

## PAPER DETAILS

TITLE: Treatment and Probation Practices in Combating Drug Addiction: Turkey, United States, Germany and Ireland Samples

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PAGES: 318-337

ORIGINAL PDF URL: <https://dergipark.org.tr/tr/download/article-file/778092>

## Treatment and Probation Practices in Combating Drug Addiction: Turkey, United States, Germany and Ireland Samples

*Uyuşturucu Bağımlılığı İle Mücadelede Tedavi ve Denetimli Serbestlik Uygulamaları: Türkiye, Birleşik Devletler, Almanya ve İrlanda Örnekleri*

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### Abstract

Probation in Turkey and in the world is different in giving a decision, determining the convict's suitability to the process, content and elements in the process, components in the content of the process and problems in the implementations. Due to these differences, treatment and probation measures in the United States and the Federal Republic of Germany, the Republic of Ireland, which has a central administration system, and the probation system in our country have been compared. In order to contribute to the fields of education, improvement and supervision for individuals who have been treated for probation and probation measures for crimes such as drug use and possession in our country, the similarities and differences of the practices of the countries have been examined.

**Keywords:** Substance use disorder, probation process, treatment, offender.

### Öz

Denetimli serbestlik kavramı ülkemizde ve dünyada hükmün verilmesi, hükümlünün sürece uygunluğunun tespit edilmesi, sürecin içeriği, süreçte rol oynayan elemanlar, sürecin içeriğindeki unsurlar ve uygulamalarda yaşanan sıkıntılar bakımından farklılıklar göstermektedir. Bu farklılıklardan dolayı bölgesel yönetim sistemine sahip Amerika Birleşik Devletleri ve Federal Almanya Cumhuriyeti, merkezi yönetim sistemine sahip İrlanda Cumhuriyeti ve ülkemizdeki denetimli serbestlik sistemindeki "tedavi ve denetimli serbestlik tedbirleri" uygulamalar karşılaştırılmıştır. Ülkemizde özellikle uyuşturucu kullanma, bulundurma gibi suçlardan haklarında tedavi ve denetimli serbestlik tedbiri konulmuş bireylere yönelik eğitim, iyileştirme ve denetim alanlarına katkı sağlamak amacıyla, ülkelerin uygulamalarının, benzerlikleri ve farklılıkları incelenmiştir.

**Anahtar sözcükler:** Madde kullanım bozukluğu, denetimli serbestlik, tedavi, hükümlü.

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Submission date: 25.12.2018 | Accepted: 24.01.2019 | Online published: 22.02.2019

**ONLY** imprisonment is known as a not effective sanction type for the recidivism in our era (Smith et al. 2002, Cullen et al. 2011). Due to alleged crimes of the perpetrators, an alternative way for the imprisonment is probation. Probation means “A society-based implementation that every service, program and resource that defendant or convict needs for the social integration are provided, under the conditions and time that court decides and in accordance with controlling and inspection plans.” In other words, probation is prevention of recidivism by correcting the convict’s behaviors that cause him to commit crimes, monitoring the convicts that are released from penal institutions, rehabilitation of substance abusers, recovering the loss of victims and therefore protecting the society (Official Gazette 2005).

Probation has two fundamental duties as controlling and helping (to individuals/convicts or individuals that are given injunctions due to various crimes such as Probation, Treatment and Probation). Punishment of perpetrators, treatment of convicts, recovering the loss of society and/or victim and protecting of society from unlawful actions that breach of the peace are internationally accepted as the main aims of the probation (Asthal 2006).

## Probation System

Decisions that do not include imprisonment such as probation remove the physical and psychological negative effects that prison creates on individuals and as an alternative to living in prison, it makes convicts participate in educational and therapeutic programs throughout their execution time (Tongzhi 2008). Probation system gives convict a chance to put himself into victim’s shoes, recover the loss, contribute to the society and to the country that he/she lives in (by studying various subjects from civic duty to raising awareness of youngsters about psychoactive drugs). Moreover, under the Probation System’s implementations, guidance activities are carried out in subjects such as anger management skills and stress management. These activities are carried out by considering the differences between the individuals and according to their needs (Tuncer and Duru 2011).

