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Zprávy PMS pro účely rozhodnutí v trestním řízení: kvalita, význam, efektivita

PMS Reports for the Purpose of Decisions in Criminal Proceedings: Quality, Importance, Effectiveness

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Summary

One of the basic prerequisites for deciding on the imposition of the appropriate type of punishment, and especially its individualisation in Europe, is sufficient information about the convicted offender and his/her current life situation. In the case of community service/home detention, information on the offender's view of the sentence under consideration and his/her willingness to cooperate with the PMS (Probation and Mediation Service) is also of great importance. One of the tools that can be used to ensure an individual approach to the offender and the better enforcement of alternative sentences is for the court to have an expert opinion from the PMS on the possibility of imposing such sanctions, which is available to prosecutors and judges in the form of a report or opinion. This should comprise detailed and up-to-date information, including a risk analysis of subsequent recidivism. In fact, the expediency of such cooperation and use of these assessments is reflected in the Council of Europe's recommendations in this area.

The effectiveness of alternative sentences is subject to their appropriate imposition, which presupposes that the offender is acquainted with the conditions of their execution and is prepared and motivated to serve the respective sentence. The seriousness of the problem is also reflected in the new Probation and Mediation Development Concept until 2025, according to which: “a prerequisite for increasing the enforceability of alternative sentences is: the pre-negotiation of sentences, taking into account PMS reports/opinions on their imposition and cooperation with PMS in proceedings before the court.”

If we focus on the probation officer's practical activity in the preparation of documents for the imposition of alternative sentences in the context of pre-trial proceedings, it can be said that these mainly consist of the preparation of documents for the imposition of community service and home detention. In pre-trial proceedings and proceedings before the court, the probation

officer ascertains and evaluates the conditions and risks of this type of sentence, and also takes into account the possible risks of the offender's recidivism and the needs of the victim in his/her recommendations. In view of the above facts, the research task “Probation Officers’ Reports as the Basis for the Effective Imposition of Alternative Sanctions” was included in the Mid-Term Plan of Research Activities of the ICSP for the period 2016–2019.

The subject of the research summarised in this publication was probation officers’ reports prepared in pre-trial proceedings for the needs of the public prosecutor or judge, which are intended as the basis for alternative sentences. Probation officers’ reports on the possibility of imposing community service/home detention were examined.

The objective of the research was to map and analyse probation officers’ reports prepared for the needs of the court or public prosecutor when considering a sentence of community service/home detention. A partial objective was to assess the impact of the information contained in these reports on the imposition and successful execution of the alternative sentence. Subsequent criminal recidivism was also analysed in connection to whether the alternative sentence was successfully served. Based on the research results, recommendations were formulated for implementation in the Czech Republic in practice.

The main part of the research consisted of an expert questionnaire survey of judges, public prosecutors (at district level) and PMS staff who deal with the researched agenda at PMS centres, an analysis of probation officers’ reports on the possibility of imposing community service/home detention, an analysis of judgements and penal orders sentencing offenders to community service/home detention, the success of the execution of these sentences and identifying cases of recidivism. We were mainly interested in assessing the impact of the information contained in reports on the successful execution of imposed sentences of community service/home detention.

The relevant provisions of the Recommendation of the Committee of Ministers to Member States CM (2017) 3 on the European Rules on Community Sanctions and Measures set out the basic framework for their imposition and one of the conditions is the requirement for a detailed and professionally prepared report prior to a decision. Other more specific rules on what these reports should include, as well as the need for cooperation with other criminal justice bodies and the need to ascertain the veracity of information, as well as rules for the involvement of the accused in the preparation of the report are set out in the Recommendation of the Committee of Ministers to Member States CM/Rec (2010) on Probation Rules. Greater

requirements for determining the personal, family and social circumstances of juvenile offenders are enshrined in Directive (EU) 2016/800 of the European Parliament and of the Council of 11 May 2016 on procedural safeguards for children who are suspects or accused persons in criminal proceedings. The requirements included in European recommendations are then reflected in the legislation of a number of Member States.

