

CRIMINOLOGICAL ANALYSIS OF OFFENDER PROFILES MOST SUITABLE FOR PROBATION MEASURES

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Abstract

This paper aims to investigate the criminogenic profiles of offenders who are most suitable for imposing alternative sanctions, with a focus on the probation model in the Republic of North Macedonia, organized as a system that integrates several alternative sanctions, conditional release, and obligations imposed in criminal proceedings. The research is based on a criminological analysis of the factors that influence criminal behavior, as well as on the assessment of risk and potential for resocialization. Through a theoretical approach and typology of perpetrators, groups such as minor or younger adult perpetrators of crimes, people with addictions and socially vulnerable categories are analyzed, in which alternative measures can achieve the best results (reduction of the recidivism rate and effective resocialization). The focus of the paper will not be on whether alternative sanctions produce results, but rather on whether there are specific categories of perpetrators of crimes who are more suitable and eligible for probation measures instead of imprisonment or other penalties, and what those categories would be. This would be investigated through criminological analysis of specific characteristics, criminogenic factors, as well as social and psychological indicators among these offenders – age, motives, type of crime, family structure, environment, etc.

Keywords: *alternative sanctions, probation, criminological profiles, risk assessment, criminogenic factors;*

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1. INTRODUCTION

Modern criminal justice systems face challenges related to overcrowding in correctional facilities, high levels of recidivism, and limited capacity for the resocialization of criminal offenders. In domestic context, the European Union's assessments have consistently criticized North Macedonia's penitentiary system. The 2024 European Commission Report again underscores persistent inhumane prison conditions and the lack of progress in promoting alternatives to imprisonment (European Commission, 2024, p. 7). Theorists are also advocating for the use of alternatives to prison sentences as more economical and effective in combating crime, which can mitigate problems such as prison overcrowding, the spread of criminal contagion in prisons, the stigma of a former prisoner, the high rate of recidivism following incarceration, etc. (Gruevska - Drakulevski, 2017). Therefore, this paper aims to provide a criminological analysis of the following question: which offender profiles are most suitable for alternative sanctions, and why? The subject of analysis will not be the effects and practical application of these sanctions. Instead, the emphasis will be placed on the characteristics and factors that make certain individuals more compatible with this type of non-custodial sanctioning which is carried out without deprivation of liberty. In other words, the central inquiry is not whether such sanctions should be imposed, but rather to whom they should be applied?

2. CRIMINOGENIC FACTORS

For many years, both theory and practice have been engaged in discovering and studying the question of what drives an individual to engage in criminal behavior. For instance, in domestic professional literature, Sulejmanov (2003) defines criminogenic factors as all those circumstances and influences that, through their mutual and interconnected etiological action, cause criminal behavior. As noted by him, difficulties arise when it comes to dividing and attempting to classify this broad complex of criminogenic influences. In that sense, numerous classifications have been and continue to be made, which are generally based on entirely valid starting criteria.

As noted by his reasoning, the most adequate classification is the one that divides all criminogenic factors into **exogenous** (objective): economic factors (migrations, occupations, extraordinary circumstances and emergencies, poverty, money, unemployment), ideological factors (system of cultural values, education, religion, means of mass communication), microgroup factors (family, upbringing, influence of third parties), sociopathological phenomena (alcoholism, drug addiction, gambling, prostitution)) and **endogenous** (subjective): individual-psychological causality,

psychosocial characteristics of the person, mental disorders, etc.). In practice, over the last two decades, probation services from various countries have begun developing strategies for monitoring criminogenic factors in individuals - i.e., risk factors (conditions and circumstances) that increase the likelihood of a person reoffending, thereby leading to the revocation of their parole, suspended sentence, or probation measure (Van Dejnse, Cuddeback, Wilson, Edwards Jr, & Lambert , 2021). Consequently, eight criminogenic risk factors have been differentiated that have the strongest associations with criminal behavior:

1. history of antisocial/criminal behavior: Early onset of antisocial and criminal behavior and continued involvement in a large number and variety of antisocial and criminal activities;
2. antisocial personality traits: Poor self-control, stimulation seeking, poor problem-solving skills, hostility;
3. Antisocial cognitions/values: Attitudes, values, and rationalizations that support crime, cognitive-emotional states of anger, resentment, and defiance;
4. Antisocial environment and surroundings: Association with friends and acquaintances who engage in criminal behavior and a relative lack of prosocial friends and acquaintances;
5. Family and/or marital circumstances: Low level of affection, care, cohesion in family and partner relationships;
6. Education/Work: Low level of performance and involvement in the educational/work process, resulting in dissatisfaction and avoidance;
7. leisure and/or recreational time problems: Lack of involvement in prosocial leisure and recreational activities; and
8. substance use (Horn, Eisenberg, Souverein, & Kraanen, 2018);

