ENGAGING THE PROBATION SERVICE IN CRIMINAL PROCEEDINGS IN THE REPUBLIC OF SERBIA BEFORE THE IMPOSITION OF ALTERNATIVE SANCTION

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Abstract: The topic of the paper is reviewing the relationship between the probation service and the judiciary in the Netherlands and UK, and the possibility of engaging the Probation Service in criminal proceedings in the Republic of Serbia before the imposition of a criminal sanction (in the form of giving reports and recommendations to judges or public prosecutors on the pronouncement of an alternative sanction). In this regard, the paper discusses the legal possibilities in Serbia, i.e. whether the court or public prosecutor under the Serbian Criminal Procedure Code has the authority to request a report on the personality of the defendant from the Probation Officer in the pre-trial criminal proceedings or in the phase of main trial (before the decision on the criminal sanction). The paper also discusses a possible proposal to amend the Law on the Execution of Non-Custodial Sanctions and Measures and Serbian Criminal Procedure Code in these areas.

Key words: alternative sanctions, pre-trial reports, Probation Service, personality of the defendant, sentence.

INTRODUCTION

The assessment of sentences is very important for both the offender on whom the sentence is imposed, and for the public. The sentence itself represents the final result of a complete criminal proceeding. When determining a sentence, the court primarily takes into account the criminal act and the guilt, as well as but the personality of an offender. Accordingly, the offender as an individual is a factor that significantly affects the process of sentencing. In that sense, in the process of sentence assessment, personal factors that are in connection with the offender, but are not related to the offence itself, could

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be applicable and could be of great importance for the individualization of punishment in terms of special prevention (Roxin, 1997: 99). Taking the personality of an offender as a determinant in the process of sentencing, we come to the point of the individualization of a sentence.

Probation service in the most countries acts and cooperates with the Court and Prosecution in all phases of criminal procedure (Clobusa: 2018). The reports on the personality of the defendant are received from the prosecution service and the law allows the prosecutor or judge to use the data thus obtained before deciding on the type and amount of the criminal sanction. The report also lists the risks and safeguards that the Probation Officer observes from the interviews with the convicted person and persons from his immediate environment, as well as the issues of accommodation, education, social relations, employment, etc. Relevant information are: risk factors, relation problems, mental disorders, financial situation, work, alcohol / drug abuse, as well as the attitude of the accused, motivation to change, risk of reoffending. Pre-sentence reports provide courts with objective information about the offender, and about the suitability of various sentencing options and contributes to the fairness of the decision by the court as perceived. (Global Prison Trends, 2018).

In this regard, the paper discusses the legal possibilities in Serbia that the court or public prosecutor under the Serbian Criminal Procedure Code (Official Gazette RS, 72/11, 101/2011, 121/2012, 32/2013, 45/2013, 55/2014, 35/19 - hereafter CPC), and the Law on the Execution of Non-Custodial Sanctions and Measures (Official Gazette RS, 55/2014, 87/2018) request in a report on the personality of the defendant from the Probation Officer in the pre-trial criminal proceedings or in the phase of main trial (before the decision on the criminal sanction). The paper also discusses a possible proposal to amend the laws, such as the suggestions to introduce legal possibilities in Serbia for the implementation of the report of the Probation Officer in the criminal procedure before the decision on criminal sanction or pre - trial detention in the pre-trial and pre-sentence work. In that regard, the paper suggests that the Article 6 of the Law on the Execution of Non-Custodial Sanctions and Measures should be amended by prescribing the possibility that the Probation Officer could report on the personality of the defendant upon a request of the court or public prosecutor.

THE DUTCH PROBATION IN EUROPEAN PERSPECTIVE

The United Nations (Standard Minimum Rules for Non-Custodial Measures- The Tokyo Rules, 1990) and Council of Europe (The European Probation Rules, 2010)[2] state that:

”In order to provide greater flexibility consistent with the nature and gravity of the offence, with the personality and background of the offender, and with the protection of society, and to avoid unnecessary use of imprisonment, the Criminal Justice System should provide a wide range of non-custodial measures, from pre-trial to post-sentencing dispositions.”

“The social enquiry report should contain social information on the offender that is relevant to the person’s pattern of offending and current offences. It should also contain information and recommendations that are relevant to the sentencing procedure. The report shall be factual, objective and unbiased with any expression of opinion clearly identified.”