Decision of treatment and probation can be given to a lot of forensic cases. At the same time, it is prepared by Circular No. 2006 § 19 and 2009 § 82 of Republic of Turkey Ministry of Health and General Directorate of Health Services. In accordance with Circular Related to Treatment of People Who Are Given Probation; considering amendments in Turkish Penal Code’s Article 191, current circulars should be rearranged and advanced treatment services for substance abusing that is within the scope of probation treatment services need to be provided normatively. Thereby probation treatment implementations are carried out in determined inpatient health organizations that exist within the structure of public institutions and organizations, Local Health Authority evaluates the need of the treatment service within the scope of probation and determines the health institution for the treatment. Therefore, it is indicated that the aim is to reintegrate individuals that use stimulants and psychoactive drugs into the society in order to protect and recover society’s health (Akbaş and Mutlu 2016).

Concept of probation in our country and in the world is different in giving a decision, determining the convict’s suitability to the process, content of the process, elements in the process, components in the content of the process and problems in the implementations (Mutz 2009, Tuncer and Duru, 2011, Dessecker 2012, Décarpes and

Durnescu 2014, Clarke and Eustace 2016). Because of these differences, The United States of America (USA) that has regional governing system and Federal Republic of Germany will be compared with Republic of Ireland that has centralized governing system and implementations of “treatment and probation” within Probation system in our country. Similarities and differences between implementations of the countries will be reviewed as literature based in order to contribute to the education, recovery and controlling fields for individuals who are given decision of treatment and probation especially because of crimes such as using, having psychoactive drug in our country.

USA and Germany are included because of their regional governing structure’s special criminal justice system and although Ireland has a high rate of crime due to alcoholism, (Martyn 2012) it is included here to be examined its probation approaches that are thought to be effective solutions to this problem. As a result of these evaluations, in order to contribute to law, legislation and directive, a number of suggestions will be offered to society-based Probation System implementation whose conditions and time that are decided by the court, in line with the controlling and inspection plans and this implementation provides all the needed service, program and resources to suspect, defendant or convict for reintegrating them to the society.

## **Implementations of Probation System in the USA**

In USA, implementations of probation system serve sometimes as federative or state level and sometimes as local government level to the criminal justice system by hundreds of organizations and structures. Therefore, the probation system in USA is carried out across the country as without a common sanction and standard implementations in state level and it is committed to the local government (Burrell 2010). But the common aim of the system is to be able to prevent recidivism. While the source of some implementations (supervision, execution, treatment and rehabilitation programs, electronic monitoring etc.) is the decisions, the source of some other implementations such as residential treatment centers is law of the states. In a more common perspective, it serves to the society through the preventive services in schools or other important society centers (Décarpes and Durnescu 2014). In the USA, almost in every pre-court legal jurisdiction process there are activities of principal probation such as reports that evaluate the forensic case in a multidisciplinary way and decision making/evaluating supports about forensic case such as social examination reports etc., supervisions that are given to the convicts of probation by the probation specialists in order to reintegrate the convicts to the society and rehabilitation support for the criminogenic need of the convicts (Décarpes and Durnescu 2014).

Within the scope of the probation system in the USA, individual applies to the “Adult Probation Department” of the state that has the probation specialist who will guide him throughout the probation. The individual who applies to the aforementioned department has to see his consultant once a week in the beginning. While the individual continues to carry out his probation decisions properly as indicated in the law, number and frequency of the meetings with the consultant or other specialists are tried to be reduced in the framework of the individual’s program (Décarpes and Durnescu 2014).

If the individual has and/or uses psychoactive drugs or commits an offense under the influence of a psychoactive drug, he/she is taken into custody by the police force,

then his investigation begins by the prosecution office and in the meantime, individual can be put in jail for a day if needed. While toxicological analysis (psychoactive drug tests) that is done routinely in probation or security measures situations for these individuals is obligatory according to the legislation, toxicological analysis may not be obligatory when they commit an offense that includes another crime. According to “the USA Instruction of Decision”, if it is decided that the probation convict needs psychological and psychiatric treatment in line with the provisions about participating mental health programs, the convict is directed to the related treatment institution.

