



Challenges of the probation counselors in supervising criminally convicted persons working abroad

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Abstract

This article analyzes the challenges faced by the probation service in Romania in the context in which many people under the supervision of the probation service leave the country, mostly for the purpose of working, and thus a series of problems arise in the implementation of the measures and the obligations imposed by the courts on convicted persons. The article analyzes from a theoretical point of view the issue of Romanian migration but also mentions some aspects regarding the process of supervision of criminally convicted persons and the research part analyzes the results of a sociological survey based on a questionnaire carried out among probation counselors and aims to establish the main problems and the identification of solutions intended to support probation counselors in the process of supervising and assisting people who move for profit outside the country.

Keywords: *probation system; Romania; migration; convicted persons; supervision.*

1. Introduction

The problem of people who are under the supervision of the probation services and leave the country for the purpose of working, is topical, the phenomenon of migration being one of proportions in Romania. In the current context, when it is estimated that approximately six million Romanians have emigrated, drastically affecting the socio-demographic structure and having devastating repercussions on the social and economic level, we also encounter on the Romanian probation system a large number of supervised persons leaving the country, mostly for employment, and thus, implicitly, the probation service faces a series of challenges in implementing the measures and obligations imposed by the courts on convicted persons.

In Romania, a person who ends up under the supervision of the probation services was sentenced either to "a prison sentence and the court decided to postpone the application of the prison sentence under the supervision of the probation services for a

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period of two years”, or ”the court decided to suspend the prison sentence under the supervision of the probation service for a period of two to four years”, or the court decided the supervision for a period of at least two years for persons released from prisons”, or ”it was decided the supervision of minors sentenced for non-custodial educational punishments” or released from detention centers. In the previously mentioned supervision cases, criminally convicted persons must comply with the measures and obligations ordered by the court in their charge, such as: "To report to the probation service on the fixed dates; to receive the visits of the counselor assigned with the supervision; to announce the change of residence and any trip longer than 5 days; to announce the change of job; to present information and documents likely to allow the control of his means of existence; to perform unpaid work for the benefit of the community; to attend one or more social reintegration programs; to attend a course of school training or professional qualification; to submit to treatment, control and medical care measures; not to leave the territory of Romania; not to drive certain types of vehicles, etc." (art. 85, art. 93, art. 101, Criminal Code).

Through this approach, I wanted to highlight certain aspects encountered in the process of supervising and assisting people who leave the country with the aim of employment. The problem comes from the difficulty of supervising the measures and obligations disposed by the court for these persons, during the supervision period. We start from the hypothesis that "work" is an important factor in the process of social reintegration and it would not be recommended to limit the supervised person's access to a job, on the contrary, this access should be facilitated, but on the other hand, moving outside the country can be an obstacle to the exact compliance of the measures and obligations disposed by the criminal sentence. Under these conditions, how should the probation counselor proceed in such a way as to support the supervised person in the process of integration into the labor market, while respecting the provisions of the criminal sentence?

Although there is a legal possibility that allows the transfer of supervision to another state, according to Title VI¹ of Law 302/2004 on judicial cooperation in criminal matters, still in judicial practice we find very few cases in this sense, the action being avoided because the process is long and the transfer procedure is difficult (Law 302/2004).

2. About the migration phenomenon from Romania

Migration represents one of the most debated topics recently, because it has a major impact on the socio-demographic structure of the population, on the economy and labor market, on social relations and culture in the destination and departure areas. "Since the phenomenon is constantly evolving and has a spectacular growth, there is a permanent need to study the trends, at the global, national and local level, so that the policies, programs and actions of the institutions are periodically correlated with the actual situation" (Ilie Goga 2019, Niță 2014, Ilie Goga 2020).

The phenomenon of migration includes a series of indicators and factors, such as "workplace, residence, social and family relations, cultural and commercial areas, etc". (Miftode 1978, Porumbescu 2018).