These eight criminogenic risk factors have both static and dynamic aspects. The dynamic aspects of each risk factor are known as criminogenic needs, they can be modified and are amenable to change; when successfully addressed in treatment they reduce the likelihood of the individual engaging in future criminal activities (Andrews, Bonta and Wormith, 2006 as cited in Van Dejnse, et al., 2021). Evidence suggests that these eight criminogenic risk factors are the same for people in conflict with the law regardless of the presence of mental illness and that mental illness itself is a weak predictor of criminal justice involvement. However, a growing body of literature has recently shown indicates that individuals with mental illness in conflict with the law have criminogenic risk factors at similar

or increased rates compared to individuals without mental illness (Van Deirse, Cuddeback, Wilson, Edwards Jr, & Lambert , 2021). Such clear differentiations of criminogenic factors are particularly significant because, in criminal justice systems worldwide, methods for predicting criminal behavior gradually began to be used in the process of selecting various types of treatment programs, combining information on the risk of recidivism with an assessment of the factors believed to be associated with it. The latter method became known as 'Risk-Need Assessment' (Whittington, et al., 2013), or Risk-Need-Responsivity (RNR) model, which represents a model of rehabilitation through assessment and treatment of criminal offenders (Horn, Eisenberg, Souverein, & Kraanen, 2018), which will be briefly discussed below in the text.

3. SUITABLE OFFENDER PROFILES FOR ALTERNATIVE SANCTIONS AND PROBATION MEASURES

Over the past 20 years, there has been tremendous progress in the ability to accurately differentiate criminal offenders in terms of risk and to assist them in their resocialization process. Many of these positive developments were largely influenced by the formulation of the Risk-Need-Responsivity² model mentioned above. When criminogenic factors (needs) are properly detected and targeted, the prediction of future behavior, as well as the choice of offender treatment, improves (Bonta & Andrews, 2007). Accordingly, both criminological thought and practice currently possess a solid database and knowledge about which personality profiles are considered most suitable for the imposition of alternative sanctions, briefly discussed in the following section.

3.1 Young adult offenders (18–25 years old)

One of the important achievements in the evolution of criminal law over the centuries is the special treatment of juvenile offenders (Marjanovikj & Kanevchev, 2010). Juvenile delinquency, or child offending according to modern accepted terminology, is distinguished as a specific type of criminal behavior that receives particular attention due to its numerous peculiarities. Children are in a period of psychological and physiological developmental complexity when their psychophysical state is not yet fully formed (Sulejmanov, 2003). Therefore, if there are omissions and deficiencies, or if there is a complete absence of personality formation, a society that sees its future in the youth must step in as

² Risk refers to matching the level of actions that judicial and other authorities should take with the offender's risk of reoffending, Need - assessment of criminogenic needs and targeting them with appropriate treatment, and Responsivity - maximizing the offender's ability to learn from a rehabilitation program tailored to their needs, through cognitive-behavioral treatment (Bonta & Andrews, 2007)

a substitute for the absent or weak educator and caregiver to prevent the child from becoming an offender and transform it into a useful member of the society (Marjanovikj & Kanevchev, 2010). Most European legislations recognize reaching 18 years of age as the point of maturity in criminal legal sense, and this is certainly not done arbitrarily, but based on empirically verified findings. However, in life there are (and will be) cases of both faster and slower maturation of individuals (Marjanovikj & Kanevchev, 2010). For example, Sulejmanov (2003) speaks of a post-pubertal period, considered to be from 16-20 years in females, and 18-24 years in males, in which there is a gradual synchronization between emotional and rational elements, the authority of adults begins to be recognized, and this period marks the completion of the individual's maturation process.

Thus, when discussing young adults, the application of juvenile law to them cannot have harmful consequences for them. However, the sharp transition to the criminal law regime reserved for adults can be unjust and inappropriate for those who mature more slowly (Marjanovikj & Kanevchev, 2010). As Marjanovikj and Kanevchev (2010) point out, to avoid this injustice, criminal laws often provide the possibility of a certain extension of the application of juvenile criminal law to individuals who committed the offense as young adults. This specific category of individuals is particularly suitable for alternative sanctions and measures because they are still in psychosocial development, have a high rehabilitation potential, and their offenses are often the result of impulsivity, environmental and peer influence, or insufficient maturity - factors that can be corrected through re-education measures within the community rather than in prison.

As Thompson and Bynum (2014) argue, most of the public criticism against granting probation measures to minors and young adults, comes from the perception that these sanctions are overly lenient and allow them to avoid punishment and accountability for their crimes. Contrary to prevailing public opinion, alternative sanctions especially when linked to some form of restitution to the victim (the actual victim or the state) through monetary payments or personal labor, is punitive and can represent an effective way to redirect juveniles from institutional incarceration while still holding them accountable for their behavior (Vito, 1985 as cited in Thompson and Bynum, 2014). Statistics from a comprehensive study by the United States National Center for Juvenile Justice show that the rate of recidivism for robberies, physical assaults, burglaries, and car thefts is lower among those juveniles who were ordered to pay restitution to their victims (Butts and Snyder, 1992, as cited in Thompson and Bynum, 2014, p. 382, 383).

Numerous international legal documents are aligned with the tenets of criminological thought. For example, the Handbook on Basic Principles and Promising Practices on Alternatives to Imprisonment by the United Nations Office on Drugs and Crime (2007), clearly identifies children as a special category that should be separated from state prison systems as much as possible. This document refers to the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules) as well as the United Nations Convention on the Rights of the Child, which emphasizes the urgency of finding alternatives to the incarceration of children. What is particularly important to emphasize is that the Handbook explicitly states that many of the principles addressed in these international documents can and should be applied to young adults over the age of 18 whenever possible (United Nations Office on Drugs and Crime, 2007).