After initial problems relating to its introduction into legislation and its enforcement without the establishment and functioning of the PMS in the second half of the 1990s, community service orders gained a very important position in the application practice of the courts in the context of alternative sanctions. It was the second most frequently imposed alternative sentence after conditional sentences, and the share of community service orders in the total number of sanctions imposed as the main sentence has been higher than unconditional prison sentences since 2002, reaching around 20% in the first half of the 21st century. The obligation to request probation officers' reports and a further tightening of legislation in the case of community service was also reflected in sanctions policy. Although there has been some decline, community service orders still remain the second most important alternative sanction until 2018. In general, it can be said that after a significant decrease in connection with recodification, the share of imposed community service has remained relatively stable. In recent years, community service seems to be in slight competition with financial penalties (fines). A certain indicator of the extent to which alternative sentences such as community service and home detention are imposed in appropriate or, on the contrary inappropriate cases, may be the number of subsequent conversions of these sentences as a result of a violation of their conditions by convicted offenders. In 2010, i.e. following the introduction of stricter conditions for these sanctions and the introduction of the obligation to request a probation officer's report, but especially in the years thereafter, there was a significant decrease in the conversion of community service into unconditional sentences.

Since its incorporation into Czech criminal law from 1 January 2010, the application of home detention has been strongly affected by the inability to oversee its execution using an electronic monitoring system, which has persisted for almost the entire time. Its subsequent introduction in the autumn of 2018 has not yet been significantly reflected in the imposition of this sanction. Reasons for its low application in practice may also be personal and social conditions on the part of convicted offenders, such as unsatisfactory living conditions, irregular working hours, etc. It's clear that conversions of home detention to unconditional imprisonment do not occur very often, which may indicate that enough information on the

risks associated with the execution of this sentence made available to the courts in probation officers' reports, allow the risks of its failure to be better prevented.

The opinions of experts engaged in the implementation of the studied area were an important part of our research. An expert questionnaire survey was conducted in November 2018 in which we contacted judges, public prosecutors and probation officers as respondents. As part of the investigation, we contacted the presidents of all district courts (86 in total) with a request to pass the questionnaire on to two criminal judges at their court in paper form. We received a total of 94 completed questionnaires, which represents a 55% return. In the case of public prosecutors, we asked the chief public prosecutors of all district public prosecutor's offices (86 in total) to pass the survey on to two designated public prosecutors at their office. We obtained a total of 134 completed questionnaires, which is a 78% return. At the PMS, we approached all probation officers who specialise in the agenda of pre-trial proceedings, the community service agenda or the home detention agenda. We collected 134 questionnaires from the PMS, which represents a return of 76%. This special agenda is often performed by probation officers (specialists) cumulatively (i.e. the preparation of material for the imposition of both sentences), especially at smaller centres. In our sample, 106 probation officers specialised in the preparation of reports for the purposes of a decision on community service, and 83 officers on the agenda associated with the preparation of material for home detention.

As part of the survey, we were interested in the mutual cooperation between judges, public prosecutors and probation officers in the imposition of alternative sanctions. We can conclude from the results that there are no significant reservations on the part of judges regarding cooperation with the PMS in this context. A positive perception of cooperation with the PMS also prevails among public prosecutors. When rating cooperation with judges and public prosecutors from the perspective of probation officers, judges scored higher.

We also focused on the details of this cooperation in our survey and asked judges and public prosecutors to evaluate the work of probation officers in terms of their qualifications, experience, expertise, objectivity and professionalism. Both judges and prosecutors rated probation officers very positively. The professionalism of probation officers was ranked the highest by both professional groups.

16% of probation officers consider the timeframe they are given to prepare a report on the possibility of imposing community service as insufficient. Probation officers have an average of 19 and a half days to draw up a report on the possibility of imposing community service in

case of a mandate from a public prosecutor. The average time allowed to prepare a report requested by a judge was 24 days. 26% of probation officers consider the time allowed for a report on the possibility of home detention to be insufficient. Probation officers have an average of 21.4 days to prepare a report on the possibility of imposing home detention in case of a mandate from a public prosecutor. Probation officers have an average of 25.1 days to prepare a report when requested by the court.

