing the needs of foreign nationals, being the only part of the revised Recommendation dedicated specifically to this group under probation. It aligns with the European Rules on Probation, ensuring coherence with established Council of Europe standards.

The foundation of this initiative was established during a productive expert roundtable hosted at the University of Galway on June 26, 2025. This gathering included senior officials, practitioners, NGO representatives, and leading academics, all contributing valuable insights.

Following the discussions in Galway, a draft proposal was developed and shared for targeted review, fostering an inclusive process. Extensive consultations with academics across Europe were conducted to enhance the provisions, ensuring legal clarity, operational feasibility, and alignment with international standards. The result is a thoughtful set of practical, rights-based measures that effectively address the long-standing gap in guidance on non-custodial interventions for foreign nationals, paving the way for more equitable and informed practices.

#### A. Foundation, process, and academic consultation

This new probation section is deliberately modelled on the European Rules on Probation, ensuring that its structure and principles are consistent with established Council of Europe standards. It is also unique in the revised Recommendation: these are the only provisions dedicated specifically to probation measures for foreign offenders, addressing a long-standing gap in guidance for non-custodial interventions.

The drafting process began with the closed expert roundtable hosted at the University of Galway on 26 June 2025, led by Dr Róisín Mulgrew, Michael Sorger, and Daniel Danglades. This high-level meeting brought together senior officials, practitioners, NGO representatives, and a strong academic contingent<sup>1</sup>.

---

<sup>1</sup> Participants : Róisín Mulgrew, Michael Sorger, Daniel Danglades, Prof. Charles O'Mahony – Associate Professor, School of Law, University of Galway, Gerry McNally – Adjunct Professor, University College Cork, Petra Pavlas – Coordinator, EuroPris–CEP FNPP Expert Group / Austrian Ministry of Justice, Jeroen de Jong – Legal Affairs, DJI, The Netherlands, Osman Nazir – FNO Coordination Hub, HM Prison and Probation Service, Caron McCaffrey – Director General, Irish Prison Service; President of EuroPris, Leah McCormack – Director of Operations, The Parole Board, Christopher Stacey – Chief Executive, Prisoners Abroad, Leslie Alcock – Coordinator, Irish Council for Prisoners Overseas, Niamh McCormack – Legal, Policy and Public Affairs Manager, Irish Penal Reform Trust

Written submissions were also received from Penal Reform International, Irish Council for Prisoners Overseas, Prisoners Abroad and Dr Luisa Ravagnani.

## B. Drafting new provisions in alignment with the European probation rules

Building on the insights gathered during previous consultative phases, the next stage involved systematically drafting new provisions structured according to the thematic organization of the European Probation Rules (EPR). This approach ensured internal coherence and comparability with established European standards while integrating context-specific measures relevant to foreign offenders. The drafting process adhered to a consistent methodology:

1. **Organization and Staff:** Provisions were developed to define the institutional framework, staffing requirements, and professional competencies necessary for delivering probation services effectively and ethically.
2. **Accountability and relations with other agencies:** Provisions were formulated to clarify lines of responsibility, reporting obligations, and mechanisms for inter-agency coordination, ensuring transparency and mutual trust.
3. **Probation work:** The scope, objectives, and guiding principles of probation practices were articulated, emphasizing proportionality, rehabilitation, and respect for individual rights.
4. **Process of supervision:** Detailed procedural standards were established for assessment, planning, monitoring, and review, ensuring consistency and fairness across cases.
5. **Transfers and Inter-jurisdictional cooperation:** Provisions addressed the legal and operational frameworks for cross-border case management, in accordance with applicable EU instruments.
6. **Resettlement of non-deportable foreign nationals:** Specific measures were included to support rehabilitation, access to services, and community stability for individuals unable to return to their country of origin.
7. **Grievances and appeals:** Clear channels for lodging complaints and seeking reviews were established, safeguarding procedural fairness and accountability.
8. **Use of digital technologies and AI:** Standards were introduced to govern the ethical and secure use of emerging technologies, balancing innovation with privacy, data protection, and human oversight.

By adhering to the structure of the EPR, the resulting provisions maintain conceptual clarity, facilitate comparative analysis, and embed a rights-based approach throughout. This method also ensures that probation measures for foreign nationals are framed with the same rigour, transparency, and operational feasibility as those applied in broader European practices.

## C. Legal Alignment

To ensure the Recommendation is fully compliant with evolving legal frameworks, the draft provisions underwent a dedicated legal alignment review. This process assessed their consistency with:

- Recent developments in **regional and international penal standards**.
- **Human rights law** and evolving jurisprudence.
- **Recent CoE Recommendations** relevant to probation and the treatment of foreign offenders.

The review<sup>2</sup> also examined:

- **European Court of Human Rights** pronouncements impacting the rights, treatment, and procedural safeguards for foreign national prisoners.
- **European Committee for the Prevention of Torture (CPT)** recommendations on detention conditions, supervision practices, and rehabilitation measures.

#### **D. Consultation**

The drafting entered a third phase of consultation with several academics<sup>3</sup> from across Europe who provided targeted feedback on the emerging text. This included reviewing the draft provisions for legal coherence, alignment with international standards, and operational feasibility. Their insights helped refine the language, ensure conceptual clarity, and strengthen the evidence base for each provision.

By combining the structured EPR framework with the depth of practitioner and academic input, the section reflects both practical realities and scholarly rigour, ensuring that probation for foreign offenders is addressed with the same clarity, coherence, and rights-based approach as prison measures.

---

<sup>2</sup> This specialised review was carried out by **Alice Assedo**, whose expertise ensured that the provisions are firmly grounded in up-to-date legal standards and reflect the highest levels of rights protection.

<sup>3</sup> Gerry McNally – Adjunct Professor, University College Cork, Leah McCormack – Director of Operations, The Parole Board, Ioan Durnescu and Marion Vannier – Senior lecturer in criminology, University of Manchester