3.2 Women in vulnerable social positions

The participation of women in the overall crime rate in the country is significantly lower compared to male criminality. For illustration, the fact that homicides represent a male-dominated type of crime has already been confirmed by numerous criminological studies (Sulejmanov, 2003). As noted by data from the State Statistical Office, out of the total number of accused persons in 2023, which amounted to 7,199 people, 662 were women. Out of the total number of 679 persons accused of crimes against life and body — only 60 accused were women. Out of a total of 2,021 accused persons for crimes against property, 155 were women, and among traffic offenses, out of a total of 1,300 accused, 124 were women (State Statistical Office, 2024).

As Sulejmanov (2003) argues, the reasons for the lower participation of women in crime in general, in criminological literature, are explained by the biopsychological and socio-economic differences between men and women. Among the biopsychological differences, it is particularly emphasized that women are less sensitive to pain, tire more quickly, have fewer red blood cells, weaker physical structure and strength, a less stable nervous system accompanied by fluctuating moods, a greater development of their moral and altruistic feelings, lower susceptibility to mental illnesses, and their mental state is influenced by numerous bodily crises (menstruation, pregnancy, childbirth and breastfeeding, menopause). According to Sulejmanov (2003), some authors often highlight the constitution of women's sex chromosomes among the biological factors that condition female criminality, namely the absence of the "Y" chromosome, as well as the lower participation of the hormone androgen, which in women is also associated with a decrease in aggressiveness. Among the

socio-economic differences, the following are usually emphasized: the existing socio-economic inequality - even today, women are still absent from numerous social activities; differences in their cultural treatment: from childhood, women are much more controlled, especially by their parents, regarding their movements, use of free time, choice of company, and many other aspects of social life. Later, their roles as mothers and homemakers often distance women from social engagement and reduce their exposure to potential criminal situations (Sulejmanov, 2003, pp. 401-404).

Unlike Sulejmanov, authors like Stojanoska and Jurtoska (2017) argue that social and cultural positions of females in our society are the core of problems regarding their criminality, leaving biological differences as a criminogenic factor aside. As noted by their findings, statistics indicate that female offenders are predominantly low-educated, poor and unemployed women, mostly between the ages of 30 and 59, who primarily commit property crimes such as theft, aggravated theft, and fraud. In addition, many are perpetrators of crimes related to family matters, either mistreating their children or not paying alimentation (Stanojoska & Jurtoska, 2017). Furthermore, they emphasize that women are rarely recidivists, and in the cases when they are, they tend to commit similar offences, classifying them as special recidivists. In such situations, both institutional and post-penal treatment often fail to achieve their primary goals. After leaving the penitentiary institutions, many women return to their old environment and even when they have changed, their surroundings often have not, which makes successful reintegration particularly difficult (Stanojoska & Jurtoska, 2017).

Apart from the fact that patterns of criminal behavior among women generally differs from those of men (less violent offenses, less repetitive (recidivist) criminal patterns, more often acting under social pressure, addiction, or in conditions of victimization), many women who come into contact with the criminal justice system are responsible for childcare, are primary caregivers, or members of vulnerable households, so their incarceration would cause significant disruption to these vulnerable lives as well (United Nations Office on Drugs and Crime, 2007).

Another important finding by Stojanoska and Jurtoska (2017) is that the violent crimes committed by women are in most cases a direct consequence of their financial dependence, their impossibility to pursue careers, the societal expectances from females, their predestination to be stay-at-home mothers, caregivers, and housewives. In that sense, the UN Handbook (2007) directs States to pay special attention to finding appropriate measures in the event of non-compliance with fines or any pecuniary obligations imposed on women in criminal proceedings. This is to ensure that if a convicted

woman is unable to bear that financial burden in a timely manner, she does not automatically end up in prison (United Nations Office on Drugs and Crime, 2007).

Overall, for this category of offenders, probation and other measures and sanctions carried out in the community rather than institutionally, are an effective way to enable the re-socialization of convicted persons without disrupting the family structure. The previously mentioned biopsychological and socio-economic factors characteristic of female offenders make them particularly suitable for restorative measures such as community service, protective supervision with treatment, and similar interventions.

3.3 Offenders with substance use disorders (alcohol, drugs)

When discussing the sociopathological behavior of an individual, criminological theory primarily considers their prior sociopathological behavior as a set of actions tending toward criminality. From a penological standpoint, this behavior is significant in terms of determining treatment measures, as it is indisputable that when dealing with an offender with a good past, less effort will be required from penological experts to achieve re-education goals (Sulejmanov, 2003). In this context, the main sociopathological phenomena treated as exogenous criminogenic factors are addictive disorders (primarily alcoholism and drug addiction). As noted by Sulejmanov (2003), these lead to the demoralization of the individual, mental and social deterioration, atrophy of skills and work habits, material impoverishment, conflicts (disagreements, quarrels, physical confrontations), the inability to properly fulfill child-rearing and other family functions, and to the emergence of other sociopathological behaviors (vagrancy, begging, prostitution, etc.). The ultimate result of all this is also the occurrence of criminal behavior, either on the part of the person exhibiting such deviant behavior (primarily property crimes, violent criminal acts, and traffic offenses), or on the part of their victims (from harassed family members or other individuals in their surroundings).