The "new era of migrations", as the current migration phenomenon has been called in specialized literature, is characterized by "several specific elements" (Anghel, Horváth 2009): "1. The increase in the number of migrants and the regions involved in this process. Thus, worldwide the number of migrants increased from 75 million in 1965,

to 128 million in 1990 and up to 281 million in 2020” (McAuliffe, Triandafyllidou 2022) (representing 3.6% of the global population), and ”the advance of technology facilitates movement and communication, so that the distances covered by migrants have become even greater”; 2.” The social categories involved in migration are increasingly varied”; 3. ”The increase in dependence on migration is correlated with the increase in the problems that migration implies”; 4. ”Globalization has a direct effect on migration” (Anghel, Horváth 2009, Motoi Ilie 2014; Sorescu 2014).

For Romania, labor migration represents one of the most significant problems. We ended up in this situation due to the fact that for a long time, ”Romania, did not appreciate the size of the disaster that was to come and did not formulate anti-emigration policies, even considering the emigration of Romanians as a beneficial thing, which led to the increase in GDP through remittances entering the country” (Presidential Commission for the Analysis of Social and Demographic Risks 2009).

However, the constant and massive emigration of Romanians for ”more than 30 years has produced a series of serious problems for our country”, such as: ”-demographic decline through; - the accentuation of community and regional disparities on the territory of Romania; - the increase in divorce rates; -the decrease in the volume of remittances; - the loss of money invested in the education of people who emigrate” (Ilie Goga, Ilieva 2018); - the increase in school dropout; the increase in juvenile criminality, etc. (Pricină, Motoi Ilie 2014, Șerban 2022; Ilie 2014 (a)). Regarding the direct effects that emigration has on the labor market in Romania, we can identify: ”-the labor force deficit; -the decrease in the number of tax payers to the state budget; -areas seriously affected by massive labor migration” (Ilie 2014 (b)); - strong pressure on the national pension system (Ilie Goga, Ilieva 2018).

It has become ”increasingly difficult to estimate the number of Romanians who have gone abroad, due to the circulatory nature of this phenomenon and due to the large number of people who emigrate to the territory of another member state” of the European Union.

In a top 20 of the countries from which people emigrate the most, made by the International Organization for Migration in 2022, ”Romania ranks 17th in the world and 9th in Europe” (McAuliffe, Triandafyllidou 2022).

3. The analysis of the empirical research

Argument for choosing the research topic

The present research is carried out as a result of a need to study this process, in the context in which the phenomenon of migration is more and more common in our country and implicitly more and more people who come under the supervision of the probation services leave the country for employment, bringing a series of challenges for probation counselors, who have to adapt and flex their working methods. The empirical research aims to identify the difficulties experienced by probation counselors when supervising migrants, all this in order to be able to formulate recommendations aimed at facilitating the process of supervision and assistance.

The conceptual framework of the research

In the conceptual framework of the paper, I highlighted theoretical aspects related to the international migration of Romanians and the supervision conditions within the probation services found in Romanian legislation.

The hypotheses used in the research

The first hypothesis formulated is that probation counselors encounter more problems in the process of supervising people who move abroad for employment, compared to the process of supervising people who remain in the country during the term of supervision.

Thus, the objective is to identify the level of problems faced by probation counselors in the process of supervising people who move abroad for employment.

The second hypothesis is that the counselors encounter the most problems in the process of supervising people who move abroad, to the extent of presenting to the probation service on the fixed dates.

The objective is to identify the main problems encountered in the supervision process, so that we can offer alternatives to assist the counselor in working with convicted persons who move out of the country for employment.

The third hypothesis formulated is that in working with people who move abroad for profit, most counselors have a more indulgent attitude.

The objective is to identify the type of attitude that counselors have in relation to people who move outside of Romania for employment and to identify what types of actions the tolerant attitude refers to, identifying potential patterns in the supervision and assistance of this category of people.