In situations such as use of psychoactive drugs, having firearm or refusing the test of forensic toxicological analysis (psychoactive drug test), law and legal authorities can cancel the decision of probation and convicts are sent to the prison (18 U.S. Code § 3565 1987).

Main rules that all the “Treatment and Probation” convicts should obey are these:

Convict:

- - Should not commit an offense in any state or small local settlement.
- - Should not have and/or use psychoactive drugs
- - Has to take his first toxicological analysis (psychoactive drug test) in 15 days after the Probation decision and minimum two periodic toxicological analysis (psychoactive drug test) (Williams v. Hunter 1957).

In some cases, addictive drugs that are legal to sell including alcohol can be forbidden to use for “probation” convicts (United States v. Schave 1999), but concrete evidence is needed related to the convict’s crime to do this (United States v. Stoural 1993). Although the individual has not committed an offense related to alcohol and/or substance abuse, related court can give decision of ambulatory treatment because of using overdose psychoactive drugs or alcohol (United States v. Carter 1998). If convict is in the low risk group for using of substance according to the evaluation or social study reports such as pre-court forensic case evaluation reports and decision making about the forensic case, court can cancel the routine toxicological analysis that is determined by law (18 U.S. Code § 3563 1987). Although the individual is a user, if the court decides that the crime is not related to psychoactive drugs, court may not look at the obligatory forensic toxicology of the defendant (if the crime becomes definite by concrete evidences, then he/she will be “perpetrator”). For example; court can decide the consuming of 12 bottles of beer at the weekend as not abuse of alcohol (United States v. Stephenson 1991).

After the court’s decision of “treatment and probation”, social adaptation process of the convict continues with the probation personnel/specialist who supervises him. Professional approaches of the probation specialists are important in terms of preventing the recidivism and reintegrating the convict into the society. About the relationship between the convict and the probation specialist, studies show that personnel/specialist who focuses on behavioral change contributes to the preventing of the recidivism more than the personnel/specialist who focuses on the rights/responsibilities of the convict (Décarpes and Durnescu 2014, Miller 2015).

Since the beginning of the 1990’s, concept of risk evaluation has become prominent between the interaction of Probation personnel/officer and convict in the United States of America. Concept of risk evaluation is carried out by being inspired from “social learning theory” and “cognitive-behavioral” approaches that change individual’s behavi-

ors to be able to establish positive relationships (Alexander et al. 2014). Social learning theory does not examine only people's own experience, but also examines other people's behaviors, outcome of these behaviors or the experiences that they observe from the elements of visual media such as television, cinema etc., then by making inferences, it brings developing positive behavior to the fore, in other words learning. Also, social learning theory emphasizes that intrinsic rewards (honor, joy, well-being etc.) are as important as the rewards that other people give (Alexander et al. 2014).

In the USA, probation personnel and specialists are expected to establish a relationship in line with the elements of the empathetical approach for convicts to reach to the expected behavioral change (Alexander et al. 2014). The use of implementations that are about being empathetical, problem solving abilities and a part of the social approaches have a positive impact on recidivism according to the Trotter's studies (Trotter 1996).

As a result, although the Probation process is different on the basis of states; treatment, rehabilitation and social adaptation of the convicts that are given the decision of "treatment and probation" by the court have certain standards in the USA. In addition to this, when probation offices of a state are not enough in number, convicts can be directed to private probation offices. In conclusion, it can be said that regional systems in the USA have central standards.

## Implementations of Probation System in Germany

Implementations of probation in Federal Republic of Germany are different than the USA. These implementations are not in the criminal justice system or part of the institution. Also, there is no exact integrity in social services that include supervision, controlling, pursuance and betterment activities and implementations for probation convicts (Mutz 2008, Dessecker 2012).