All groups of respondents find the reports on the possibility of imposing community service and home detention useful. Judges and public prosecutors generally appreciated the professionalism of probation officers in the performance of this activity. In their opinion, the reports provide objective information about the offender on the basis of a thorough personal investigation. An alternative sentence is recommended in cases where its successful execution can be expected, based on an assessment of the conditions for the execution thereof, but mainly a determination of the offender's mind-set and motivation to serve this sentence. The report contains a wide range of valuable information that speeds up the decision-making process and thus effective execution of the sentence.

In the experience of judges (75%), public prosecutors (91%) and probation officers (96%), the execution of community service is more successful in cases where a report was available when deciding to hand down this sentence. In the case of home detention, 95% of judges, 96% of public prosecutors and 99% of probation officers are convinced of more successful execution of the sentence in this sense.

According to probation officers, the quality of reports on the possibility of imposing community service is negatively affected by their high workload, problematic cooperation with the offender, the inability to verify information, the lack of time and difficulty in obtaining information. In the case of reports on the possibility of home detention, probation officers identified the most significant negative factors that may affect the quality of the report as the inability to corroborate certain information, the limited time for its preparation, problematic cooperation with the accused and their high workload.

In the experience of probation officers, the most difficult aspect when preparing reports on the possible imposition of community service is obtaining information on the offender's medical fitness to perform community service, information on the offender's dependence on drugs or alcohol, and information on the offender's financial situation. In terms of difficult to verify information, probation officers most often cited information on the offender's dependence on

drugs or alcohol, information on the offender's medical fitness to perform community service and information on the offender's motivation to serve the sentence.

In the experience of probation officers, the most difficult aspect when preparing reports on a possible sentence of home detention is obtaining information relating to the offender's place of residence, information on employment and information on the offender's possible dependence on drugs or alcohol. In terms of difficult to verify information, probation officers most often cited information on the offender's dependence on drugs or alcohol, information related to the offender's place of residence and information on employment.

Judges and public prosecutors rated the quality of reports on the possibility of imposing community service/home detention in terms of objectivity, currency, clarity and completeness. Both professional groups rated the selected characteristics of PMS reports very positively. In the case of reports relating to community service, their currency and clarity were rated most highly, while completeness and objectivity somewhat less so. In the case of reports relating to home detention, their currency, objectivity and completeness were ranked highest by judges, while their clarity was listed highest by public prosecutors.

Both groups of respondents also evaluated the individual parts of the report relating to community service, namely the part devoted to cooperation with the offender, the part describing his/her personal and social situation, the part describing the consequences of the crime and the part presenting the opinion of the PMS on the possibility of imposing community service. Judges and prosecutors rated specific parts of the report very positively.

Judges and public prosecutors evaluated the quality of individual information in PMS reports. In the case of reports relating to community service/home detention, it is gratifying that respondents assessed the quality of information for almost all items entirely or relatively positively. Both groups of experts considered the information on the view of the accused and the final opinion of the probation officer on the possibility of community service to be of the highest quality. The information they consider to be most important for their decision-making and for assessing the significance of factors for the imposition of community service are presented to decision-makers particularly well. Similarly, the quality and adequacy of information in PMS reports relating to home detention is regarded mostly positively by judges and public prosecutors. Satisfaction with the quality of information for most items is expressed by the vast majority of respondents, typically around three quarters. In this context, both groups of respondents rated the accused's view of the possibility of home detention, the

final opinion of the probation officer on the possibility of imposing home detention and the specification of the place where home detention would be served most positively.

We asked all groups of respondents to evaluate the importance of various aspects when imposing community service/home detention. Judges and public prosecutors declared the importance they attach to the individual factors we defined in the survey when considering or proposing community service/home detention. Probation officers were then asked to consider the importance that judges attach to these factors in their decisions.

In the case of reports relating to community service, all the groups of experts ranked the same factors as being of the highest importance, with small variations in their order. Among the factors to which judges attach the greatest importance when imposing community service was the accused's state of health, his/her criminal career and his/her view of the possibility of community service. They also regard the accused's past failure to serve an alternative sentence and the seriousness of the crime to be important. Public prosecutors found the latter two factors to be the most important when weighing a proposal to impose community service. For public prosecutors, the order of factors according to importance is as follows: the accused's previous failure to serve an alternative sentence, the seriousness of the crime, the accused's criminal career, his/her state of health and the nature of the crime in general. The five factors that probation officers deemed most important for judges' decision-making include the seriousness of the crime, the accused's state of health, his/her view of the possibility of imposing community service, the nature of the crime and the accused's criminal career.