According to Basic Principles Probation Rules: 4 and 14:

2 Recommendation CM/Rec (2010)1 of the Committee of Ministers to the Member States on the Council of Europe Probation Rules (Adopted by the Committee of Ministers on 20 January 2010 at the 1075th meeting of the Ministers Deputies).

"Probation agencies shall take full account of the individual characteristics, circumstances and needs of offenders in order to ensure that each case is dealt with justly and fairly…Probation agencies shall work in partnership with other public or private organizations and local communities to promote the social inclusion of offenders. Co-ordinated and complementary inter-agency and inter-disciplinary work is necessary to meet the often complex needs of offenders and to enhance community safety."[3] It can be said that one of the essential goals of alternative sanctions is the suppression of recidivism, because in its basic idea it contains measures and actions of a society that are oriented towards the personality of the perpetrator, the perpetrator himself, his family and social environment and the fact that the phenomenon of recidivism is prevented by the influence of these measures (Bewley - Taylor, et al, 2018: 67).

The probation service in the Dutch system, as an independent service, in cooperation with the prosecution represents permanent link in the judiciary system (Jacobs et al., 2006: 80). The significance of the reports provided by the probation officers in terms of determination of a sentence are particularly emphasized (Tigges, 2018).

Probation service in the Netherlands (as well as in most countries of the Council of Europe and European Union, for example in North-Western Europe: Austria, Belgium, Denmark, Finland, France, Ireland, the Netherlands, Norway, Sweden, Switzerland, England and Wales, Northern Ireland, and in other regions) acts and cooperates with the Court and Prosecution in all phases of criminal procedure (Stevens, 2009: 165) particularly in:

1. *pre-trial and pre-sentence work*: information to support courts in their decisions regarding avoiding custodial remands where possible, and the pre-sentence reports to assist the courts in decision making regarding sentence;

2. *community supervision*: the management of Community Service, Electronic Monitoring or the "suspended" prison sentences;

3. *the penitentiary stage*: the provision of reports to assist decisions regarding early release and rehabilitation;

4. *post-penitentiary work*: managing prisoners after release on parole.

It has been pointed out that in the Netherlands (Kalmthout van & Tigges, 2008: 677):

1) *Probation is the only organization that deals with offenders throughout their whole journey in the criminal justice system* (Prakken & Spronken, 2017: 155):

- offers a major opportunity to influence them positively
- the overarching knowledge makes probation an influential partner in the justice chain.

2) *Pre-trial reports impact not only the sentencing process, but also the implementation of the sentence* (Prakken, & Spronken , 2007: 155):

- supervision in the community builds upon the assessed risks and needs of the offender, the probation plan addresses these risks and needs
- the kind of projects where the offender is to be placed in case of a community sentence is influenced by the profile of the offender

3 Recommendation No. R (92)16 of the Committee of Ministers to the Member States on the European rules on community sanctions and measures (Adopted by the Committee of Ministers on 19 October 1992 at 482nd meeting of the Ministers Deputies).

- in case of a prison sentence, the rehabilitation efforts and the gradual lessening of security towards more freedom can be based on the assessment in the pre-trial phase and the re-assessment during the execution of the prison sentence considering whether the rehabilitation has been successful.

3) *Early Release in the community needs to be based on the (re-)assessed risks and needs and provisions to address these.*

4) *Post-penitentiary Work*: managing prisoners after release on parole, based on knowledge and experience with this person during the previous phases.

The struggle of probation: external and internal communication

- the top boss of the probation is often interviewed by the press, not only on incidents, but on how the society can be made safer;

- he has frequent informal contacts with parliament members;

- he has very regular contacts with the probation workers, he knows what is going on in the field;

- he defends the profession or probation but everybody knows that he is eager to improve the work of probation.

In the Netherlands, the reports on the personality of the defendant are received from the prosecution service and the law allows the prosecutor or judge to use the data thus obtained before deciding on the type and amount of the criminal sanction. The Probation Service provides data in a specific format, which allows them to easily review the report and notice the most important information. The report also lists the risks and safeguards that the Probation Officer observed from the interviews with the convicted person and persons from his immediate environment, as well as the issues of accommodation, education, social relations, employment, etc. Dutch judges consider probation reports useful information.

Probation officers obtain relevant information about the personality of the accused. Relevant information considers: risk factors, relation problems, mental disorders, financial situation, work, alcohol / drug abuse as well as the attitude of the accused, motivation to change, risk of reoffending (Tak, 2008: 12).

Functions of a pre-sentence reports:

- They provide courts with objective information about the offender, and about the suitability of various sentencing options.