Establishing research methods and techniques

The empirical research aimed to collect the opinion of probation counselors from the Dolj Probation Service regarding the difficulties they encounter in working with supervised persons who migrate outside of Romania for employment. The sociological survey based on a questionnaire was used. A representative sample of 22 respondents out of the 29 who were employed at the Dolj Probation Service in April 2022 was used,

Data collection

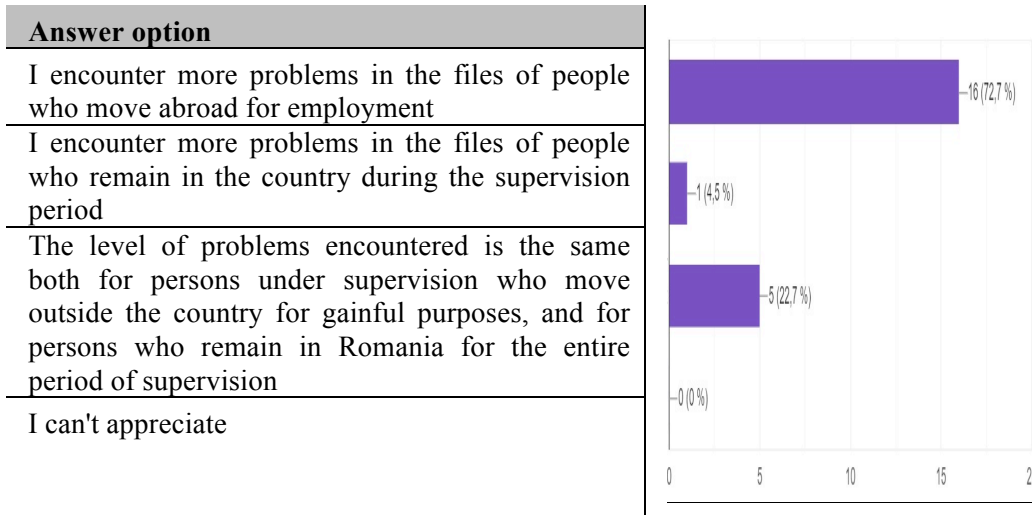
Data collection through the analysis of probation files and the sociological survey was carried out between on April 2022.

Analysis of research results

In this section we will present the results of the sociological survey carried out at Dolj Probation Service, using the questionnaire technique. The sample is a representative one, of 22 counselors.

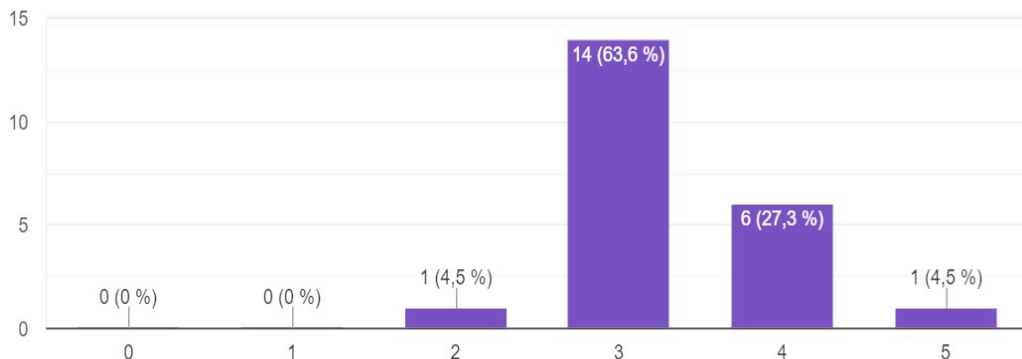
The applied questionnaire includes 6 content questions and two identification questions. Two questions are of the matrix type, one of these questions assessing 10 aspects and the second 5 aspects, using the same scale (from zero to five).

Question no. 1. Do you consider that you encounter more problems in the process of supervising people who move abroad for employment compared to the process of supervising people who remain in the country during the period of supervision?



A percentage of 72.7% of the probation counselors considered that they encounter more problems in the files of people who move abroad for gainful purposes.

Question no. 2. From your experience, please rate the level of difficulty you encountered in the process of supervising people who move abroad for employment. Give a score from 0 (zero) to 5 (five), where zero means "no difficulty", 1 means "very little difficulty", 2 means "little difficulty", 3 means "moderate difficulty", 4 means "a lot difficulties" and 5 means "a lot of difficulties".



