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# The legal regulation of prison probation supervision in the Hungarian penitentiary system

## 1. Introduction

According to the provisions of Act XXX of 2014 on the amendment of certain laws related to the tasks and competences of the Minister of Interior, from August 9, 2014, the execution of probation officer tasks related to probation supervision existing or ordered by law for the duration of parole, which were previously under the responsibility and competence of the probation service, were transferred from the government offices to the organization of the penitentiary system.<sup>2</sup> These organizational changes have broadened the profile and scope of activities of the penitentiary organization. Simultaneously with this change, the term “penitentiary probation officer” was introduced into domestic terminology, which refers to those professionals performing probation officer activities who carry out their probation duties integrated into the staff of penitentiary institutions.<sup>3</sup>

The integration of probation officers into prisons was implemented in practice by closing the ongoing cases related to parolees at government offices as of August 9, 2014, and transferring the associated documentation to the county penitentiary institutions. Along with the transfer of documentation, probation officer positions and probation officers themselves were also transferred to the prison staff. After the handover, probation officers began their work in prisons in government official positions. For the prisons, both the nature of the activity and the employment relationship were somewhat unfamiliar. Probation officers regularly left and re-entered the institutions in connection with their work, and they were the

only employees who were employed in a government official capacity, rather than in the civil servant, professional service, or employment contract-based relationships previously present in prisons. The change in the legal status of probation officers occurred following the provisions of Act CXV of 2018 on the amendment of Act XLII of 2015 on the service relationship of the professional staff of law enforcement agencies and other related laws. Based on this law, the legal status of probation officers changed to law enforcement administrative service status as of February 1, 2019.<sup>4</sup> The transfor-

mation of the legal status occurred with the consent of the probation officers. Those who did not agree to work under the new legal status had their employment terminated with severance pay.

The integration of probation supervision activities related to the penitentiary system into the prison organization is primarily crucial for the social reintegration of inmates.<sup>5</sup> Currently, penitentiary probation officers carry out the following activities based on Act CCXL of 2013 on the execution of punishments, measures, certain coercive measures and misdemeanor confinement (hereinafter: Penitentiary Act), and the Ministry of Public Administration and Justice Decree 8/2013 (VI. 29.) on the activities of the Probation Service (hereinafter: Probation Decree):

1. Preparation of probation officer’s opinion related to conditional release
2. Preparation of environmental studies:
  - 2.1. in clemency cases
  - 2.2. to verify the justification of a request for interruption of imprisonment
  - 2.3. prior to placing a juvenile convict in a reception unit
  - 2.4. prior to placement in reintegration custody
  - 2.5. prior to placement in home care custody
  - 2.6. for the assessment of conditional release, if its duration reaches two years
  - 2.7. prior to placement in a transitional unit
3. Reintegration activities carried out within the framework of care
4. Reintegration activities carried out within the framework of aftercare
5. Probation supervision activities carried out within the framework of reintegration custody
6. Probation supervision activities carried out within the framework of home care custody

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<sup>2</sup> CSÁKI, Ildikó: Az igazságügyi pártfogó felügyelői tevékenység bemutatása – az alternatív szankciótól a gyermekvédelemig. *Börtönügyi Szemle*, 2022/2. 56.

<sup>3</sup> Pursuant to Section 3(3) of Article 3 of the Penitentiary Act, a penitentiary probation officer is a probation officer belonging to a penitentiary organisation who performs probationary activities related to the execution of a custodial sentence.

<sup>4</sup> Act XLII of 2015 on the Service Status of the Professional Staff of the Bodies Performing Law Enforcement Functions, § 362/E.

<sup>5</sup> JUHÁSZ, Ferenc: A büntetés-végrehajtási pártfogó felügyelői tevékenység. *Börtönügyi Szemle*, 2015/2. 53–64.

7. Probation supervision activities carried out within the framework of reintegration leave
8. Execution of probation supervision existing or ordered by law for the duration of conditional release

## 2. The probation officer's opinion

The probation officer's opinion<sup>6</sup>, to be prepared by the probation officer, is always related to conditional release. Its purpose is to provide the penitentiary judge with information that may not be available from the procedural actions, or at least not with the level of detail described in the probation officer's opinion. The ordering of the preparation of the probation officer's opinion is independent of whether its acquisition is obligatory<sup>7</sup> or optional, falls within the authority of the penitentiary judge. In the probation officer's opinion, the probation officer presents the causes leading to the crime, examines the personality of the convict, the convict's attitude towards the crime committed, any behavior resulting in or aimed at compensating for the disadvantage caused by the crime, the manner and frequency of contact during detention, the expected family and housing circumstances in case of conditional release, employment prospects, health data, as well as the risk of recidivism.<sup>8</sup> In addition to all these, the probation officer may also propose the prescription of individual rules of conduct or obligations, reparation, and the most effective measures to prevent recidivism. The probation officer's report prepared by the probation officer is considered a quasi-expert opinion according to Act XC of 2017 on Criminal Proceedings.<sup>9</sup>

The preparation of the probation officer's report is a two-step task. Firstly, it requires interviewing the convict in prison, and secondly, inspecting the place of residence after release, viewing the property, and interviewing those who live there permanently. According to the provisions of the Penitentiary Act, the prison with jurisdiction based on the convict's Hungarian address or actual place of residence should be designated for preparing the probation officer's opinion.<sup>10</sup> For the purpose of preparing the report, the penitentiary probation officer interviews the convict in the penitentiary institution at least two months before the possible date of conditional release and may maintain regular contact with the convict from this point onwards.<sup>11</sup> Regarding the probation officer's report, the penitentiary probation officer is authorized to access and process the data regulated in Section 76 (1)-(2) of the Penitentiary Act. If the necessary data in the request and during the preparation of the probation officer's report are not complete, the penitentiary probation officer is entitled to request additional data. To prepare the report, the penitentiary pro-

bation officer may collect data in the convict's immediate living environment and may contact the local government, guardianship office, child welfare center, police, or other relevant institutions for necessary information. Based on this overall picture, the penitentiary probation officer presents the results of the risk assessment for recidivism in the summary section of the probation officer's report, essentially evaluating the risk of recidivism as low, medium, or high on a three-point scale.<sup>12</sup> Based on the risk assessment, the probation officer makes a recommendation to approve or reject conditional release. If approval is recommended, the probation officer also makes a suggestion regarding the necessity/unnecessity of ordering probation supervision and may propose the imposition of specific rules of conduct or obligations.