- They contribute to the fairness of the decision by the court as perceived by the offender. This enhances the acceptance of a sentence and contributes to a lower reconviction rate.

- They help the justice system to make optimal use of the array of sentencing options.

- They contribute to economic savings if the right offender is matched with the least costly and most effective sentence.

Minimum content:

- offence analysis and pattern of offending;

- relevant offender circumstances as either a contributing factor or a protective factor of offending behavior;

- risk of harm and likelihood of reoffending analysis, based on data and clinical judgment;

- outcome of pre-sentence checks with other agencies or providers of probation services;
- address of any indications of possible sentence provided by the court;
- an integral conclusion which and why factors are crime-related and what needs to be done;
- sentence proposals commensurate with the seriousness of the offence and which address the offenders assessed risk and needs; what kind of sentence will work.

For the Dutch and UK judges and public prosecutors, it is unimaginable to go through the work process without pre-sentence reports from the Probation Service. Pre-sentence reports present a pathway for judges to use cheaper, more effective, proportionate alternative sanctions.

RELATIONSHIP BETWEEN THE PROBATION SERVICES AND THE JUDICIARY IN THE UK

Throughout the UK, legislation and guidance regulate the circumstances in which reports and other information are provided by probation to the courts. The effectiveness of these elements of probation work is regularly subject to internal performance monitoring and external inspection; courts generally give strong support for the work of probation.

In the UK, the Probation Service (*NPS*) performs all the court-facing roles of probation. Whether sufficiently high standards are maintained usually depend on the quality of information they are able to provide on a timely basis to the court. In part this depends on caseloads and staffing and other resources. A further key factor is the quality and timeliness of information they receive from the Community Rehabilitation Companies (CRCs) about offenders and the availability of programmes and support in the local area.[4]

The issue that has been discussed in the UK is whether the expertise and experience of probation agencies are used in developing crime reduction strategies.

If the court orders participation in a programme or imposes some other requirement that should reflect a thorough assessment of the offender's individual needs and history by the court, aided by probation. Individualized requirements with a therapeutic and/or treatment content often in combination with supervision can be imposed, but are less frequently used in E&W than unpaid work and electronic monitoring (Fox et al, 2014).

In practice the degree of individualization will depend on whether the court is provided with the information needed to make a proper assessment. The key tool is the pre-sentencing report prepared by probation together with any information on available programmes or treatment places. Advice to the court on sentencing has traditionally been a key part of the probation officer's role. (Review of efficiency in criminal proceedings, 2015).

4 The Community Rehabilitation Companies in UK work directly with service users aged 18 and over who either has been sentenced by the courts to a Community Order or Suspended Sentence Order or released on licence from prison to serve the rest of their sentence in the community. Under the Offender Rehabilitation Act 2014 in UK, the Community Rehabilitation Companies also continue to supervise ex-service users for a 12 months' period after release from prison. And from 1 February 2015, they introduced 'Through the Gate' services including housing, employment, finance and debt advice for those sentenced to less than 12 months in prison and who are at greatest risk of re-offending.

In England and Wales, Crime Reduction Boards, Local Criminal Justice Boards, and Community Safety Partnerships are statutory bodies that have to some extent enabled probation to provide expertise for crime reduction. In London since 2010 a Crime Reduction Board has met quarterly to share information and work on crime reduction with probation staff, local council officers, health workers, the police, and other bodies. These bodies share information with each other in order to assess local crime priorities. They work with probation and other public bodies to develop approaches in tackling crime and reoffending. The Probation Chiefs Association issued a position statement confirming the importance of probation supporting these crime reduction partnerships to help stop reoffending (Fox et al, 2013).

In England and Wales the relationship between the probation service and the prison service until the 1960s did not exist - aftercare was provided by a prisoners' aid charity. Subsequently there was greater interaction between probation and prisons around license and aftercare, but they remained entirely separate. This changed in 2000 when the service was reorganized into 42 Probation Boards covering the same areas as local police forces. In 2003 a review recommended linking prisons and probation.

The National Offender Management Service (NOMS) was created as a result in 2004 with the aim of creating a seamless transition of offenders from prison to the community. The NOMS is an executive agency sponsored by the Ministry of Justice (The NOMS Offender Management Model, 2006: 13). It is responsible for prisons (managing public sector prisons and also accountable for those in private ownership by managing the contracts for these). It also oversees probation delivery and rehabilitation for prisoners and those being released.