In line with this connection between addictions and crime, the literature speaks of a special criminological category of offenders – individuals with addictive disorders. As Sulejmanov (2003) states, the general characteristic of this category (primarily including alcoholics and drug addicts) is that their criminal behavior is causally related to their tendency toward excessive alcohol (or drug) use, and that due to this tendency, they represent a danger to society as they are in a permanent situation likely to repeat their criminal behavior. The influence of alcohol and drug use can be direct, when the crime is committed under the immediate effect of intoxication or drugged state (attacks on

bodily integrity, freedom of sexual relations, etc.), or indirect, when the crime is committed in connection with a propensity for excessive use of alcohol or drugs (counterfeiting, frauds, thefts, etc.) (Sulejmanov, 2003).

Both criminological and penological theory are constantly searching for ways to appropriately target these sociopathological phenomena to reduce the recidivism rate, which among offenders with substance abuse is often very high (Horn, Eisenberg, Souverein, & Kraanen, 2018). Criminal justice systems worldwide are trying to implement these insights. One example are the so-called 'drug courts' – specialized judicial programs aimed at defendants in criminal cases, juveniles convicted of drug-related crimes, and parents with unresolved child welfare cases who have problems with alcohol and drug addiction (National Institute of Justice). In the United States of America, such courts were initially had jurisdiction only over first-time offenders, but today they also cover recidivist offenders who are addicts, and in Australia, drug treatment courts are intended for drug-addicted offenders with a long history of committing property crimes, a last resort option before imprisonment (United Nations Office on Drugs and Crime, 2007, p. 64). As indicated in the Handbook of Basic Principles and Promising Practices on Alternatives to Imprisonment (2007), initial results suggest that drug court programs are more effective at preventing recidivism than prison sentences, and although they also require significant resources, they still cost less than prison sentences in many jurisdictions. Although specialized drug courts are powerful alternative tools to imprisonment, there are other methods to ensure that addicts entering the criminal justice system are not unnecessarily incarcerated. This is important because, despite authorities' efforts, drugs are often freely available in prisons (United Nations Office on Drugs and Crime, 2007). The Handbook (2007) provides guidelines for the states that their courts must take this reality into account when deciding whether to impose a prison sentence on a vulnerable offender with a substance use disorder. The Handbook (2007) also points out that a key factor in deciding whether to impose a suspended sentence or some other community-based sanction should be the condition that the convicted person agrees to undergo addiction treatment.

In conclusion, individuals with substance use disorders are considered to be a suitable offender profile for whom alternative measures could yield results in the re-education process and in preventing recidivism, because their criminal behavior often stems from the addiction itself. If a country has a developed network of drug counselors and treatment centers staffed by specialized medical

practitioners and psychologists to whom offenders can be referred (United Nations Office on Drugs and Crime, 2007), appropriate treatment and supervision in the community can be more effective than imprisonment, where the individual may either have free access to illegal substances or be subjected to ineffective methadone or other types of therapies that do not yield long-term results.

3.4 Offenders with mental health disorders

People with mental health disorders represent a special and vulnerable group within the criminal justice system. In criminology, there is hardly any work in which, when discussing the significance of endogenous criminogenic factors, serious importance is not also attributed to those traits of an individual that deviate from the normal psyche. This refers to such personality traits and features whose presence prevents them from responding to societal demands and solving their own and societal problems in a normal manner (Sulejmanov, 2003).

It concerns various mental disorders and illnesses that under certain conditions can appear as significant criminogenic factors leading to the occurrence of crime, and when it comes to mental illnesses (psychoses), they can act as immediate circumstances for its occurrence (Sulejmanov, 2003). In these individuals, traditional punitive measures – particularly imprisonment – usually do not contribute to their resocialization and often lead to a worsening of their condition. In many cases, these offenders have a low degree of criminal liability, meaning that the criminal acts are often the result of impulsive behavior, psychotic episodes, or distorted perceptions of reality, rather than being part of planned, conscious criminal activity. Furthermore, the offenders show a limited capacity to understand the consequences. A major challenge with these offenders is precisely determining criminal responsibility, that is, whether there is the capacity for guilt in the situation or not, and an even greater challenge is how to sanction individuals whose illness is not severe enough to exempt them from liability for their criminal acts.

In such cases, the judicial authorities, in accordance with the guidelines of the UN Handbook on Basic Principles and Promising Practices for Alternatives to Imprisonment (2007), must take mental illness into account when deciding how to proceed with such offenders. Mentally ill offenders who remain within the criminal justice system should, as a matter of routine, be given special consideration to determine whether they would not be better placed outside prison (United Nations Office on Drugs and Crime, 2007). In that context, the possibilities for sanctions within the community with elements of medical supervision should also be considered (whether the person regularly receives certain

therapy that enables them to function normally, etc.), counseling and psychosocial rehabilitation and integration, obligation for psychiatric or psychological treatment for the offender's mental illness, and so on. Also, given the fact that the mental health of offenders can change over time, this should also be a factor when deciding whether prisoners with mental health disorders should be conditionally released before the expiration of their sentences (United Nations Office on Drugs and Crime, 2007, p. 68).