A percentage of 63.6 of the counselors considered the fact that they encountered medium-level difficulties in working with migrant migrants. The average grade awarded is 3.32, so we consider the average level of difficulty in managing files.

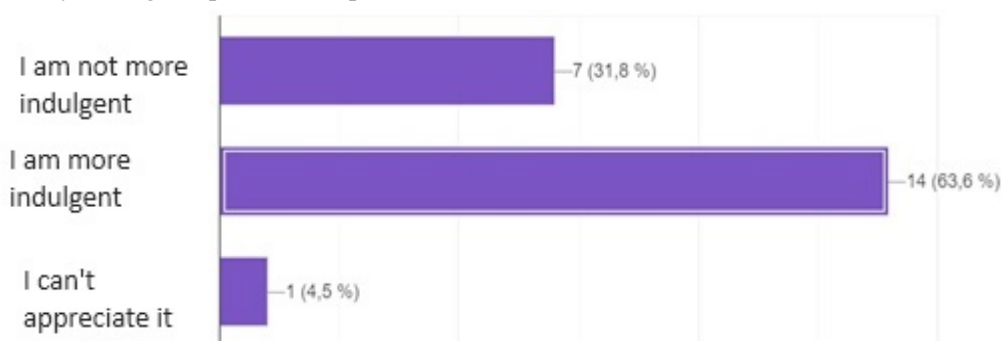
Question no. 3. From your experience, please assess the level of difficulty you have encountered in the procedures for the enforcement of criminal sentences and the supervision of persons moving abroad. Give a grade from 0 (zero) to 5 (five), for each of the measures and obligations ordered by the court for criminally convicted persons, where zero means "no difficulty", 1 means "very few difficulties", 2 means "few difficulties", 3 means "medium level difficulties", 4 means "many difficulties" and 5 means "very many difficulties".

Answer options First meeting/ Measure/Obligation	0	1	2	3	4	5	I can't appreciate	Average
Making the first meeting with the criminally sanctioned person	-	1	5	12	4	-		2.86
To present himself at the probation service, on the dates set by it	-	1	2	9	8	1	-	3.14
To receive visits from the assigned probation counselor with his supervision	1	2	3	3	4	5	4	3.22
To announce, in advance, the change of residence and any travel that exceeds 5 days (as well as the return)	1	5	5	7	3	1	-	2.41
To communicate the change of job	1	6	2	9	3	1	-	2.45
To communicate information and documents of a nature to allow the control of his means of existence	1	2	4	11	1	3	-	2.82
To attend a school training or professional qualification course	-	1	3	5	5	6	2	3.85
To perform unpaid work for the benefit of the community	-	1	5	7	4	2	3	3.05
Attend one or more social reintegration programs	-	-	4	9	4	3	2	3.3
To undergo control, treatment or medical care measures	1	1	3	6	5	3	3	3.16
								Total average = 3.07

Counselors gave various ratings for the difficulty of implementing and supervising the various measures and obligations, and the most difficult task identified is