The Probation Decree contains separate provisions regarding the probation officer's report to be prepared for juvenile convicts.<sup>13</sup> According to these provisions, in the case of a juvenile convict, the penitentiary probation officer is obliged to gather information from the juvenile's legal representative, the family and child welfare center, and in the case of a child in care, from the territorially competent regional child protection service (child protection guardian).<sup>14</sup>

The probation officer's report, therefore, primarily focuses on the causes leading to the criminal behavior, the changes that have occurred in the convict's life since committing the crime, and the areas where intervention is necessary in order to reduce the risk of recidivism. The probation officer's report, as a quasi-expert opinion, assists the penitentiary judge's decision regarding conditional release with information that would not be available through other procedures.

## 3. The environmental assessment

As early as the beginning of the 20th century, probation officers working in patronage associations were already preparing environmental studies for the court regarding juvenile offenders, in which they assessed the young person's situation.<sup>15</sup> Over time, the preparation of environmental studies<sup>16</sup> became the responsibility of the police,<sup>17</sup> and then following the 2003 reform concerning probation supervision activities, it became the task of the probation services, although the police's responsibilities in this area did not completely cease.<sup>18</sup> Unlike the probation officer's report, the environmental study is not

6 FÖLDVÁRI, József–GÁL, László István: *Magyar Büntetőjog Általános Rész*; Osiris Kiadó, Budapest, 2024. 323.

7 Penitentiary Act § 58 (2a): Penal Code In the cases specified in points (a) and (c) of paragraph (2) of Article 69, the prison judge shall order the obtaining of a probation officer's opinion.

8 Penitentiary Act § 76 (2) p) and Probation Decree § 7–10.

9 Criminal Procedure Act § 202 (5).

10 Penitentiary Act § 62/A. (1).

11 Penitentiary Act § 57 (3).

12 Probation Decree § 59 (2).

13 DÁVID, Lilla: *A pártfogó felügyelet szerepe a fiatalok büntetőjogi megelőzésében* Pécsi Tudományegyetem Állam- és Jogtudományi Kar Doktori Iskola. Doktori értekezés Témavezető: Tóth Mihály egyetemi tanár, az MTA doktora Pécs 2013. 140–171.

14 Probation Decree § 19.

15 VARGA NAGY, István: Régi rabsegélyező egyleteink és a modern patronázs munka. (2). *Büntetőjogi Szemle*, 1913/7. 327–335.

16 MOLNÁR, Fanni: A pártfogó felügyelet végrehajtása és hatékonyságának kérdésköre a pártfogóktól oldalról egy empirikus kutatás tükrében. *Különleges Bánásmód*, 2019/3. 51.

17 HATVANI, Erzsébet: Reform közben. Kriminológiai Közlemények 62., Magyar Kriminológiai Társaság, Budapest, 2006. 7–10.

18 VÓKÓ, György: *Büntetés-végrehajtási jog és szabálysértési tételek*. Akadémiai Kiadó, Budapest, 2023. mersz.hu.

a quasi-expert opinion and is not listed among the means of evidence.<sup>19</sup> However, the environmental study contains information about the accused that can assist the decision-maker in making a decision. Environmental studies are primarily prepared in connection with procedures that are initiated upon request, but of course, it is also possible to order an environmental study in case of ex officio proceedings. Generally, the environmental study prepared by the penitentiary probation officer is related to a benefit that can be used by the convict or a legal institution that is advantageous for them. According to the currently effective regulations, the penitentiary probation officer can prepare environmental studies for clemency procedures, interruption of imprisonment, examination of the validity of reintegration custody,<sup>20</sup> examination of the validity of home care custody, as well as prior to placing a juvenile<sup>21</sup> in a reception unit, before granting conditional release, or before placement in a transitional unit.<sup>22</sup>

The general rules for preparing environmental studies are contained in Sections 13-16/B of the Probation Decree. Based on these provisions, it can be generally stated that environmental studies are prepared in the property specified by the applicant. During the preparation, the penitentiary probation officer examines the validity and justification of the request and interviews those living permanently in the property. If necessary, further information may be requested from other agencies, such as the police, family and child welfare services, guardianship office, labor agency, etc. The need for deviation from the general preparation rules for environmental studies prepared by penitentiary probation officers, as well as the determination of the focus of environmental studies, are specified in Sections 62/A (1)–(6) of the Probation Decree. In the environmental study, the penitentiary probation officer provides objective information for the decision-maker, giving a comprehensive picture of the convict's expected living conditions and family background. As part of the risk assessment conducted within the framework of the environmental study, the penitentiary probation officer identifies the causes leading to the crime and evaluates the level of the convict's risk of recidivism. In the environmental study, the penitentiary probation officer also presents the justification and validity of the convict's request and records their objective fact-based recommendation regarding the request.<sup>23</sup> The environmental study, therefore, primarily provides information for the ordering authority<sup>24</sup>, which contributes to making a more well-founded decision.

## 4. The reintegration care

The purpose of executing imprisonment<sup>25</sup> is twofold: firstly, to enforce the legal disadvantage specified in the sentence, and secondly, to facilitate the successful social reintegration of the convict in order to prevent them from committing another crime.<sup>26</sup> Therefore, the legislator has designated reintegration activities as one of the most important tasks of the penitentiary organization.<sup>27</sup> In line with the purpose of imprisonment, the aim of reintegration care is to effectively prepare the inmate serving a prison sentence for release, to facilitate their social reintegration, and to reduce the risk of recidivism.<sup>28</sup> While the Penitentiary Act defines the duration, starting point, and professional content of reintegration care, it is not considered a criminal law measure, as participation in it is essentially voluntary.<sup>29</sup> Within the framework of reintegration care, therefore, the penitentiary probation officer primarily conducts preparation for release.