Decision of probation is given according to Article 56 of the German Penal Code (StGB) and Article 21 of the German Law of Juvenile Courts (JGG) in Germany (§56 German Criminal Code StGB 2013, §21 German Youth Courts Law JGG 2017). Decision of probation can be given instead of 2 to 5 years of custodial sentences by the judges of the "Länder" (States). According to the adaptation to the legal process of the convicts that are given decision of "Probation" by the courts, their sentence can be lowered to minimum or increased to maximum before their sentence finishes. In the same way, decision of probation for juvenile or adolescent pushed to crime is given as 2 or 3 years by the courts and according to the adaptation to the legal process of the juvenile or adolescent pushed to crime, their sentence can be lowered down to 1 year or increased up to 4 years before their sentence finishes (§56 of the German Criminal Code StGB 2013).

Just like in probation models of a lot of countries, whereas convicts of probation in Germany have to do decisions such as staying away from certain places or staying in a place that court decides, doing unpaid social services, paying an amount of money that court determines etc., the related court can decide for juveniles or adolescents pushed to crime to have treatment of substance abuse and/or psychological support if their parents or persons who are obliged to look after or legal parent/guardian allow. If the juvenile or adolescent pushed to crime is older than 16, this decision can be given only by receiving his/her approval (§21 German Youth Courts Law 2017)).

After the court's decisions within the scope of the laws, juvenile/adolescent/adult individuals contact to the probation offices of the state that they are present at. According to the law of the state, for instance; in the state of Lower Saxony, individuals that are given the decision of "Probation" have to contact to the Probation specialist or personnel in the state that they are present at in 14 days after the decision (Mutz 2008, Dessecker 2012). In addition to this, if the related court determines that the convict has some behavioral disorder, it can decide psychological disorder to be examined and evaluated and hospitalize the convict to a psychiatric hospital during the probation time. Also, if there is a suspicion by the related court such as substance use/substance abuse, it can decide to hospitalize the convict to the related clinics and start the treatment of substance abuse (§67b of the German Criminal Code StGB 2013).

The amount of the psychoactive drugs that the person carries has an impact on the punishment in Germany. This situation is different for every state. While there is no punishment for carrying/using marijuana up to 15 grams in Berlin, this limit is 6 grams in Bremen (§§ Article 29, 31a of the German Criminal Code, Drug Ecquisition for Personel Consumption, BtMG 2018). Persons can be given small punishments by the courts if they carry substances under this limit without abusing. If the persons who carry substance under the normal limit have a criminal past and have been given judicial decision more than once, judge can give decision of obligatory therapy/rehabilitation for these persons (Loschnig-Gspandl and Kilchling 1997).

In situations that juvenile or adolescent pushed to crime uses psychoactive drugs, if there is no danger or a situation that increases turning into crime due to use of substance, probation specialists/personnel does not have to report this to the related judge, but they have to keep a close watch on and supervise them. But if there is a situation that juvenile or adolescent turns into crime and commits new crimes due to substance use, within the scope of confidentiality of some information probation specialist should report this to the judge, not to the police (Loschnig-Gspandl and Kilchling 1997, General Directorate of Prisons and Detention Houses 2009).

There is another implementation that suspends imprisonment for psychoactive drug abuser individuals in Germany (§§ Article 35,36 Law on Traffic in Narcotics BtMG 2018). If the court gives imprisonment not longer than 2 years to the psychoactive drug abusers, these individuals are not sent to the prison. This imprisonment decision can be suspended if treatment and rehabilitation are provided in an institute that treats psychoactive drug abuse. The time that the individual spends in the treatment institute can be counted as up to 2/3 of his sentence. If the convicts are congruous during their treatment of substance abuse and contribute positively to this treatment process, they generally serve the rest of the sentence as probation (Mutz 2008, Dessecker 2012).

According to the German law, social pedagogues or social workers have different description of specialties according to their quality of function (Mutz 2008, Dessecker 2012). While probation specialists/personnel guide and supervise convicts, social workers examine social life and personality of the individuals before this period. Moreover, social pedagogues or social workers assume the title of "court assistant" and they have different job descriptions such as expressing opinions to the court and rehabilitation of the convicts (Mutz 2008, Dessecker 2012).