When considering the imposition of home detention, judges attach the greatest importance to the accused's criminal career, the prospects of his/her housing (i.e. whether he/she has secured housing in the future, a rental agreement, etc.), the seriousness of the crime, specific local conditions for home detention and the nature of the crime. With small variations, factors in a similar order of importance were also declared by public prosecutors in cases of proposed home detention.

Probation officers believe that when considering the imposition of home detention, judges attach relatively less importance to the accused's previous failure to serve an alternative sentence, the risk of failure to serve home detention and the overall possibility of his/her resocialisation. We thus feel the results of our survey are important news for probation officers. According to judges, they attach more importance to the information in PMS reports

and they have a greater impact on their decision-making than probation officers think. They also rate the quality of the information in PMS reports, important for their decision-making, very positively. All these differences are marked by the fact that probation officers significantly underestimate the importance of the information they provide.

As part of the survey of probation officers, we also focused on the area of methodological standards, on the basis of which probation officers and assistants perform all PMS professional activities and which set out the procedures and requirements for the preparation of reports.

In line with the aim of this research, i.e. to assess the importance and quality of probation officers' reports, including the impact of the information contained in these reports on the possible imposition and successful execution of community service and home detention and criminal recidivism, we analysed PMS reports before a decision (i.e., opinions on community service and home detention, etc.), as well as decisions in which offenders were sentenced to community service or home detention and relevant data from criminal records. The research sample consisted of all convicted offenders included in PMS records, for whom a final decision on community service/home detention had been made from 1 January 2017 to 30 June 2017 (only cases initiated before the court in 2017, which were also ordered to be executed from 1 April 2017 to 30 June 2017). Due to the low number of offenders sentenced to home detention, it was decided to include decisions to convert another sentence to home detention.

The research sample consisted of a total of 657 convicted offenders. With regard to the type of sanction in the decision in question, the vast majority were sentences of community service, in 621 cases (95%). Home detention was imposed in only 36 cases (5%). In the case of our research group, it can be said that most convicted offenders had previous experience with the criminal justice system and some repeatedly. In terms of the number of previous records in the Criminal Register, only 8% of convicted offenders had no previous record. 30% of convicted offenders had no previous reoffences prior to the decision in question. On the other hand, there were often cases where the convicted offender had reoffended 3 to 5 times and cases with more than five repeat offences were not exceptional.

Very important information in terms of considerations regarding alternative sentences is, or should be, information for the court on how any previously imposed alternative sentences were executed and whether they had been successfully served. It should be noted here that

almost 26% of convicted offenders had already had an alternative sentence converted in the past. It must be added that this was not just the conversion of community service or home detention, but very often the conversion of a conditionally suspended prison sentence. In case of community service this was 25% of cases, and 36% in case of home detention.

Another important aspect in terms of appropriate sanctions is information on whether the convicted offender has had experience of an unconditional prison sentence prior to the imposition of a sentence in the decision in question, either directly or converted to unconditional imprisonment from an alternative sentence. In total, almost 36% of convicted offenders had this experience (35% of those sentenced to community service and almost 53% of those sentenced to home detention).

With regard to the structure of criminal activity according to individual chapters of the respective part of the Criminal Code in the decision in question, crimes against property were represented most often, followed by crimes against public order and further back, crimes against family and children and generally dangerous crimes. The most common criminal offences in cases of community service were theft (27%), followed by obstruction of an official decision and obstruction of a sentence of banishment (almost 20%) and negligence of mandatory maintenance payments (14%).

In terms of legislation and application practice, the type of decision in which these alternative sanctions were imposed is of fundamental importance in terms of the obligation to request a report from a probation officer before making a decision. In our sample, they were most often imposed by penal order - in 397 cases, which is more than 60%. Judgments were issued in only 243 cases, i.e. 37%. The rest of the cases were conversion decisions - these were exclusively cases of home detention.