Before January 1, 2021, preparation for release was an activity that fell within the responsibilities of reintegration officers. However, the provision of Act XLIII of 2020 on the amendment of the Criminal Procedure Act and other related laws, which resulted in the modification of the Penitentiary Act, transferred the preparation for release entirely to the scope of duties of penitentiary probation officers as of January 1, 2024. According to the explanation accompanying the legislation, the activities of reintegration officers and penitentiary probation officers carried out for the successful social reintegration of convicts became blurred when the penitentiary probation officer activities were integrated into the penitentiary institution, but have now become well-defined. The primary aspect of this delineation is that reintegration officers perform organizational and coordination tasks related to the inmates' lifestyle within the penitentiary institution and their detention, while tasks related to preparation for release are actually performed by penitentiary probation officers. However, cooperation between the two specialties is essential to achieve the most effective results.

The Penitentiary Act specifies the points in time when preparation for release must begin. The reintegration care of the convict must be started before the expected date of release from the penitentiary institution – including the possibility of conditional release – as follows:

- a) two months before release in case of imprisonment up to one year,
- b) six months before release in case of imprisonment from one to five years,

19 FARAGÓ, Aranka: Környezetanalumány és kockázateértékelés. *Módszertani Közlemények*, 2021/1. pp. 123 – 129.

20 NAGY, Anita: A reintegrációs őrizet története, szabályozása és európai fejlődési irányai. *Büntetőjogi Szemle*, 2016/1–2. 62–64.; HUSSEIN, Jasmine: A hátsó ajtó elektronikus felügyelet Magyarországon: A reintegrációs őrizet elmélete és gyakorlata. *Pro Futuro*, 2020/3. 32–35.

21 HERKE-FÁBOS, Barbara Katalin: Virtuális szcenárió egy bűnmegelőzési szempontból veszélyeztetett fiatalokról, avagy a megelőző pártfogás gyámhatósági gyakorlata. *Erdélyi Jogélet*, 2023/2. 107–111.

22 PÁLVOLGYI, Ákos: A megelőző pártfogás, mint a bűnmegelőzés eszköze. *Büntetőjogi Szemle*, 2012/2. 29–31.

23 BOGOTYÁN, Róbert Lajos: Fókuszban: a pártfogó felügyelő által készített környezetanalumány. *Börtönügyi Szemle*, 2022/4. 50–62.

24 The environmental study can be ordered by: the penitentiary institution, the court or in clemency cases, the minister responsible for justice.

25 SOMOGYI, Zsófia Borbála: *A büntetés-végrehajtási pártfogó felügyelő tevékenységei*. In CZENCZER, Orsolya – RUZSONYI, Péter (eds.): *Büntetés-végrehajtási reintegrációs ismeretek*. Dialóg Campus Kiadó, Budapest. 2019. 248.

26 Penitentiary Act § 83 (1).

27 SCHMEHL, János: A neveléstől a reintegrációig: a fejlődés útja a legjobb gyakorlatok tükrében. *Börtönügyi Szemle*, 2005/1. 1–4.

28 NAGY, Anita: A reintegráció, a reintegrációs őrizet és a kötelező kezelési eljárás eredményessége. *Miskolci Jogi Szemle*, 2021/5. (különszám). 395–396.

29 Probation Decree § 62/E. (3).

c) one year before release in case of imprisonment from five to ten years,

d) two years before release in case of imprisonment longer than ten years.<sup>30</sup>

At the times specified above, the penitentiary probation officer visits the convict in the penitentiary institution and asks them to declare whether they wish to take advantage of the support opportunities offered by the penitentiary probation officer. The Probation Decree provides an illustrative list of forms of support, which include, among others:

- Providing information about labor market opportunities, training programs, and possibilities for replacing lost documents within the framework of individual counseling
- The convict can request the implementation of supportive conversations aimed at exploring various problems and discussing possible solutions within the framework of individual case management
- Preparing the receiving environment for the period after release is also among the forms of support<sup>31</sup>

Regarding preparation for release, the penitentiary probation officer prepares an individual care plan for the planned activities. When preparing the plan, they take into account the individualized detention program plan prepared by the reintegration officer and determine the range of external support organizations or individuals whose involvement in the reintegration process is essential. During the implementation of the care plan, the penitentiary probation officer establishes contact with the receiving environment, assists in restoring family relationships if necessary, and if social institutional care becomes necessary for the convict after release, they contact potential institutions that can provide accommodation.<sup>32</sup> The penitentiary probation officer regularly evaluates the care plan at least every two months and modifies it if necessary. They prepare a summary report on the implementation of the individual care plan in connection with the submission for the decision on conditional release, and at the conclusion of the reintegration care.<sup>33</sup>

In connection with the preparation for release, the Penitentiary Act stipulates the notification obligation of the penitentiary probation officer. According to this, if the convict has a minor child and is serving a prison sentence for a violent crime against a person as defined in Section 459(1) point 26 of the Criminal Code committed against a relative, or for endangering a minor, the penitentiary probation officer shall notify the competent guardianship authority based on the residence or, in the absence thereof, the place of stay of the convict's minor child two months before the possible date of release, or if necessary, immediately.<sup>34</sup> According to the explanation of this provision, the introduction of the notification obligation was justified to ensure that the child protection system is prepared for potential endangering situations, can prepare the applica-

tion of its own legal institutions if necessary, and can take appropriate measures.

Reintegration care often equates to preparation for release, but the Penitentiary Act provides for the intervention and assistance of the penitentiary probation officer in many other cases as well. The main goal of these activities is also successful social reintegration, and the general characteristics of the legal institution of reintegration care apply in these situations too. However, in these cases, the tasks of the penitentiary probation officer are supplemented with special tasks and goals adapted to the specific situation. Within the framework of reintegration care, the penitentiary probation officer provides assistance to inmates serving longer-term sentences, inmates placed in transitional units, and first-time offenders sentenced to imprisonment.<sup>35</sup>

What is considered long-term imprisonment depends on the era, society, criminal policy, and many other factors. In his analysis of domestic and international trends, Ferenc Nagy argued that imprisonment lasting five years or longer can be considered long-term.<sup>36</sup> Recommendation Rec(2003)23 of the Committee of Ministers of the Council of Europe to member states also specifies this 5-year threshold.<sup>37</sup>

In this case, the reintegration care provided by the penitentiary probation officer extends to inmates who have been continuously in a penitentiary institution for at least 10 years, possibly serving multiple sentences consecutively without interruption. Long-term imprisonment can generate numerous problems for inmates that may affect their lives even after release. In their case, the weakening of family ties, and in many instances, their almost complete dissolution, is even more characteristic. A problem may be that during the long period spent in prison, the inmate may become unaccustomed to the daily routines of civilian life, and after release, they may find it difficult to reintegrate into society. The outside world may have changed significantly over the long years, which the released inmate may find unfamiliar. The combined presence of all these problems can significantly hinder the success of social reintegration and increase the risk of recidivism. To reduce the emerging risks, the law makes participation in reintegration care mandatory for the inmate in this case. In this instance, the penitentiary probation officer prepares a reintegration program rather than an individual care plan, with the inmate's cooperation. The program includes all the intervention points necessary for the inmate to have better chances after release.