Social pedagogues/social workers have a lot of responsibilities in this process. They have versatile tasks in the criminal justice system such as supervision practices with the convict, the intensity of the support for these practices, social environment of the convict, evaluation, monitoring and reporting of the important data that can affect “Probation” positively/negatively and other tasks that can emerge during the investigation-prosecution process (Mutz 2008, Dessecker 2012). As nature of crime and prevention of recidivism are very important, specialists/personnel evaluate personality of the individuals before, during and after court process and make reports about the individuals (Mutz 2008, Dessecker 2012). Prosecutor considers the reports that are made before the court and can demand data from the court assistant about condition of life, record of substance abuse, debts, related suspect’s job and court assistants can have interviews with the defendants. In case of necessity, court assistants can have interviews with the family, relatives and social environment of the defendants. Reports are made about the individuals after the interviews and these reports are important as they are helpful for legal procedure (Mutz 2008, Dessecker 2012). Federal Superior Court of Justice (Bundesgerichtshof) emphasizes that evaluation of the personality of the convict is as important as examination of the conditions of the crime (Mutz 2008, Dessecker 2012).

Another implementation of probation in Germany is “mediation” service. If the prosecutor decides that there is a possible reconciliation between the victim and the perpetrator/convict, he/she can assign court assistant to be mediator between the parties. Because of this attitude of reconciliation between the victim and perpetrator, this situation may even result in withdrawal of the prosecution in the criminal justice system. The aim of mediation is to establish peace and reconcile the victim and the perpetrator by legal ways. Thus, the commitment of the perpetrator will help solving the problems between victim and him/her. Contrary to popular belief, when perpetrator/convict faces with the emotions of the victim and the physical, financial and psychological results of the crime directly, his/her attitude and behaviors can change. Attempt of facing with the victim and eliminating the negative outcomes can result in long term positive behavioral change in the perpetrator (Mutz 2008, Dessecker 2012). There are trainings for implementations of mediation in penal institution in Germany. After this training that mostly young convicts want to have, a punishment execution report will be made about the convicts. Psychologists/psychological counselors, social workers, teachers and correction officers evaluate the youngster to contribute to the comprehensive report. Convict can be a “civil mediator” after this training (General Directorate of Prisons and Detention Houses 2009).

In “Pre-decision reports” that are prepared by “court assistants” before the court gives a decision about alleged crimes of the perpetrator/defendant, there are not only information about personality and social environment of the perpetrator, there are also psychiatric diagnoses and situation analysis that can change the course of the decision. These reports generally try to minimize the negativities that may arise from penal sanction for the alleged crimes of the perpetrator/defendant (Mutz 2008, Dessecker 2012). As it is understood, implementations of “treatment and probation” are not only heavy within the scope of criminal justice system such as to do list, but they also have a social approach for convicts higher than social adaptation standards of other developed countries. For example, primary liability list of Northern Rhein-Westphalia state includes principles such as reorganizing of human relations, psycho-social counselling, aid and



treatment service for abusers, readaptation to business life for probation convicts (Mutz 2009, Dessecker 2012).

## Implementations of Probation System in Ireland

Implementations of probation generally are carried out by related “Non-governmental Organizations” in Ireland. After the decision, many implementations are carried out by nongovernmental organizations such as forensic toxicological evaluation, determination of suitability to the probation as a result of the psycho-social evaluation and other implementations of probation process for the convicts that are given decision of “Probation”.

If a person is found guilty or confesses his/her crime that has penal sanction, judge can want “probation report” from the specialists before his/her decision.

There are two types of reports that they evaluate individuals for the implementations of probation in Ireland:

- Pre-decision report
- Public service report that evaluates if the suitable conditions are fulfilled to give decision of “probation” instead of imprisonment.

Judge of the related court may want one or both of the reports that they evaluate individuals. Judge can adjourn the trial for reports to be made and presented to the court. Courts generally give 8 weeks for adult individuals, 4 weeks for juvenile and adolescent individuals for aforementioned reports to be made (The Probation Service 2016)..