When handing down these two sentences, the courts made only very limited use of the option of their individualisation with appropriate obligations and restrictions. These were only enacted in 102 cases, which is less than 16% of all convicted offenders, without further specification of these obligations or restrictions.

The research focused on the impact of probation officers' reports on the decision to impose sanctions and the subsequent enforcement of these sanctions. An interesting finding in this regard was that in most cases, although not very significant - 52% - the court did not have

a probation officer's report available prior to its decision on a sentence. A probation officer's report was prepared in 315 cases, i.e. for 48% of all convicted offenders.

In the context of the studied sample of convicted offenders, it is evident that where the court decides by a judgment, it did not take the opportunity to request a report in the vast majority of cases - 86%. On the other hand, in case of a decision by penal order, it usually had a report at hand. However, it should also be pointed out that a report was not available in almost one third of cases decided by penal order.

As indicated in findings from abroad, one of the classic indicators examined in the case of pre-sentencing reports is the correspondence between court decisions and the proposals contained in the reports. Like the results of foreign research, our research showed a very high degree of agreement - 73%

The successful completion of an alternative sentence by a convicted offender can be seen as one of the important indicators of the extent to which the imposed sentence was appropriately chosen, although of course there are many factors affecting its execution that must be taken into account. In the studied sample of convicted offenders, 58% successfully completed imposed community service or home detention. In 137 cases (21%), these were converted to another sentence. On closer inspection, 352 community service orders were successfully served and 131 community service orders were converted, which is 21% of imposed community service. In the case of home detention, the share of successfully carried out sentences was even higher, at 26 cases, i.e. 72%. Conversion to an unconditional sentence was only recorded in 6 cases.

One of the key questions in our research was to what extent the fact that the court had a probation officer's report available, and should therefore have had a wider range of information relating to the appropriateness of imposing a specific alternative sanction, affects the subsequent success of executing that sentence. In cases where the court decided by penal order and had a report from a probation officer, a higher success rate in serving the sentence was recorded, with fewer conversions compared to cases where the court did not have a report. This relationship proved to be statistically significant (successful completion of community service/home detention when there was a report was 66% - conversion 15%; successful completion when there was no report was 50% - conversion 34%). Even in cases where the court decided by judgment, there was greater success serving the sentence and a lower number of conversions, however, the differences were not statistically significant.

Another factor with significant differences that appeared in our sample in relation to the successful completion of the sentence was the age of the convicted offender, where it can be assumed that his/her responsibility will increase with age, with regard to the maturity of the individual. This was also confirmed. The highest risk in terms of a successfully executed sentence or the probability of conversion in our sample was posed by individuals aged from 22-29, followed by young adults. In contrast, the lowest risk in this respect was posed by individuals aged from 40-49, and then 60 or over, although the last age category was represented in only a small number of cases in the sample.

Convicted offenders with previous experience with the conversion of an alternative sentence to an unconditional sentence were also less successful serving the sentence in question, which was more often converted to another sentence, both in the group as a whole and in the case of separately assessed community service.

Recidivism is considered one of the traditional and often main indicators of the effectiveness of imposed sanctions and therefore is often the subject of criminological research. In our case, we also assessed recidivism based on copies of criminal records at least 2 years after the decision in question was handed down (the status of criminal records was determined for each convicted individual from 12 July 2019 to 25 July 2019). Almost half of convicted offenders reoffended after the decision in question had come into force. In case of community service, this was 51%, and in case of home detention this was 12 convicted offenders (33%). Leaving aside home detention, which had very low numbers, these figures are not very different from the results of previous Czech research on recidivism carried out in 2012 to 2015. At that time, 48% of the sample were found to have reoffended, with 49% in the case of community service and 46% in case of home detention (Scheinost, Háková, Rozum, Tomášek & Vlach: Criminal Sanctions: Their Application, Impact of Recidivism and Media Image on Television News, 2015).

In our research, however, we not only examined data on further criminal records after the decision in question, but also on obtaining more accurate data on recidivism. Of the whole sample of convicted offenders, 279 committed further crimes, which is almost 43%. At the same time, it must also be said that although three quarters of the cases only involved one reoffence, more than one quarter of convicted offenders recorded more than one and 6% of cases more than two reoffences. In terms of the type of recidivism, this was mainly special recidivism.