Typically, inmates serving long prison sentences who have already served at least five years of their sentence and have a maximum of one year left until their expected release can be

30 Penitentiary Act § 185 (2).

31 Probation Decree § 62/E. (4).

32 Penitentiary Act § 185 (6).

33 Probation Decree § 62/E. (6a) c).

34 Penitentiary Act § 185 (8).

35 Based on the regulations in the Penitentiary Act, the following specialized units have been established in various penitentiary institutions: Long-term special unit (HSR), Therapeutic unit, Psychosocial unit, Drug prevention unit, Unit for inmates posing a particular risk to detention security, Religious unit, Unit for first-time offenders sentenced to imprisonment, Unit for elderly inmates.

36 NAGY, Ferenc: A hosszú tartamú szabadságvesztés büntetőjogi kérdéseiről: rövid hazai áttekintés és nemzetközi kitekintés alapján. *Börtönügyi Szemle*, 2005/2. 15.

37 Recommendation Rec(2003)23 of the Committee of Ministers to member states on the management by prison administrations of life sentence and other long-term prisoners

placed in the transitional unit based on their request.<sup>38</sup> Inmates placed in the transitional unit have therefore been serving their prison sentences for a longer period, which means that the harmful effects of imprisonment may be more pronounced in their case, and their social and family ties are more likely to weaken. Inmates placed in the transitional unit may be granted permission to receive visitors outside the institution or to take short leaves, and in exceptional cases, they may be allowed temporary release. Inmates in this unit may exceptionally participate in external work programs, but only if their separation can be ensured during work hours. In addition to the above, the regimentation of the daily routine for inmates placed here can be reduced, and based on their individual risk assessment, they may move freely within designated areas of the penitentiary institution and maintain regular contact with the penitentiary probation officer even before the official start of their preparation for release.<sup>39</sup> As inmates placed in the transitional unit may be eligible for temporary release, the penitentiary institution may order the preparation of an environmental study by the penitentiary probation officer or initiate a report by the police regarding the property designated as the place of stay during the temporary release. This is done prior to the decision on placement in the unit, in order to substantiate the decision.<sup>40</sup> Based on all this, in addition to the general tasks performed within the framework of general reintegration care, the penitentiary probation officer has special tasks to reduce the harm caused by prisonization and deprivation, to assist in restoring social and family relationships, and to provide help in solving housing problems when justified.

The necessity of separating first-time offenders sentenced to imprisonment has been an important professional issue for decades.<sup>41</sup> Among the reasons for the necessity of separation is that behavioral patterns transmitted by recidivist inmates may increase the risk of recidivism.<sup>42</sup> Inmates who are not serving a prison sentence for the first time already have “prison experience”, are familiar with the conditions, can more easily integrate into the special subculture, and thus may rise higher in the hierarchy that has developed in prisons. In contrast, inmates who are confronting these factors for the first time may become vulnerable and easily fall into the role of victims. Special units, including the unit for first-time offenders, can serve to avoid these conditions.<sup>43</sup> During imprisonment, inmates’ primary social connections consist mainly of other incarcerated individuals. The impact of social relationships on personality is inevitable, therefore it is important to consider who the inmates regularly interact with.<sup>44</sup> Based on all this, it can be said that operating specialized units can be effective

in promoting successful reintegration and reducing<sup>45</sup> the harmful effects of imprisonment.<sup>46</sup>

The goals of the unit are defined in three areas by BVOP Instruction 20/2021 (IV. 16.) on the execution of tasks related to inmates placed in units designed for detainees with special treatment needs and other specialized units: to reduce the harmful effects of imprisonment, to mitigate the risk of victimization, to decrease the likelihood of first-time offenders adopting the subcultural characteristics of the prison.<sup>47</sup> To achieve the goals, efforts should be made to strengthen and restore family relationships, individual and group sessions should be held for inmates placed in the unit, and special emphasis should be placed on involving these inmates in work, education, training, and risk management programs. During the implementation of the programs, the correctional institution should strive to ensure that, whenever possible, these activities are carried out separately from other inmates.<sup>48</sup>

In preparing for release, the penitentiary probation officer should pay special attention to strengthening the post-release receiving environment and restoring family relationships for inmates placed in the unit for first-time offenders sentenced to imprisonment. The individual care plan should include programs and interventions that: contribute to reducing the risk of future recidivism during the time spent in the penitentiary institution (e.g., aggression management training, strengthening communication skills, developing social skills, and other restorative elements), enable the inmate to develop realistic plans for the post-release period. In summary, one of the main goals of treating first-time offenders is to reduce the negative effects of prison and promote successful social reintegration, in which the penitentiary probation officer plays a key role.

## 5. The aftercare

The beginning of probation officer activities in Hungary can be dated back to the 19th century when the need for aftercare and prisoner assistance was first articulated.<sup>49</sup> The probation officer activity evolved from the initial civil implementation of aftercare activities carried out by patronage associations. The legal institution of aftercare has changed significantly over time, but its purpose has always remained the same: to facilitate the social reintegration of released convicts. The currently effective Penitentiary Act also reinforces this when it defines the purpose of aftercare as follows: “*The purpose of aftercare is to provide assistance to those released from imprisonment in reintegrating into society.*”<sup>50</sup> Successful reintegration is

38 Penitentiary Act § 103 (1).

39 Penitentiary Act § 103 (3).

40 Penitentiary Act § 103 (2).

41 CZENCZER, Orsolya – TOLNER, Anita: Először a rács mögött – gondolatok az első-büntényes elkövetők helyzetéről a hazai büntetés-végrehajtási intézetekben. *Magyar Rendészet*, 2020/4. 59–63.