When psychoactive treatment of drug use and abuse and rehabilitation for convicts that are given decision of probation are carried out together, there are phases such as evaluation of the convict before the process, directing to the suitable treatment and rehabilitation institution, evaluating periodically, preparation of individual care plans, briefly case management, treatment process and recovery process. Before these phases, related court can give the decision of probation to the individual and probation offices and non-governmental organizations carry out these phases. An efficient planning before the process with the decision of “probation” can be effective for other phases too. Especially in situations of alcoholism, alcohol level test is done as fast as possible (Martyn 2012, Clarke and Eustace 2016).

The convicts that are given decision of “probation” are guided to benefit from the existing practices and rehabilitation services and directed to the public service that they will do according to their needs. At this stage, the convict is encouraged to apply to the related organizations and institutions in person (Clarke and Eustace 2016, The Probation Service 2017)..

In the probation process, the convict is evaluated, his/her addictions are identified, his/her addictions’ results are examined and his/her needs are investigated. His/her motivation towards the treatment and rehabilitation process is examined. The risk factors that are speculated to cause the recidivism are predicted. For an effective evaluation, an individual-centered evaluation is initiated, the convict that comes to the probation office is evaluated without losing time and the addiction level and the psychological functions are investigated properly (Geiran 2011, Clarke and Eustace 2016). The convict’s evaluation process is one of the important moments that the convict communicates personally with the probation personnel. As a healthy communication may

affect individual's behavior, a stable-patterned communication model between the probation office, non-governmental organization and the convict is substantially necessary (Clarke and Eustace 2016). In the evaluation results, the convict's suitability to the existing programs during the treatment and the rehabilitation process. After the psychological evaluation, if the convict has critical psychiatric disorders he/she cannot be directed to participate in the rehabilitation practices that are carried out by non-governmental organizations. In that case, a report arranged by the specialists including the convict's evaluation results is submitted to the court once again to request a rearrangement of the previous decision and to request a new decision involving the treatment of the individual's psychiatric disorders (Geiran 2011, Clarke and Eustace 2016).

Despite the convicts are evaluated with the standardized interview and examination methods in the Irish Criminal Justice System in the "probation", the non-governmental organizations also have their own customized evaluation inventories and these organizations may use the aforementioned inventories when necessary. The specialists that carry out the evaluation may differ as well as the evaluation tools in the probation process. In Cuan Mhuire, for example, "addiction counselor" and "specialist nurses" evaluate the convicts instead of the standard probation personnel/specialists (Geiran 2011, Clarke and Eustace 2016).

In a study examining the types of the crimes adults committed in 2016 in Ireland, it was identified that the rates of the crimes related to drugs was 15% and that this type of crime is ranked number three among all crimes (The Probation Service 2016). Based upon these results, "Integrated Community Service Program" was initiated in 2016 with a pilot study. In this program, probation convicts' participation in other various socialization and rehabilitation programs and support services was encouraged in the 1/3 of time that they spent in the public service (Hamilton 2016, The Probation Service 2016). As this study confirmed that crime is closely associated with one's substance use history, these results were also the starting point of SAOR (Support, Ask and Assess, Offer Assistance, Refer) project which was initiated in 2016. SAOR project is also called "Early Warning Model" that includes practices such as monitoring, evaluating and supporting the convicts that are given decision of "probation" (The Probation Service 2016).

The BRIDGE project, which began in Ireland in 1991 and completed its 27th year, has an evidence-based approach that includes services such as behavioral development groups, program development and detection of criminological behaviors by investigating the past experiences and criminal stories of supervised (The Probation Service 2017). As seen from this example, Ireland relies more on non-governmental organizations instead of public institutions about the practices on socialization and treatment of crime and convicts on "probation decision" (The Probation Service 2015, 2018).. By this means, Ireland aims to have a probation policy with more psychosocial support and social interaction and pursues a goal of preventing the recidivism by social integration.