From the perspective of seeking targeted forms of post-penitentiary care, so-called "survival time", i.e. the time from the previous conviction or execution of an imposed sentence, until the moment the offender commits another offence was found to be very important. As part of our research, we monitored the time from the decision in question coming into force to the hand down, or in case of a penal order, issue of another decision. It is evident that almost two thirds of convicted offenders who reoffended were handed down or issued a decision for this offence within one year of the decision in question coming into force, while in 31% of cases it was within 6 months.

Another area that can be seen in relation to recidivism is the type of crime. Here, too, there were statistically significant differences, especially in the case of crimes against property, where offenders convicted for such offences reoffended significantly more often than in the case of generally dangerous crimes.

In general, it is possible to point out higher recidivism in the case of theft, where 58% of convicted offenders committed further crimes, and significantly lower in the case of endangerment under the influence of an addictive substance, where less than 17% of convicted offenders reoffended.

Another important factor proven to be a significant predictor by a number of studies is the offender's criminal history. This was also confirmed in our research, where we limited this factor to convictions for former reoffences, where the number of previous cases of recidivism increased in conjunction with the number of reoffences after the conviction in question, where those offenders who did not have a prior record of recidivism reoffended after the decision in question in approximately one third of cases, compared to those who had a record of two or more reoffences, where new offences occurred in almost 50% of cases.

From the perspective of our research, experience with serving an unconditional sentence before the decision in question proved to be an important factor, where convicted offenders who had no past experience serving an unconditional sentence reoffended in 39% of cases compared to those who had such experience. Of these, almost half (49%) reoffended, while the differences proved to be statistically significant. Similar results were also found for independently assessed community service, where 40% of convicted offenders with no experience of serving an unconditional sentence reoffended compared to 50% of convicted offenders with experience serving an unconditional sentence.

Similar results were found in case of the conversion of a convicted offender's alternative sentence in the past, where those who had previous experience with the conversion of an alternative sentence reoffended more often than those who had not experienced a conversion.

An analysis of the content of 315 PMS reports and opinions in terms of PMS methodological standards showed that probation officers formulated a recommendation for the imposition of community service/home detention in their report most often, and this in more than 80% of cases. In only one third of cases did the PMS report contain any recommendations for the court to set appropriate specific measures or obligations. However, if the probation officer recommended a specific measure or obligation to the court in the PMS opinion or report, the court usually accepted these recommendations in full or at least partially took them into account in its decision. In one third of cases, the court did not reflect PMS recommendations in any way.

As part of our research, we examined whether and how submitted PMS reports reflected the binding guidelines /recommendations contained in relevant PMS methodological standards, the observance of which is binding for all probation officers. These written outputs by probation officers were subjected to an analysis, which recorded whether and how PMS reports addressed to the court (public prosecutor) correspond to the requirements to respect the content and structure of information in Reports for the Purpose of Decisions, or PMS Opinions on the Imposition of Community Service/Home Detention, which are contained in the respective PMS methodological standards. In this context, we also examined how probation officers managed to take into account the requirements of relevant PMS methodologies in predefined thematic areas, such as the course of cooperation with the client, his/her personal and social circumstances, dealing with the consequences of crime and cooperation with the victims of crime in their opinions and reports. Attention also focused on the content of PMS reports in the area of comprehensive risk and needs analysis, and a final summary in the form of a processed, clearly formulated PMS opinion on the possible imposition of an alternative sentence or recommendation of appropriate measures to address identified risks.

The findings of the analysis of a sample of PMS opinions and reports show that, in practice, most probation officers reflect the recommended topics/issues in templates prescribing the formal and content structure of PMS written outputs. If, in direct confrontation with methodological standards, the analysis found significant reserves in the content of PMS

opinions and reports, then these were most often issues relating to the objectivization of described facts, the description and analysis of identified risks, a more detailed explanation of the offender's financial situation and the specification of victims' needs.