42 PAP, Attila: Új rezsimszabályok az első büntényesek elkülönítésére? *Börtönügyi Szemle*, 2008/3. 79–80.

43 CZENCZER–TOLNER: op.cit.

44 TÜRCHÁNYI, Dóra: Az első alkalommal végrehajtandó szabadságvesztésre ítélték speciális részlegén elítéltek visszaesési rizikófaktorai – Miben mások, mint az átlag fogvatartottai populáció? *Börtönügyi Szemle*, 2022/2. 85–90.

45 JUHÁSZ, Zsuzsanna: Börtönkörnyezet és az internethez hozzáférés. Online vagy offline? *Acta Juridica et Politica*, 2018/1. 125–127.

46 PALLO, József: *Az elítéltek reintegrációja*. In (ed.: KOÓSNÉ MOHÁCSI Barbara): KOÓSNÉ MOHÁCSI, Barbara – LŐRINCZ, József – LUKÁCS, Krisztina – PALLO, József: *Büntetés-végrehajtási jog*. ELTE Eötvös Kiadó, Budapest, 2017. 114–117.

47 BVOP Instruction No. 20/2021 (16.IV.) No. 78/A.

48 BVOP Instruction No. 20/2021 (16.IV.) No. 78/O.

49 NAGY: op. cit.

50 Penitentiary Act § 191 (1).

a crucial issue in the daily life of correctional institutions, with preparation for post-release life beginning from the moment inmates are admitted. The details of release preparation have already been discussed within the framework of reintegration care. Ideally, aftercare is essentially a continuation of the initiated reintegration care outside the walls of the correctional institution. The task of the penitentiary probation officer is to encourage the inmate participating in the care to utilize aftercare services.<sup>51</sup>

Perhaps one of the most important characteristics of aftercare is that it is not a criminal law measure, but rather an opportunity for the released convict to voluntarily seek assistance in promoting the success of their social reintegration. Aftercare is only applicable at the request of the convict, which on one hand defines the nature of the legal institution, and on the other hand, represents the most significant difference compared to probation supervision. Probation supervision is a measure determined by the court, which makes it mandatory, while aftercare is entirely voluntary. A person under probation supervision is subject to general and, in some cases, mandatory rules<sup>52</sup> of conduct, whereas aftercare has no mandatory elements.<sup>53</sup>

Within the framework of aftercare, the penitentiary probation officer provides assistance to the released convict in finding employment, continuing their studies, and, if necessary, accessing health services. Additionally, to promote more successful social reintegration, they may apply restorative techniques and cooperate with relevant social institutions, non-governmental organizations, charitable associations, and churches. Since the initiation of aftercare is based on the voluntary request of the released convict, the activities carried out within the framework of aftercare are supportive in nature, and the cooperation can be terminated by the convict at any time without consequences.

## 6. The reintegration custody

In Hungary, the application of reintegration custody has been possible since April 1, 2015. The introduction of this new legal institution was provided for by Act LXXII of 2014 on the amendment of Act CCXL of 2013 on the execution of punishments, measures, certain coercive measures and confinement for misdemeanors, and related other laws. The newly introduced legal institution is not an alternative form of punishment, but rather a possible tool for the execution of sentences, which serves both to promote the social reintegration of convicts and to reduce the prison population. The essence of reintegration custody is that convicts who are eligible for the application of this legal institution spend a specified portion of their imprisonment sentence in a designated property as the location of reintegration

custody, rather than in the penitentiary institution, while maintaining their legal status as prisoners.<sup>54</sup> Furthermore, in the case of reintegration custody, social reintegration is achieved gradually. Between the period of complete deprivation of liberty and unconditional actual release, a phase of life supervised by the penitentiary authorities is introduced before independent living. During this period, the convict has the opportunity to find employment, strengthen family ties, and secure their independent livelihood.<sup>55</sup>

The institution of reintegration custody is not available to all inmates. The legislator only makes this option available to those convicts who are less dangerous to society, whose committed crime is of lesser gravity, and who are not considered recidivists, special recidivists, or multiple recidivists in terms of repeat offenses.

Regarding the duration of reintegration custody, it can be said that the regulation differentiates between negligent and intentional commission in such a way that in case of negligent commission, the maximum duration of reintegration custody can be 12 months, while in case of intentional commission, it can be 10 months.<sup>56</sup> Both the 10-month and 12-month periods are general maximums for reintegration custody. The Minister of Interior Decree 6/2023. (II. 21.) on the different application of certain penitentiary rules during the state of emergency allows the duration of reintegration custody to be half the length of the imprisonment in case of negligent offenses, if the convict's sentence exceeds two years.<sup>57</sup>

Reintegration custody can be implemented using electronic remote surveillance devices.<sup>58</sup> The convict in reintegration custody regains their freedom, but only partially, as they remain under the jurisdiction of the penitentiary system, and the duration of their imprisonment continues during the reintegration custody. Reintegration custody terminates the complete deprivation of the convict's liberty, but restricts their freedom of movement and right to freely choose their place of residence. The convict may only stay in the house or apartment designated by the penitentiary judge, which they may only leave in full compliance with the prescribed rules of conduct for specific purposes (e.g., work, education, medical treatment).

The current regulations assign numerous tasks to penitentiary probation officers regarding the legal institution of reintegration custody. The work essentially begins even before placement in reintegration custody, as the penitentiary probation officer is responsible for examining one of the exclusionary criteria for applying reintegration custody:<sup>59</sup> whether the property designated by the convict as the location for reintegration custody is suitable for the installation of the electronic remote monitoring device. This means verifying if the property has an electrical network and continuous power supply, as well as the necessary network coverage and signal

54 BOGOTYÁN, Róbert: A zsúfoltság csökkentésének útjai a börtönépítésen túl. *Börtönügyi Szemle*, 2015/ 1. 26–41.

55 SCHMEHL, János: Az új szabályozás főbb szakmai elemei és üzenetei. *Börtönügyi Szemle*, 2013/ 4. szám. 18–21.

56 Penitentiary Act § 187/A. (1a).

57 6/2023. (II. 21.) BM Decree § 2.

58 According to the definition in the Penitentiary Act, the concept of an electronic remote surveillance device is: "a technical device that tracks the movement of the convict or person detained on other grounds".