A supervision requirement does allow for greater individualization according to the offender's needs and circumstances. Once the probation order has been made, the offender manager will use the Offender Assessment System (OASys), which offers a degree of individualization to meet the needs of the offender resulting in a detailed sentence plan including how the need will be addressed (Policy Briefing by Criminal Justice Alliance, 2013). Categories of need listed in the OASys correspond to factors thought to increase the risk of offending or reoffending. They include accommodation, alcohol or drug issues, and lifestyle, behavior and relationship problems. Plans or interventions to address these needs are also entered into the OASys, for example, treatment programmes, training or counseling *(Sentence Planning, 2014)*.

An important example is the Maturity Assessment Tool for young adults. Whether these tools and other available resources are used effectively to produce a responsive supervision plan will depend largely on the skill of the probation officer in building a relationship with the offender (The Community Order and the Suspended Sentence Order three years on, 2009).

APPLYING THE REPORT OF THE PROBATION SERVICE IN THE REPUBLIC OF SERBIA

Legislation in Serbia prescribes significant number of alternative sanctions in different phases of a criminal procedure.[5] Alternatives to imprisonment in Serbia can be shared into the following groups:

5 According to the latest data from the Department for treatment and alternative sanctions at the Administration for execution of alternative sanctions of the Ministry of Justice of the Republic of Serbia, in the period from 2006 to 2017 in Serbia, about 18 692 alternative sentences were pronounced. The data indicate the rise in number of pronounced alternative sanctions in Serbia. Since the time of introduction into the legislative system until 2017, "House prison" has shown a constant increase (in 2011 - 394 verdicts, in 2012 - 882 verdicts, in

The Serbian Criminal Procedure Code provides following alternative sanctions at the pre-trial stage: 1. Deferring criminal prosecution; 2. Prohibition of approaching, meeting or communicating with a certain person; 3. Prohibition of leaving a temporary residence; 4. Bail; 5. Prohibition of leaving a dwelling (house arrest).

The Criminal Code in Serbia (Official Gazette RS, 85/2005, 88/2005, 107/2005, 72/2009, 111/2009, 121/2012, 104/2013, 108/2014, 94/2016, 35/19) provides following alternative sanctions at the trial and sentencing stage: 1. Community service; 2. Home detention; 3. Settlement of the offender and victim; 4. Revocation of driver's license; 5. Cautionary measure (Suspended sentence - suspended sentence under the protective supervision) and Judicial admonition, 6. Fin.

Furthermore, the Serbian Criminal Code at the post- sentencing stage provides: Conditional release (Criminal Code).

In order to analyze the legal framework of the probation system in the Republic of Serbia, we could refer to the following laws and acts - the Criminal Procedure Code, the Criminal Code, the Execution of Criminal Sanctions, the Law on Execution of non-custodial sanctions and measures (Official Gazette RS 55/2014, 87/2018) and the Action Plan for Implementation of the Strategy of Developing the System of Execution of Criminal Sanctions in the Republic of Serbia until 2020 (Official Gazette RS, 85/2014)[6].

From the above stated types of prescribed alternative sanctions in Serbia and the stated phases of criminal procedure in which the alternative sanctions can be pronounced, it can be concluded that according to the legislation, alternative sanctions can be pronounced in all phases of the criminal procedure starting with the pre-trial procedure and concluded with the execution of criminal sanctions.

On the other hand, from the existing Criminal Code, Criminal Procedure Code, as well as from law regulating competence and activity of the Probation Service (Law on Execution of non-custodial sanctions and measures), it can be concluded that Probation service starts its activities in the phase of execution of criminal sanctions. The Probation service actually supervises the execution of the pronounced alternative (non-custodial) sanctions in the phase of execution. Likewise, it performs certain supervision activities in pre-trial phase during the execution of some measures imposed to secure the presence of the defendant and are the substitution to custodial measures (for example, prohibition of leaving a dwelling -house arrest).

Probation Officers make reports only in relation to the supervision of the execution of alternative sanctions. The Probation Officers write reports to the Trial Chamber on the behavior of prisoners serving the sentence of house arrest.

The Probation Service notifies the court of the commencement of the execution of a measure, penalty or protective supervision, as well as of its completion. If problems arise during execution, the trust service informs the court through extraordinary reports on a newly created situation for which it is not possible to execute punishment, measure or protective control.

According to the current legislation and practice in Serbia, the Probation Service does not submit reports to the court nor to the prosecutor's office on the personality of the defendant before the imposition of criminal sanctions, i.e. in the phase of the *pre-trial and pre-sentence work* when the court

2013 - 1101 verdicts, in 2014 - 1934 verdicts, in 2015 - 2498 verdicts, in 2016 - 3136 verdicts and in 2017 - 3362 verdicts).