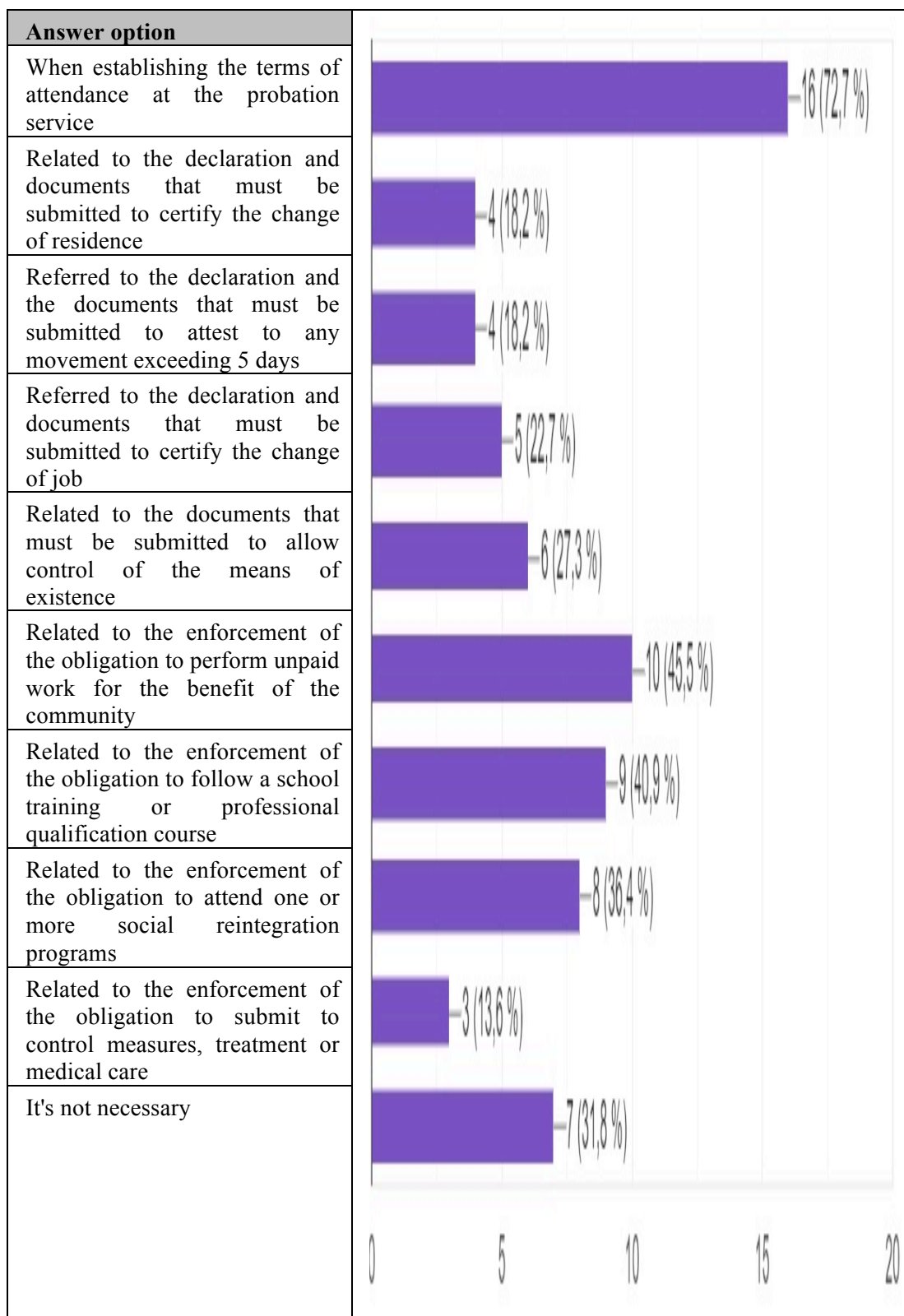
that of implementing the obligation to attend a school and professional training course, followed by the obligation to attend one or more social reintegration programs. The total average of the grades awarded is 3.07, equivalent to an average level of difficulty.

Question no. 4. Do you consider yourself more indulgent in the process of supervising people who move abroad compared to the process of supervising people who stay in the country during the period of supervision?



A percentage of 63.6% considered that they are more lenient in the process of supervision of people who move abroad for employment compared to the process of supervision of people who remain in the country during the supervision period.

Question nr. 5. If you consider that you are more lenient in the process of supervising people who travel abroad for employment, please specify in what sense (Multiple answers can be selected). If you noticed that "You are not more lenient", tick the option "Not the case".



Question no. 6. In your experience, what do you think are the biggest problems faced by supervised persons moving abroad for gainful purposes at the level of the destination country. Give a score from 0 (zero) to 5 (five), where zero means "no difficulty", 1 means "very little difficulty", 2 means "little difficulty", 3 means "moderate difficulty", 4 means "a lot difficulties" and 5 means "a lot of difficulties".