59 Penitentiary Act § 187/C. (1) e).

51 Probation Decree § 62 (8).

52 LUKÁCS, Krisztina: A pártfogó felügyelet végrehajtása. In (ed.: KOÓS-NÉ MOHÁCSI Barbara): KOÓS-NÉ MOHÁCSI, Barbara – LŐRINCZ, József – LUKÁCS, Krisztina – PALLO, József: *Büntetés-végrehajtási jog*. ELTE Eötvös Kiadó, Budapest, 2017. 245–246.

53 VÓKÓ, György: Utógondozás. *Börtönügyi Szemle*, 1996/ 2. 50–53.

strength for data transmission by the remote monitoring device.<sup>60</sup> The probation officer records the results of the examination in a report, which forms an appendix to the environmental study.<sup>61</sup> On the other hand, within the framework of the environmental study, the penitentiary probation officer examines the convict's housing, family, and social circumstances, the relationship between those living permanently in the property and the convict, their expected labor market status, employment opportunities, health condition, and the criminological status of the receiving environment. Additionally, they conduct a risk analysis and assessment regarding the likelihood of reoffending. Based on the above, the penitentiary probation officer presents, within the framework of professional factual findings and a summary evaluation, whether the receiving environment adequately serves the convict's social reintegration, and whether the purpose of the punishment can be achieved if reintegration custody is ordered.<sup>62</sup>

Reintegration custody plays a crucial role in the work carried out to ensure successful social reintegration of convicts. The opportunity to spend the final part of the prison sentence in one's own environment represents a significant privilege for the convict and also provides a chance to find employment, strengthen family ties, and pursue studies during this period. At the same time, it is the convict's obligation to fully comply with the rules of conduct prescribed by the penitentiary judge.

The task of the penitentiary probation officer in case of granting reintegration custody is twofold:

Firstly, to support successful social reintegration, they need to assist the convict in reaching a position during the period of reintegration custody where they become capable of managing their own affairs, strengthening family and social relationships, and finding employment. To this end, convicts in reintegration custody are entitled to access all forms of support available to those in reintegration care. These support forms include particularly:

- Providing information related to education, employment, and social benefits
- Preparing for social administration within the framework of individual case management
- Reducing lifestyle problems by identifying them
- Identifying, analyzing, and developing poorly ingrained or missing socialization skills and abilities

Secondly, the penitentiary probation officer is responsible for regularly monitoring the person in reintegration custody in person, at least once a month, thus fulfilling a control function. During these checks, they verify compliance with the rules of conduct specified in the penitentiary judge's decision and the agreed rules for using the electronic remote monitoring device.<sup>63</sup> The penitentiary probation officer continuously monitors the convict's small community, family, and friend relationships, and evaluates potential risk factors that may lead to recidivism. The probation officer is authorized to conduct checks at any time of day, during which the convict is obliged

to cooperate. The probation officer prepares a report on the findings of these checks. If during the inspection it is determined that the convict deliberately evades the execution of reintegration custody, intentionally damages or removes the remote monitoring device, or seriously violates the rules of conduct prescribed by the penitentiary judge, the probation officer immediately notifies the competent penitentiary judge through the prison commander to terminate the reintegration custody. Reintegration custody may also be terminated if the convict fully complies with the above rules, but leads a lifestyle that is incompatible with reintegration goals (e.g., regularly consumes alcohol to the extent of intoxication, uses drugs, or requires police intervention due to other behavior).<sup>64</sup>

Reintegration custody therefore provides a kind of "early release" opportunity for a specific group of inmates defined by law, subject to compliance with certain rules. Convicts in this special situation must, among other things, cooperate with the penitentiary probation officer, who on one hand provides assistance for successful social reintegration, and on the other hand regularly checks compliance with the specified rules and monitors the progress and implementation of the social reintegration process.

## 7. The home care custody

The application of home care custody as a new legal institution has been made possible from February 22, 2023, by the Minister of Interior Decree 6/2023. (II. 21.) on the different application of certain penitentiary rules during the state of emergency. The purpose of this legal institution is to allow convicts who are unable or largely unable to meet their basic needs independently, require continuous assistance and care in their daily lives, and whose condition is not expected to improve, to be placed in home care custody. Additional conditions are that the property designated for residence during the period of home care custody must be suitable for receiving the convict, and there must be a person who undertakes to care for the convict. The procedure for home care custody can be initiated officially, or it can be requested by the convict or their defense counsel, even on multiple occasions.<sup>65</sup>

The penitentiary judge decides on granting home care custody based on the proposal of the penitentiary institution. If granted, due to the purpose of this legal institution, the penitentiary probation officer primarily monitors the conditions of home care custody regularly. To this end, they visit the convict at least once a month at the property designated as the location for home care custody, and are authorized to request the convict's medical documents, which are promptly handed over to the prison doctor after inspection.

If, as a result of these checks, the prison doctor determines that there has been a change or improvement in the convict's

60 10/2015.(III.30.) BM Decree § 4.

61 Penitentiary Act § 187/B. (2).

62 Probation Decree § 62/A. (3a).

63 SCHMEHL, János: Stabilitás és fejlődés: A büntetés-végrehajtási törvény által bevezetett speciális jogintézmények helyzete. *Béltügyi Szemle*, 2017/11–12. 18–23.

64 CZENCZER, Orsolya – SZENCZI, Attila: A reintegrációs őrizet jogi, technikai, biztonsági és társadalmi aspektusai. *Börtönügyi Szemle*, 2020/4. 7–15.

65 BM Decree § 3. (1).

health condition that would allow for the continuation of the prison sentence in a penitentiary institution, the penitentiary institution submits a proposal to the penitentiary judge to terminate the home care custody.

If the person who undertook to provide care no longer wishes to care for the convict during the period of reintegration custody, they can notify the penitentiary probation officer. In this case, if the convict cannot designate another person willing to take over their care, a proposal must be made to the penitentiary judge to terminate the home care custody.

The primary task of the penitentiary probation officer is therefore of a control nature, with the goal being the convict's medical rehabilitation rather than social reintegration.