6 The Government of the RS adopted, on December 23rd, 2013, the Strategy of Developing the System of Execution of Criminal Sanctions in the Republic of Serbia until 2020.

decides on the type and the level of punishment to which the accused will be sentenced. Besides, such reports of probation officers are not submitted even in the pre-trial proceedings when the public prosecutor or the court decides whether a pre-trial detention will be imposed on the suspect or some other milder measure as alternatives to pre-trial detention.

Namely, the court (specifically the judge acting in the proceeding and deciding on the case) and the public prosecutor during the hearing of the defendant, under Article 85 of the Code of Criminal Procedure, take personal information from him (name, surname, personal identification number or identification number of a personal document, nickname, the first and last name of the parent, the mother's family name, place of birth, place of residence, the day, month and year of birth, citizenship, occupation, family circumstances, whether he is literate, what kind of school the defendant has completed, the property owned by the defendant and his family members, whether, when and why he was convicted, whether and when the criminal sanction was pronounced and whether proceedings for any other criminal offense are being prosecuted). They also obtain an excerpt from the criminal record (on possible earlier convictions) of the defendant from the competent Police Administration and on the basis of these data, judges practically make a decision on the criminal sanction.

On the other hand, under the Article 54 of the Criminal Code "the court shall determine a punishment for a criminal offender within the limits set forth by law for such criminal offence, with regard to the purpose of punishment and taking into account all circumstances that could have bearing on severity of the punishment (extenuating and aggravating circumstances), and particularly the following: degree of culpability, the motives for committing the offence, the degree of endangering or damaging protected goods, the circumstances under which the offence was committed, the past life of the offender, his personal situation, his behavior after the commission of the criminal offence and particularly his attitude towards the victim of the criminal offence, and other circumstances relating to the personality of the offender." The stated provision of the Criminal Code prescribes the circumstances regarding personality of the defendant that court takes into account when deciding on the criminal sanction.

The reports of the Probation Officer on the personality and personal circumstances of the defendant could greatly improve and facilitate the decision on a criminal sanction or on the measure of detention. Hence, not only would be the report particularly important for the work of the court and the public prosecutor, but also the proposal which non-custodial sanction or measure would have the best effect on the convict. Of course, this proposal would not be binding for judges.

In this regard, we can ask the following questions:

- Does the court or public prosecutor under the Criminal Procedure Code have the authority to request a report on the personality of the defendant from the Probation Officer in the pre-trial criminal proceedings or in the phase of main trial (before the decision on the criminal sanction)?

- Does the Probation Service have the authority and permission to compile and submit such a report to the court or the prosecutor's office?

- What should the contents of the report be?

- Pursuant to the provisions of the Criminal Procedure Code of the RS, the report of the Probation Officer could have the significance of the record in the sense of the provision of Article 138 of the Criminal Procedure Code.

According to the Art.138 paragraph 2 of the Criminal Procedure Code: "A record issued in a prescribed form by a state institution within the boundaries of its competences, as well as a record issued

in that form by a person in the performance of a public authorization vested in him by law, proves the veracity of what is contained in it."

In other words, the document issued in the prescribed form by the state body within the limits of its competence, as well as the document issued in such form by a person exercising the public authority entrusted to him/her by law, proves the credibility of the content therein.

Furthermore, the court or public prosecutor would be authorized to request such a report (as a document) from the probation service pursuant to the provision of Article 139. The Code of Criminal Procedure stipulates that: "A record is obtained ex officio or on a motion of the parties by the authority conducting proceedings, or is submitted by the parties, as a rule in its original form."

On the basis of the aforementioned legal provisions of the Code of Criminal Procedure of the RS, the court and the public prosecutor would have the legal possibility to instruct the probation officer to submit the said report. They could also use the report of the probation officer in criminal proceedings (in the pre-trial proceeding or in the phase of the main trial before the decision on the criminal sanction), provided that it was duly compiled and certified by the competent department of the Department of Treatment and Alternative Sanctions.

However, from the perspective of the Probation Officer and the Probation Service, observing the Law on the Execution of Non-Custodial Sanctions and Measures, the provision of Article 1 stipulates that: "This Law regulates the procedure for execution of measures pronounced in criminal, misdemeanor or any other procedure executed within community (hereinafter: enforcement) of which the purpose, content, manner of execution, the position of the person in the proceedings, as well as the supervision of execution are prescribed."