The fact that significant differences between the declared contents of PMS reports/opinions according to PMS methodological standards and their fulfilment in practice were found in some areas is also evidenced by the following findings:

- in areas where probation officers had the opportunity to describe whether they had also cooperated with other individuals¹, in addition to the client, in the PMS Opinion on the Imposition of Community Service, this information was completely lacking in most cases, or was only covered very marginally; this also applied in the case of findings concerning those parts of the PMS Opinion on the Imposition of Community Service, in which probation officers had to state from which sources they objectivised obtained information, or what information stated in the opinion was objectivised,
- in the area where probation officers were meant to deal with the topic of family and social relations in the PMS Opinion on the Imposition of Community Service, there was a complete lack of information about who the offender lives with and where in 11% of assessed cases,
- more detailed information on the social environment in which the offender lives was lacking in 68% of the total number of assessed Opinions on the Imposition of Community Service,
- more detailed, or at least partial information on the offender's obligations (children, maintenance payments, care of an entrusted person) was not included in 42% of the total number of assessed PMS Opinions on the Imposition of Community Service,
- in approximately one quarter of cases, the prepared Opinions on the Imposition of Community Service did not contain more detailed information on the offender's time obligations based on the performance of his/her profession, i.e., in about 25% of cases there was no information about the offender's working hours, whether he/she commutes to work, or where and how often,
- in approximately 11% of cases, the Opinion on the Imposition of Community Service had no information relating to the offender's current employment,

¹ in such a case, to inform the court in more detail about how and who it dealt with and the conclusions arising from such cooperation

- a possible provider of community service was proposed in communication addressed to the competent court in about two thirds of cases,
- half of PMS Opinions on the Imposition of Home Detention did not include any information on the offender's special interest activities,
- information on obligations arising from possible obligations associated with the offender's membership in a special interest organisation, or affiliation to a religious community and the related issue of regular participation in religious services was only included in 7 of 18 Opinions on the Imposition of Home Detention, i.e. less than 40%,
- a remarkable finding was that Opinions on the Imposition of Community Service only contained information on the offender's professional qualifications and practical skills in one third of cases; the situation was similar in the case of information on education, which was lacking in approximately three quarters of Opinions on the Imposition of Community Service, despite the fact that a thorough mapping of these areas is a prerequisite for performing a risk analysis for the execution of community service according to PMS methodology, which, in addition to other areas mentioned therein affects the feasibility of community service,
- based on the frequency of this information in PMS opinions, it can also be said that information on offenders' plans and commitments concerning work or their education in the near future is also of rather marginal importance in practice,
- information on offenders' indebtedness was missing in more than half of PMS opinions (in the case of Opinions on the Imposition of Community Service this was 154 cases out of a total of 242, and 10 cases out of 18 in the case of Opinions on the Imposition of Home Detention, which did not provide even basic information on whether the offender was in debt or not),
- approximately one third of opinions did not include the offender's view of crime (in Reports for the Purposes of a Decision this topic was completely missing in 7 of 40 cases),
- approximately one third of Opinions on the Imposition of Community Service/Home Detention and 45% of PMS Reports for the Purposes of a Decision did not contain any information on the offender's relationship to alcohol, drugs, gambling or other addictive behaviour,
- surprisingly, information on the offender's motivation to change could be found in varying degrees of detail in only 56% of all cases of assessed PMS opinions and reports, while

this issue was covered in only one third of cases in Opinions on the Imposition of Home Detention,

- information on whether the victim had been contacted by probation officers was included in only about 55% of all opinions and reports,
- the opinion of the victim or injured organisation on compensation for damages was only found in about 28% of opinions and reports,
- information describing the results of negotiations dealing with the harm caused, such as an agreement on compensation or mediation between the victim and offender was part of about 10% of analysed opinions and reports,
- an annex containing the Victim's Declaration Regarding the Impact of the Crime on His / Her Life could be found in only two cases in the total group of selected opinions and reports,
- as part of assessing the degree of risk of recidivism, harm and failure, probation officers surprisingly commented on the offender's criminal past, or previous cooperation with PMS in less than one third of cases,
- an assessment of the degree of risk of recidivism, harm and failure based on dynamic factors could not be found in more than half of cases,
- information on who was at risk of harm and under what circumstances was part of less than 6% of PMS opinions/reports,
- information about how the client's approach increases or decreases the risks could be identified in about 20% of cases.