Answer option	0	1	2	3	4	5	I can't appreciate	Average
First meeting/ Measure/Obligation								
Difficulty in finding a job with legal forms	-	3	1	4	12	1	1	3.33
Difficulties in maintaining a job with legal forms	-	2	1	7	11	1	-	3.36
Difficulties in solving legal problems (Ex: legal assistance, registration and transcription of civil status documents, loss of documents, registration of residence and workplace, etc.)	-	-	5	5	4	1	7	3.07
Difficulty finding housing	2	2	5	6	6	-	1	2.45
Difficulties in dealing with the citizens of the host country	1	1	5	6	4	2	3	2.90
Something else (what?)	-	-	-	-	-	-	-	-

The counselors identified that supervisees who go abroad encounter the greatest difficulties "maintaining a job", followed by "difficulties in finding a job with legal forms"

Research conclusions

All hypotheses assumed in the present research were confirmed.

Following the theoretical and empirical analysis of the phenomenon of migration for employment of people supervised by the Dolj Probation Service, we can conclude that this situation is very common among people who enter the records of the probation services and with it brings a series of challenges in the process of supervision and assistance. Practically, one in five cases brings with it such a challenge.

4. Conclusions and recommendations

Based on the results obtained on the empirical research carried out, we can formulate recommendations intended to support the activity of the probation counselor in the supervision and assistance of persons in this category, but also to help the supervised persons to comply with the measures and obligations of the criminal sentence, to work with legal forms in the country or abroad, to qualify, to avoid problems while leaving the country for employment..

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Thus we can recommend:

1. Drafting of a guide for the supervised person who migrates abroad for employment (for countries where Romanians emigrate in large numbers)
2. Drafting a guide for the supervised person looking for a job
3. In working with supervised persons who go abroad for employment, we recommend probation counselors approach a flexible, prosocial attitude, which involves a reduced rigidity and a modeling of actions according to the specific situation

We recommend taking into account, beyond the risk of recidivism, the measures and obligations from the sentence, especially the personal, economic and professional situation of the supervised person (Moroşanu, Uzlău, 2017), which involves a journey over long distances, with high costs and with the risk of affecting the job activity. It is preferable to use a prosocial attitude based on the use of rewards, to the detriment of an attitude based on the use of sanctions (Mowen, Wodahl, Brent, Garland 2018). Rewards can be provided by the counselor in the form of reducing the frequency of appointments for pro-social activities, in the form of using praise, giving time to the client, participating in court with the client, helping the client find a job or accommodation (Trotter 2009).

3.1. In this regard, we recommend the flexibility of the terms of presence depending on the given situation (the risk of recidivism, the employment situation abroad, obligations that must be fulfilled). We also recommend the use of remote communication means for the constant monitoring, between the terms of physical presence, of the person's activity supervised, such as audio and video communication via Zoom, Google classroom, Whatsapp, phone calls. Specifically, between the terms of physical presence at the probation services, telephone and online meetings can be held with the supervised persons, on dates set by the probation counselor .

3.2. We recommend flexibility regarding when the community service decision is issued and the date set for the obligation to begin and constant monitoring of community service performance by uploading community service forms to a drive where the community institution to be able to complete the information in real time.

3.3. We recommend accepting travel declarations and declarations regarding change of workplace or domicile and supporting documents in electronic format until the time of the supervised person's return to the country

4. Introducing the possibility of implementing individual and group reintegration programs, through means of remote communication, for supervised emigrants.

The sessions of the programs can be organized through video conferences (Zoom, Google classroom), and the documents that need to be completed can be sent by email to the supervised persons, so that they can list them, complete them and present them to the probation counselor on the set dates.

In this sense, an example of good practice is the implementation of the OTO (One to One) program - the Resolution Module, the online application method, but we also propose the organization of other group programs, such as DAS (Development of social skills) for adults or Drink & Drive.

In order to manage the difficulty of implementing the obligation to follow a social reintegration program, we also recommend calling on the services of community institutions that organize social reintegration programs in a private system.

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