Therefore, the provisions of the Law on the Execution of Non-Custodial Sanctions regulate the procedure for the execution of non-custodial sanctions and measures only at the execution stage. In other words, acting of the probation service is regulated only after the imposition of alternative sanctions at one of the procedure stages, and is limited on exercising supervision over them.

The provision of Article 6 of the Law on the Execution of Non-Custodial Sanctions regulates the competence of the Probation Service. Article 6 paragraph 2 of the Law on Execution of Non-Custodial Sanctions and Measures stipulates that: "The Probation Officer is authorized to collect data on the persons under execution, to establish contact with their families, to inspect the official documentation of the competent authorities and legal entities and to ask them to provide him with the necessary information."

Accordingly, Art. 6 of the Law on Execution of Non-Custodial Sanctions and Measures does not contain a direct provision authorizing the Probation Officer to make reports on the personality of the defendants and submit them to the court and the public prosecutor at the pre-trial phase of criminal proceedings and the phase of the main trial. In other words, the Probation Officer is not obliged to submit reports on the personality of the defendant in the earlier phases of the criminal proceeding before the execution.

In this regard, the suggestion is that the Law on Execution of Non-Custodial Sanctions and Measures should be extended - amended in Art. 6 of the Law on the Execution of Extradite Sanctions and Measures by adding the possibility that the Probation Officer, upon a request of the court or public prosecutor, is authorized to submit a report on the personality of the defendant before the imposition of the sentence.

CONCLUSIONS

1. Reports of the probation services delivered to judges and prosecutors at their request, in the phase of imposing a sentence or deciding on an alternative sanction or pre - trial detention, would be of great use. Reports would make it easier to decide on the criminal offense or the merits of detention. The reports would give a much more complete picture of the personality and personal circumstances of the defendant. All this is of significant importance for the decision of the court or the public prosecutor on the application of the alternative sanction or the sentence of imprisonment or detention.
2. Reports of probation officers would have two important new features: 1. Probation officers could submit reports on request of a court or public prosecutor in pre-trial proceedings, investigations, prosecution and main trial proceedings, i.e. at the stage of the proceedings before the court decides on the sentence or detention (determination or extension of detention) 2. The reports could contain information about the personality of the defendant (personal, family, social circumstances of the defendant) that are of relevance to the court for the decision on the type of criminal sanction or measures, and a piece of advice of the probation officer whether the accused would benefit from an alternative sanction in the perspective of his rehabilitation (either positively or negatively).
3. The judicial practice of Serbia does not apply the submission of reports by the probation officers at the stage of the imposition of the criminal sanctions - the pre-trial and pre-sentence work. The legal provisions of the Law on the Execution of Non-Custodial Sanctions and Measures do not prescribe the acting of the probation officer and the submission of a report to the court or public prosecutor at any of the earlier stages of the criminal proceedings (pre-trial procedure, main trial) before the execution of sanctions and measures.
   However, the Law on Enforcement of Non-Custodial Sanctions and Measures of the RS does not fully exclude the activities of the probation officer in the part when the court decides on the manner of execution of the non-custodial sanction. Article 20 of the Law on the Execution of Non-Custodial Sanctions and Measures stipulates that: "Enforcement of the Punishment of the Home Prison is prescribed before the decision on execution of the sentence of the house-arrest with the application of electronic supervision is taken, the court will determine whether there are technical and other possibilities for the execution of this sentence." Furthermore, Article 20 paragraph 2 provides that: "If the court is not able to determine the conditions referred to in paragraph 1 of this Article, it will ask the probation officer to report on the existence of technical and other options of importance for the execution of this sentence." In practice, the judges requested such reports in order to check technical and other options of importance for the execution of the sentence of the house arrest, which the Probation Service fulfilled and informed the court through the report. These provisions, as well as the practice leave some space for the probation officer's activity at the stage of assessment of the criminal sanction and for the submission of the reports and personal circumstances of the defendant to the court or the public prosecutor.
4. It is proposed to introduce legal possibilities in Serbia for the implementation of the report of the probation officer in the criminal procedure before the decision on criminal sanction or pre - trial detention in the pre-trial and pre-sentence work. In that regard, the provision of the Article 6 of the Law on the Execution of Non-Custodial Sanctions and Measures should be amended by prescribing the possibility that the probation officer, upon a request of the court or public prosecutor, will submit a report on the personality of the defendant before the decision on the sentence.

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