Prison conditions negatively affect the psychological state of individuals with mental disorders, worsening their condition. These individuals often become victims of violence or isolation in correctional facilities, and prisons frequently lack the capacity to provide adequate psychiatric and psychological treatment. Therefore, courts and probation services should primarily apply alternatives to imprisonment, especially for individuals who do not pose a high risk to the public, with the aim of successful resocialization, preventing recidivism, and treating the disorder, which cannot be properly addressed in prison conditions.

However, in this category of offenders, the greatest challenges lie in the proper assessment of risk, that is, whether such an assessment is actually possible. A particularly specific category includes individuals with mental disorders who are also addicted to drugs or alcohol, for whom, according to some empirical findings, the rate of recidivism is significantly higher, and none of the eight criminogenic factors mentioned above stand out as predictors for re-offending. In these individuals, the rate of dropout from treatment is also high, which is directly correlated with the high rate of recidivism (Horn, Eisenberg, Souverein, & Kraanen, 2018).

4. PROBATION AS AN ALTERNATIVE: A BRIEF OVERVIEW OF NORTH MACEDONIA

Domestic penal legislation sets forth a tetralistic system of criminal sanctions: punishments, alternative measures, security measures, and corrective measures (Krivičen zakonik [Criminal Code], 1996). In 2004, with the amendments to the Criminal Code (1996), the system of alternative sanctions was rounded out and fully established in a way that enables a restrictive application of prison sentences for less serious criminal offenses, transforming punishment into a means of protecting society and a tool for the resocialization and reintegration of the offender, inspired by the idea of restorative justice (Mujoska Trpevska & Bitrakov, 2020). Since then, Macedonia has had at its

disposal a rich repertoire of alternative sanctions³. However, even a full 20 years after expanding the range of sanctions, the most frequently imposed sanctions remain imprisonment and the alternative measure conditional sentence. Imprisonment is used excessively, and the simple conditional sentence without forms of supervision is sometimes even overused (Gruevska - Drakulevski, 2017).

In response to these challenges, the Macedonian Law on Probation was enacted in 2015, with its practical application commencing in 2016. This law established the Probation Service, tasked with supervising the execution of non-custodial sentences—specifically, the alternative sanctions of conditional sentence with protective supervision, community service, and house imprisonment—as well as supervising the execution of conditional release. Simultaneously, the service provides support to convicted individuals with the aim of protecting the community from crime and achieving the resocialization and reintegration of persons subject to probation activities (Zakon za probacija [Law on Probation], 2015, art.1).

As the Law on Probation (2015) governs solely the execution of probation measures, while their imposition is prescribed by the Criminal Code (1996), in the context of this analysis it is important to highlight several key provisions related to the conditions under which these measures may be imposed by the court. Firstly, the manner in which the Criminal Code (1996) selects and classifies offenders as suitable for alternative measures. The basic principles for sentencing outlined in Article 39 include the criminal responsibility of the offender, the severity of the offense, and the purposes of punishment. The court must take into account all circumstances influencing a lesser or more greater sentence (mitigating and aggravating circumstances), particularly: the degree of criminal responsibility, the motives for committing the crime, the level of endangerment or harm to the protected legal value, the circumstances under which the crime was committed, the victim's contribution to the commission of the crime, **the offender's prior life, their personal circumstances, and their conduct after committing the criminal offense, as well as other circumstances pertaining to the offender's personality** (Krivičen zakonik, 1996, art. 39(2)).

Furthermore, when deciding whether to impose a *conditional sentence*, the court must also consider the purpose of the conditional sentence and specifically the **offender's personality, their prior life,**

³ As set forth by Article 48 of the Criminal Code (1996), the list of alternative measures consists of: Conditional sentence, conditional sentence with protective supervision, conditional delay of criminal proceedings, community service, judicial admonition and house imprisonment.

their conduct after the commission of the criminal offense, the degree of criminal responsibility, and other circumstances under which the offense was committed (Krivičen zakonik, 1996, art. 50(3)). *Protective supervision*, according to Article 55, may be imposed alongside a conditional sentence when the court finds that the conditional sentence alone will not sufficiently influence the offender to refrain from committing further crimes, and circumstances related to the **offender's personality or their living environment** justify the expectation that the purpose of the conditional sentence shall be achieved if measures of assistance, care, supervision, or protection are imposed.

Regarding *community service*, we encounter the condition of being a first-time offender. As noted by Article 58-b of the Criminal Code (1996), for criminal offenses punishable by a fine or imprisonment of up to three years, the court may, with the offender's consent, impose the measure of community service if the offense was **committed under mitigating circumstances** and the offender has **no prior convictions**. *House imprisonment* is envisaged under Article 59-a for offenders of criminal offenses punishable by a fine or imprisonment of up to five years, who are **elderly and infirm, seriously ill, or pregnant women**, if the court imposes a prison sentence of up to three years (Krivičen zakonik, 1996). As regards the *conditional release*, the law also leaves room for discretionary assessment. As noted by Article 36 of the Criminal Code (1996), a convict may be released from serving a prison sentence conditionally before the expiry of the term if they have reformed to such an extent that **it can reasonably be expected they will behave properly while at liberty**, and especially that they will not commit criminal offenses. When assessing whether to grant conditional release, consideration shall be given to the **convict's conduct** during the serving of the sentence, the **fulfillment of work obligations** considering their work capacity, and **other circumstances** indicating that the purpose of the punishment has been achieved (Krivičen zakonik, 1996).