The research results allow the formulation of the following recommendations:

As part of the lifelong education of judges and prosecutors, as well as methodological, educational and control activities, the Judicial Academy, the Supreme Public Prosecutor's Office and the Supreme Court should focus more on emphasising the importance of probation officers' reports and on relevant consideration of imposing community service or home detention, especially in cases decided by penal order, as it is evident that in a significant number of cases the legal obligation of the court to request a probation officer's report according to Section 314e (3) and (4) Criminal Procedure Code (CPC) is not observed. At the same time, more intensive support for their wider use in the main trial should also be provided.

In addition to assessing the risks and needs of the accused, probation officers need to focus more on formulating proposals for appropriate reasonable restrictions and obligations that address risk areas in terms of recidivism. These measures should be targeted and it would be appropriate to propose a wider range of restrictions or obligations for the accused (not only to pay compensate or maintenance) to the court.

In view of the specifics of home detention and the number of conditions that are required for its execution, it is always advisable to conduct a preliminary investigation before imposing this sanction. This is conducted by a probation officer and results in a PMS report. We believe that it is necessary to open an expert debate regarding the ability to sentence an offender to home detention only after the completion of a preliminary investigation and preparation of a PMS report.

In order to simplify and speed up criminal proceedings overall, it would be appropriate to have a PMS report available in all cases where the public prosecutor proposes a sentence of community service/home detention. The adoption of the Supreme Public Prosecutor's Instruction of a General Nature No. 9/2019 and changes in CPC as amended by Law 333/2020 Coll. therefore offers scope for greater cooperation between public prosecutors and probation officers in this regard.

The quality of reports, including the quality of their individual parts, was evaluated as being of a good standard and, in general, the work of probation officers in the preparation of reports is highly valued. However, probation officers pointed to factors that may reduce the quality of these reports. These relate to their high workload, problematic cooperation with offenders, the amount of time required to prepare reports and the issue of objectivising information from the accused. Negative factors are interconnected to some extent.

Some probation officers perceive the timeframe for preparing the report as insufficient, especially when preparing a report on the possibility of imposing home detention. The preparation of the report is more demanding in this case due to the institute of preliminary investigation and the need to visit the offender's place of residence. We believe that it would be appropriate for judges and prosecutors to reflect this fact more when commissioning a report, even in the knowledge that criminal justice authorities are bound by deadlines set in the Criminal Procedure Code and are obliged to respect the principle of officiality and speed of criminal proceedings.

A substantial number of probation officers perceive their high workload as a significant factor that negatively affects the quality of reports. In order for PMS to be able to perform assigned tasks, it is necessary to secure its activities not only from a material and technical perspective, but to create adequate staffing conditions, otherwise this will have a negative impact on the quality of reports.

In order to properly objectivise the information provided by the offender during the preparation of the report, it is necessary to create appropriate legal instruments for probation officers. We recommend gradually addressing the most important problem areas. Probation officers pointed out significant problems in obtaining or verifying information concerning, in particular, the offender's dependence on drugs or alcohol, their medical fitness, financial situation, place of residence and employment.

An analysis of the content of probation officers' reports and specific recommendations or binding guidelines based on PMS methodological standards, revealed fundamental differences in their implementation in practice in some areas. We recommend reflecting these findings in a suitable way and taking them into account both within the control activities of the PMS and especially in the vocational training of PMS officers and assistants.

In general, it may be worth considering whether, in the light of legislation and practice in some Member States, a debate should not be launched into whether it would be more beneficial for courts if they had a general report from a probation officer available, which, in addition to assessing the risks of recidivism, would also include an assessment of the conditions and suitability of individual alternative sentences in general (not just, for example, an opinion on one type of alternative sanction, such as community service or home detention) when deciding on a specific type of punishment and sentence. It should be added that there is currently nothing to prevent the courts from requesting such a report. However, as the results of our research suggest, this is not happening in practice. On the other hand, it must be acknowledged that without sufficient PMS staffing and sufficient time for the preparation of reports, this could ultimately lead to a reduction in the current quality of reports as suggested by foreign research.

Translated by: Presto