## 8. The reintegration leave

Reintegration leave was introduced as a new form of contact starting from January 1, 2023, following the provisions of Act LX of 2022 on the amendment of certain criminal law and related other laws, which modified the Penitentiary Act. According to the reasoning of the law, the introduction of this new legal institution serves two purposes: to more effectively promote the reintegration of convicts and to serve as a "precursor" to reintegration custody. In the case of granting reintegration leave, the convict can prove during its duration that they are capable of maintaining a law-abiding lifestyle outside the penitentiary institution. Thus, the experiences gained during the application of this legal institution can also facilitate the decision-making process related to reintegration custody.<sup>66</sup>

The conditions for granting reintegration leave are the same as those for granting reintegration custody. If approved, leaving the penitentiary institution is possible with the use of a remote monitoring device in this case as well.

The duration of reintegration leave depends on how much time the convict has served of their sentence since admission:

- After three months: maximum allowable duration is 5 days,
- After four months: maximum allowable duration is 10 days,
- After five months: maximum allowable duration is 15 days.

These durations are not cumulative,<sup>67</sup> meaning the convict can spend a total of 15 days on reintegration leave during their prison sentence. It is possible to provide the 15 days in multiple installments.

During reintegration leave, the convict can spend the authorized time with their family, thereby strengthening family ties. Additionally, they can take further steps necessary for successful reintegration, such as: searching for employment, replacing personal documents, handling official matters. This period allows the convict to address practical aspects of their reintegration while maintaining close contact with their family environ-

ment. Regarding reintegration leave, the penitentiary probation officer, similar to the process for reintegration custody, assesses whether the property designated by the convict is suitable for implementing reintegration leave before it is authorized. The property must be suitable for receiving and accommodating the convict and operating the remote monitoring device, including regular electrical charging and meeting network requirements. In addition to the suitability of the property, the penitentiary probation officer examines: the receiving environment, the attitude of those living permanently in the property towards the convict and the crime committed, the potential effects of family relationships on social reintegration, this assessment helps ensure that the reintegration leave can be carried out effectively and safely, while also considering the potential impact on the convict's rehabilitation process.<sup>68</sup> Beyond the activities involved in preparing for reintegration leave, the penitentiary probation officer may also play an important role if the leave is granted. According to point 17 of the instruction detailing the implementation of this legal institution, if the convict violates the rules of conduct specified in connection with the authorization during the period of leave, the penitentiary probation officer is authorized to check on the convict during office hours in the following cases: the convict arbitrarily leaves the designated zone of residence, the convict exhibits behavior incompatible with reintegration goals (e.g., being under the influence of alcohol or intoxicating substances), the convict removes or damages the remote monitoring device. In such cases, the penitentiary probation officer immediately provides information about their findings to the penitentiary institution by phone, followed by a written report. This report may serve as grounds for terminating the reintegration leave and escorting the convict back to the penitentiary institution. The reasons leading to the termination of reintegration leave also influence the decision on reintegration custody and must be taken into account when evaluating eligibility for reintegration custody.<sup>69</sup>

## 9. The probation supervision

The purpose of probation supervision ordered for the duration of conditional release is for the probation officer to prevent the probationer from committing new offenses through monitoring and guidance, as well as to provide assistance in social reintegration and contribute to the realization of victims' interests.<sup>70</sup>

Probation supervision is a measure in our criminal law that can be ordered alongside other punishments or measures.<sup>71</sup> The execution of probation supervision carried out by the penitentiary probation officer is closely linked to conditional release. It is limited to adult or juvenile convicts who have been conditionally released and for whom the penitentiary judge has ordered probation supervision for the duration of the conditional release, or for whom it exists by law. The du-

<sup>66</sup> Explanation of Act LX of 2022.

<sup>67</sup> Point 4 of BVOP Instruction 16/2023 (24.II.24.) on the implementation of reintegration leave.

<sup>68</sup> BVOP Instruction 16/2023 (II.24.), points 6–10.

<sup>69</sup> BVOP Instruction 16/2023 (II.24.), point 19.

<sup>70</sup> Penitentiary Act § 310. (1).

<sup>71</sup> Criminal Code § 69. (1)–(2).



ration of penitentiary probation supervision is equal to the duration of conditional release, but it cannot exceed 5 years, or in case of conditional release granted from life imprisonment,<sup>72</sup> it cannot exceed fifteen years.<sup>73</sup>

During the period of probation supervision, the probationer must comply with general and special rules of conduct. The general rules of conduct include the obligation for the probationer to maintain regular contact with the penitentiary probation officer and provide the probation officer with the necessary information for monitoring.<sup>74</sup> Compliance with the general rules of conduct is mandatory for all probationers. The imposition of special rules of conduct is not obligatory; the penitentiary judge decides on their implementation considering individual characteristics. The Criminal Code lists the special rules of conduct in an exemplary, non-exhaustive manner:

- The circle of persons with whom the probationer may not maintain contact can be restricted,
- Institutions from which the probationer must keep away can be specified,
- The probationer may be required to continue studies or report to the state employment agency,
- A ban on consuming alcoholic beverages in public places may be prescribed,
- The probationer may be obliged to participate in various group activities.<sup>75</sup>

In addition to the above, the penitentiary judge may prescribe other special rules of conduct for the probationer.<sup>76</sup>

The penitentiary probation officer always carries out probation supervision based on an individual probation supervision plan, which addresses: the causes leading to the crime, circumstances that put the probationer at risk of reoffending and short, medium, and long-term goals to be achieved during the probation period. Furthermore, in the probation supervision plan, the probation officer outlines: the obligations and tasks of both the probationer and the probation officer, the institutions and individuals that can be involved in implementing the plan, the specific tasks that may arise during the implementation. This comprehensive approach ensures a tailored supervision strategy that addresses the root causes of criminal behavior, mitigates risks, and sets clear objectives for rehabilitation.<sup>77</sup> The primary purpose of the probation supervision plan is to individualize the probation officer's activities.<sup>78</sup> Individualization allows for reducing the risk of recidivism and can promote the success of social reintegration.<sup>79</sup>

During the period of probation supervision, the penitentiary probation officer regularly meets with the probationer,

primarily through personal contact. During these meetings, the probationer reports on changes in their life situation and circumstances, informs the penitentiary probation officer about any new criminal or misdemeanor proceedings, and discusses any problems. The penitentiary probation officer takes notes of these meetings.

Therefore, in the implementation of probation supervision, the penitentiary probation officer monitors the development and changes in the probationer's life situation and circumstances in the period after release. In this activity, the penitentiary probation officer exercises both a supportive and control function tailored to the probationer, with the aim of promoting the probationer's successful reintegration into society on one hand, and effectively influencing the reduction of recidivism risks on the other.