From the foregoing analysis, it can be concluded that the law grants discretion for risk assessment in the selection of sanctions or in granting conditional release, based on general criteria such as the offender's personality, prior conduct, and similar factors. Of course, in criminal law, the court itself does not always possess the requisite knowledge and capacity to conduct an adequate personality analysis and risk assessment. This is precisely why institutions such as probation services have been established—to provide expert assistance and support to courts in formulating appropriate penal policy. As such, the primary task of these specialized bodies is to prepare a comprehensive personality assessment and social evaluation of the accused person, thus to compile a detailed psychosocial

profile of the offender (Misoski, 2017). Such report is subsequently utilized by the prosecution and the court to select the most appropriate sanction for achieving the purpose of punishment. Defined as one of the main functions of the Macedonian Probation Service under Article 11 of the Law on Probation (2015), this role is, according to Misoski (2017), the most significant probation activity. The execution of the risk assessment competency is further regulated by Article 12. However, as Misoski (2017) points out, these provisions are problematic when analyzed alongside the provisions contained in the Law on Criminal Procedure (Zakon za krivična postapka, 2010), because the procedural law lacks provisions enabling the court to order probation officers to carry out risk assessment activities. Precisely for this reason, the application of these provisions from the Law on Probation (2015) should ideally await amendments to the Law on Criminal Procedure (2010), which would stipulate the probation services' authority to perform these actions. In other words, provisions should be introduced to establish a sentencing hearing, at which the court could order a risk-assessment report from the probation service and subsequently consider it in its future procedural actions (Misoski, 2017, p. 13).

5. PRACTICAL AND CRIMINOLOGICAL PERSPECTIVES ON PROBATION IN NORTH MACEDONIA

Offenders, like all human beings, constantly modify their behavior in response to environmental demands and through intentional, autonomous change. A key challenge is **risk assessment**: how to determine which offender has the potential not to reoffend? Given that a significant part of this paper was dedicated to risk assessment tools, it is necessary to examine what North Macedonia is doing regarding this issue. The Strategy for the Development of the Probation Service in the Republic of North Macedonia (2021-2025) identifies as a strategic goal the Strengthening of the Methodological Framework. To achieve this, it is necessary, among other things, to adopt an adapted and harmonized risk assessment tool used by both the prison and probation services, and to further develop and update the Probation Service Manual (Ministry of Justice of the Republic of North Macedonia, 2021)

As noted by the Strategy (2021), the probation officers are trained to use the OSRA⁴ risk assessment tool. However, additional risk assessment tools are also used in practice. A central-level working

⁴ OSRA (Assessment of Condition, Risk, and Alerts) is a structured tool for assessing the risk of convicted persons. It is an adapted version of the internationally recognized tool LS/RNR (Level of Service/Risk-Need-Responsivity). The LS/RNR (Andrews et al., 2008 as cited in Dunne et al., 2025) is an actuarial instrument developed to estimate risk of

group, comprising representatives from the probation service and prison staff, has the task of further developing, adapting, and harmonizing the risk assessment tool, with the aim of introducing the use of a single, unified risk assessment tool (Ministry of Justice of the Republic of North Macedonia, 2021, pp. 6, 16). Nevertheless, an assessment of the Strategy's on-the-ground implementation and its real-world impact lies beyond the scope of this study and remains a question for future research. For now, it will be sufficient to point out that according to the European annual statistics for 2023 - Alternative sanctions and measures to prison, in 2023, the probation administration with the highest probation population rates was Poland (636 probationers per 100,000 inhabitants), and administration with the lowest rates was North Macedonia (9.7 probationers per 100,000 inhabitants) (Council of Europe, 2024). In light of these alarming findings, attention will be directed toward several key starting points aimed at enhancing the capacity and preparedness of the Macedonian probation system to effectively tackle both existing and emerging challenges:

- **developing an operational network with qualified professional staff** (probation officers, social workers, psychologists, criminologists, non-governmental organizations, municipalities and their public enterprises, etc.) with continuous training in handling probation cases and using risk assessment tools. Necessary actions are noted: the need for regularly preparing annual training plans for employees in the penitentiary system (employees of the Directorate for Execution of Sanctions, including the probation service, as well as prison staff), regular training for probation officers (emotional control, motivational interviewing, prosocial modeling, interviewing techniques, communication skills, etc.), and an increase of the number of specialized training programs (for perpetrators of domestic violence, radicalization, work with drug addicts and other addictions such as alcohol, gambling, kleptomania, etc.) (Helsinki Committee for Human Rights, 2023, p. 29).

- **utilization and training in the use of developed and unified risk assessment tools;**

- **multidisciplinary approach** (judges, public prosecutors, police, social workers, probation officers, psychologists, criminologists). In communication with the judges, their opinion can often be heard

recidivism, identify rehabilitation needs, and assess the most relevant factors related to supervision and management. The General Risk/Needs section contains 43 items that cover the central eight criminogenic factors – Criminal History (8 items), Education/Employment (9 items), Family/Marital (4 items), Leisure/Recreation (2 items), Companions (4 items), Alcohol/Drug Problem (8 items), Procriminal Attitudes (4 items), and Antisocial Pattern (4 items). Each item generates a score of 0 when absent and 1 when present and is summed to create subscale (factor) scores and a total score. Actuarial risk classifications of very low risk (0-4), low risk (5-10), medium risk (11-19), high risk (20-29), and very high risk (30-43) are derived from the total General Risk/Needs (Dunne, et al., 2025).

that society lacks a developed system of social and other institutions competent and specialized enough to execute alternative measures (Arnaudovski, 2017, p. 7). It is unfair for the judicial authorities to bear the sole responsibility for the weak implementation of probation, which, as illustrated above, ranks among the weakest in Europe, as they insufficiently impose alternative measures (with the exception of suspended sentences), when they *de facto* lack external professional staff with whom they could collaborate to ensure that these measures are successfully carried out.

- **Raising awareness about the effectiveness of alternatives to imprisonment:** public perception often views these sanctions as 'lenient', creating pressure on institutions to choose prison over alternatives, even when it is not always the most optimal solution. Here, besides the professional community, the media and civil society play a crucial role. Particularly, when reporting on court proceedings and verdicts in which alternative sanctions are imposed, the media often, in pursuit of sensationalist headlines, reports in a way that provokes public outrage. Through proper information and public education, public broadcasting service, as well as the broader journalistic community, could significantly contribute to changing awareness and perception regarding imprisonment and its alternatives.

CONCLUSION

Human behavior is far too complex to be predicted with any measurable tools. However, both science and empirical practice have already accumulated knowledge about which offender profiles are more suitable for alternative sanctions, that is, which individuals can achieve successful reintegration to society with least retributive measures. Perpetrators of less serious criminal offenses, first-time offenders who have strong bonds to society (work, family, education, social environment), young adults, individuals with substance use disorders, those with mental health disorders, and women in vulnerable societal positions should be the focus of the alternative measures system, with the aim of achieving successful resocialization within the community itself, rather than through incarceration. Probation, in this context, plays a crucial role, but its implementation requires institutional support, continuous training, and public awareness. In the future, criminologists, the judiciary and every other key actor within the criminal justice system should continue to cooperate closely to develop effective models for identifying suitable offender profiles (such as the RNR model briefly discussed), as well as clear criteria for assessing risk, potential for reintegration, and selection of appropriate treatment.

Only that way can alternative sanctions transform from a formal instrument into a genuine tool for fair and effective criminal policy with visible results.

Bibliography

Arnaudovski, L. (2017). АЛТЕРНАТИВНИТЕ МЕРКИ И САНКЦИИ ВО КАЗНЕНАТА ПОЛИТИКА НА СУДОВИТЕ ВО РЕПУБЛИКА МАКЕДОНИЈА [ALTERNATIVE MEASURES AND SANCTIONS IN THE CRIMINAL POLICY OF THE COURTS IN THE REPUBLIC OF MACEDONIA]. *Македонска ревија за казнено право и криминологија [Macedonian Review of Criminal Law and Criminology]*, 24(1).

Bonta, J., & Andrews, D. (2007). Risk-Need-Responsivity Model for Offender Assessment and Rehabilitation. *Rehabilitation*, 6, 1-22

Council of Europe. (2024). *Alternative sanctions and measures to prison: European annual statistics for 2023*. Strasbourg: Council of Europe. <https://www.coe.int/en/web/prison/-/alternative-sanctions-and-measures-to-prison-european-annual-statistics-for-2023>

Dunne, A. L., Simmons, M., Papalia, N., Spivak, B., Ruffles, J., Ogloff, J. R., & Fullam, R. (2025). Validity of the LSI-R:SV, LS/RNR and VRS risk assessment instruments in a sample of male serious violent offenders in Australia. *Psychology, Crime & Law*, 25(1). <https://doi.org/10.1080/1068316X.2025.2470272>

European Commission. (2024). *North Macedonia Report 2024*. Brussels: European Commission. https://enlargement.ec.europa.eu/north-macedonia-report-2024_en

Gruevska - Drakulevski, A. (2017). ПОМЕЃУ КАЗНАТА ЗАТВОР И УСЛОВНАТА ОСУДА: ПРЕДНОСТИ И НЕГАТИВНИ СТРАНИ ОД (НЕ)ПРИМЕНАТА НА АЛТЕРНАТИВНИТЕ МЕРКИ И НА КАЗНАТА ЗАТВОР [Between Imprisonment and Conditional Sentencing: Advantages and Drawbacks of (Non-)Application of Alternative Measures....]. *Македонска ревија за казнено право и криминологија [Macedonian Review of Criminal Law and Criminology]*, 24(1).