## 10. Summary

With the commencement of the prison sentence and admission to the penitentiary institution, a special legal relationship, known as the penitentiary legal relationship, is established. In this relationship, the state is on one side, while the inmate is on the other. Within this unique legal relationship, both parties are mutually entitled to and burdened by various rights and obligations.<sup>80</sup> With admission to the penitentiary institution, the preparation of the convict for reintegration begins, in which the penitentiary probation officer plays an important role.

Penitentiary probation has changed significantly over the past 10 years, with the tasks to be performed by penitentiary probation officers continuously expanding. Although there were some legal institutions that ceased to exist in the past decade and therefore were removed from the activities of penitentiary probation officers, overall, there has been a clear expansion of responsibilities. The following table summarizes when the activities currently carried out by penitentiary probation officers began to be performed, and which legislative changes delegated them to penitentiary probation officers:

The table does not include, as it is not among the current activities of penitentiary probation officers, but their duties included preparing environmental studies related to the social bonding program and carrying out penitentiary probation tasks prescribed within the framework of the program. Penitentiary probation officers had tasks within the social bonding program from January 1, 2017, to March 1, 2024, after which the program was terminated with the introduction of a new category system modifying prisoner classification. A similar process occurred with the penitentiary probation officer tasks related to the more lenient enforcement rules (hereinafter: EVSZ), which were in effect from January 1, 2018, to March 1, 2024. Within the framework of EVSZ, penitentiary probation officers prepared environmental studies, but the termi-

72 BREZOVSKYI, Anna Luca: A hosszú tartamú szabadságvesztés és a reintegráció. *Magyar Rendészeti*, 2024/1. 24–29.

73 Criminal Code § 70. (1).

74 Criminal Code § 71. (1).

75 Criminal Code § 71. (2).

76 Penitentiary Act § 68. (3).

77 Probation Decree § 44. (1)–(3).

78 KÓHALMI, László: A pártfogó felügyelet kihívásai. In: (ed.: KORINEK, László – KÓHALMI, László) A „Pártfogó felügyelői Szolgálat időszakos kérdései” címmel 2003. november 14-én Pécsen megrendezett kerekasztal-konferencia tanulmánykötete. *Acta Criminologica I. Pécsi Tudományegyetem Állam-és Jogtudományi Kar Kriminológiai és Büntetés-végrehajtási Jogi Tanszéke*, Pécs, 2004. 87.

79 GÖNCZÖL, Katalin: A hatékonyabb speciális prevenció feltételei. *Belügyi Szemle*, 1986/ 10. 50–54.

80 KÓHALMI László (2016): A büntetés-végrehajtás alapkérdései. In: *Kriminológia I.* (szerk.: Kóhalmi László). PTE ÁJK Kriminológiai és Büntetés-végrehajtási Jogi Tanszék. Pécs. pp. 188–196.

*As of December 31, 2024, penitentiary probation officers in Hungary are responsible for the following tasks*

Activity name	Date of Appearance in Penitentiary Probation Officer's Duties	Legislation that Introduced It
1. Preparation of probation officer's opinion related to conditional release	01.01.2015.	Decree 19/2014. (XII. 22) IM Section 33 (1)
2. Preparation of environmental studies:		
2.1. in clemency cases	01.01.2021.	Decree 20/2020. (XII. 30) IM Section 53
2.2. to verify the justification of a request for interruption of imprisonment	01.01.2015.	Decree 19/2014. (XII. 22) IM Section 33 (1)
2.3. prior to placing a juvenile convict in a reception unit	01.01.2015.	Decree 19/2014. (XII. 22) IM Section 33 (1)
2.4. prior to placement in reintegration custody	01.04.2015.	Decree 6/2015. (III. 30) IM Section 3
2.5. prior to placement in home care custody	22.02.2023.	Decree 6/2023. (II. 21.) BM
2.6. for assessing conditional release if its duration reaches two years	01.01.2021.	Act XLIII of 2020 Section 117 (1)
2.7. prior to placement in a transitional unit	01.03.2024.	Act XCVII of 2023 Section 34 (2)
3. Reintegration activities carried out within the framework of care	01.01.2015., preparation for release became fully the responsibility of penitentiary probation officers from 01.01.2021	Decree 19/2014. (XII. 22) IM Section 33 (1); preparation for release: Decree 20/2020. (XII. 30) IM Section 55 (1)
4. Reintegration activities carried out within the framework of aftercare	01.01.2015.	Decree 19/2014. (XII. 22) IM Section 33 (1)
5. Probation officer activities carried out within the framework of implementing reintegration custody	01.04.2015.	Decree 6/2015. (III. 30) IM Section 3
6. Probation officer activities carried out within the framework of implementing home care custody	22.02.2023.	Decree 6/2023. (II. 21.) BM
7. Probation officer activities carried out within the framework of reintegration leave	25.02.2023.	Instruction 16/2023. (II. 24.) BVOP
8. Implementation of probation supervision existing by law or ordered for the duration of conditional imprisonment	01.01.2015.	Decree 19/2014. (XII. 22) IM Section 33 (1)

nation of EVSZ on March 1, 2024, also meant the cessation of related penitentiary probation officer tasks.

He activities of penitentiary probation officers are diverse, but a common point in terms of their purpose is facilitating reintegration into society. Their work begins within the walls of the penitentiary institution through reintegration care, preparing inmates for release. This activity continues, if conditions are met, within the framework of reintegration custody, when the convict can spend the last part of their sentence with their family as a form of "early release". Finally, they may conclude their reintegration activities with respect to probation supervision ordered or established in connection with conditional release.

Of course, none of these legal institutions is a prerequisite for the others; each can be applied independently. However, this progression perhaps best illustrates the arc of reintegration activities carried out by penitentiary probation officers. To achieve long-term and effective goals, an important part of the penitentiary probation officers' work involves both monitoring and assisting the convict in achieving the set objectives.

The changes and questions regarding the control and supportive nature of the work have been important issues for professionals and researchers alike for a long time, perhaps since the institutionalization of probation. This ongoing discussion reflects the complex nature of probation work, which must balance rehabilitation efforts with public safety concerns.