Helsinki Committee for Human Rights. (2023). *МОНИТОРИНГ НА СПРОВЕДУВАЊЕ НА СТРАТЕГИЈАТА НА РАЗВОЈ НА ПРОБАЦИСКА СЛУЖБА ВО РЕПУБЛИКА СЕВЕРНА МАКЕДОНИЈА (2021-2025)* [Monitoring the implementation of the Strategy for the Development of

the Probation Service in the Republic of North Macedonia(2021–2025]. Skopje: Helsinki Committee for Human Rights. <https://mhc.org.mk/wp-content/uploads/2024/07/mkd-izvestaj.pdf>

Horn, J. E., Eisenberg, M., Souverein, F. A., & Kraanen, F. (2018). The Predictive Value of the Central Eight Criminogenic Risk Factors: A Multi-Group Comparison of Dually Diagnosed Violent Offenders with other Subgroups of Violent Offenders. *Jurnal of Addiction and Addictive Disorders*, 5(014).

Krivičen zakonik [Criminal Code]. (1996). *Official Gazette of the Republic of Macedonia*, Nos. 37/96, 80/99, 4/02, 43/03, 19/04, 81/05, 60/06, 73/06, 7/08, 139/08, 114/09, 51/11, 135/11, 185/11, 142/12, 166/12, 55/13, 82/13, 14/14, 27/14, 28/14, 41/14, 115/14, 132/14, 160/14, 199/14, 196/15, 226/15, 97/17, & 248/18; and *Official Gazette of the Republic of North Macedonia*, No. 36/23.

Marjanovikj, G., & Kanevchev, M. (2010). *Македонско кривично право: опит дел [Macedonian Criminal Law: General Part]* (7th revised and supplemented ed.). Skopje: Prosvetno Delo.

Ministry of Justice of the Republic of North Macedonia. (2021). *Стратегија за развој на пробациската служба во Република Северна Македонија (2021–2025) [Strategy for the Development of the Probation Service in the Republic of North Macedonia (2021–2025)]*. Skopje.

Ministry of Justice of the Republic of North Macedonia. (2025, April 17). *Предлог на Закон за пробација [Draft Law on Probation]*. Available at: https://ener.gov.mk/Default.aspx?item=pub_regulation&subitem=view_reg_detail&itemid=107907

Misoski, B. (2017). ЗАКОНОТ ЗА ПРОБАЦИЈА И МЕРКИТЕ ЗА ОБЕЗБЕДУВАЊЕ ПРИСУСТВО ВО КРИВИЧНАТА ПОСТАПКА [Law on Probation and the Measures for Providing the Defendant's Presence during the Criminal Procedure]. *Македонска ревија за казнено право и криминологија [Macedonian Review of Criminal Law and Criminology]*, 24(1).

Mujoska Trpevska, E., & Bitrakov, K. (2020). ПРИДОБИВКИ ОД ПРИМЕНАТА НА АЛТЕРНАТИВИТЕ НА ЗАТВОРСКОТО КАЗНУВАЊЕ [Benefits from the application of alternatives to imprisonment]. *Македонска ревија за казнено право и криминологија [Macedonian Review of Criminal Law and Criminology]*, 27(1, 2).

National Institute of Justice. (n.d.). *Drug courts*.
<https://nij.ojp.gov/topics/courts/drug-courts>

State Statistical Office. (2024). *Пријавени, обвинети и осудени полнолетни сторители на кривични дела и деца во судир со законот во 2023 година [Reported, Accused and Convicted Adult Perpetrators of Criminal Offences and Children in Conflict with the Law in 2023]* [Excel data file]. Skopje: State Statistical Office.

Stanojoska, A., & Jurtoska, J. (2017). *Modern women or poor ladies: Female criminality in the Republic of Macedonia*. In Academy of Criminalistic and Police Studies (Ed.), *Proceedings of the International Scientific Conference "Archibald Reiss Days"* (Vol. 1, pp. 89–97). Belgrade: Academy of Criminalistic and Police Studies.

Sulejmanov, Z. (2003). *Криминологија [Criminology]* (Second, updated edition ed.). Skopje: Institute for Sociological, Political and Juridical Research.

United Nations Office on Drugs and Crime. (2007). *Handbook of basic principles and promising practices on Alternatives to Imprisonment*. Vienna: United Nations Office on Drugs and Crime.
https://www.unodc.org/pdf/criminal_justice/Handbook_of_Basic_Principles_and_Promising_Practices_on_Alternatives_to_Imprisonment.pdf

Van Deirse, T. B., Cuddeback, G. S., Wilson, A. B., Edwards Jr, D., & Lambert, M. (2021). Variation in Criminogenic Risks by Mental Health Symptom Severity: Implications for Mental Health Services and Research. *Psychiatric Quarterly*, 92(1), 73-84.

Whittington, R., Hockenhull, J., McGuire, J., Leitner, M., Barr, W., Cherry, M., . . . Dickson, R. (2013). Systematic Review of Risk Assessment Strategies for the Prevention, Treatment and Management of Violent Behaviour by Adults in Contact with Forensic Mental Health Services or the Criminal Justice System. *HEALTH TECHNOLOGY ASSESSMENT*, 17(50).

William, T. E., & Bynum, J. E. (2014). *Малолетничка деликвенција: социолошки пристап [Juvenile Delinquency: A Sociological Approach] (V. Likar Trans))* (8th ed.). Skopje: Ars Lamina publikacii.

Zakon za probacija [Law on Probation]. (2015). *Official Gazette of the Republic of Macedonia*, No. 226/15.