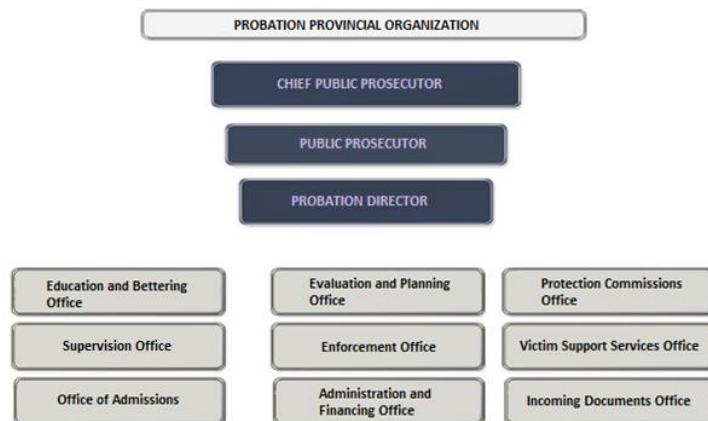
## **Implementations of Probation System in Turkey**

According to the 3rd paragraph of the Article 109 and the 8th paragraph of the Article 231 of the Law of Criminal Procedure No. 5271; Article 20 of the Juvenile Protection Law No. 5395; (c), (d), (e) and (f) subparagraphs of 1st paragraph of Article 50, the fifth and sixth sentences of the Article 53, 9th paragraph of the Article 58, the 5th

paragraph of Article 221 of the Turkish Criminal Code No. 5237; 4th paragraph of the Article 105, fourth and sixth paragraph of the Article 108 and second paragraph Article 110 of the Law on the Execution of Sentences and Security Measures No. 5275, in our country, the probation implementations are carried out for the suspect, defendant or convict in the Directorate of Probation that is attached to the court house, if the “judicial control” or “probation” is given (Official Gazette 2004,2005).

### ***Organizational Structure of Probation in Turkey***

The legal basis of the Probation implementation was formed in 2005 in our country and the authorities worked on bringing arrangements in the following years. Probation, support and protection services are carried out in Probation Head of Department within Ministry of Justice General Directorate of Prisons and Detention Houses. As a provincial organization, they are carried out by the probation offices and the protection commissions established in 139 headquarters where the justice commission is located. The centralized structure of the Probation Head of Department is under the advisory board consisting of 6 persons (Ministry of Justice, Undersecretary, Deputy Undersecretary, General Manager, Deputy General Manager and Head of Department). It's based on the Ministry of Justice and Department of Prisons and Detention Houses and it consists of five branch offices attached to two investigation judges. These branch offices consist of Evaluation and Planning, Protection Commissions and Victim Support, Electronic Tagging, with Enforcement and Betterment and Juvenile Services branch offices (Official Gazette 2005, Ministry of Education 2018).



**Figure 1. Working structure in Probation System in Turkey**

### ***Risk and Needs Evaluation System and Planning in Probation System***

Probation offices take on several tasks about the supervision and social integration process of the convicts that are given “probation” decision. Probation requires the convict to register to the office, visit the relevant departments of Probation at certain intervals determined by the court and to obey the processes and the programs in the institution. It is an intermediary institution that aims to use psychoeducation and social participation effectively. The judicial control (probation) decision given by the courts or

monitored by public prosecution offices are conveyed to probation directorates by National Judiciary Informatics System. Convicts subject to "Probation" have to apply to the probationary directorate within 10 days of legal period. Otherwise, "probation" may lose its validity (Ministry of Education 2018). Therefore, the roadmap and the file operations after the convicts' file is sent to the relevant offices via "incoming documents office" proceed as follows:

**Planning:** The convict registers to the "Office of Admissions". "Evaluation and Planning Office" determines the risks and needs of the convict and the convict is evaluated in this office. By means of the evaluation inventories, the convicts are examined in terms of various risk factors and classified according to their possible crime potentials in the future. After the Probation Commission decides upon the penalty of the individual, the execution phase is initiated. Education and betterment practices may be carried out during the execution in the probation process (Işık 2015)..

### ***The Practices Carried Out in the Health Institutions About the Convicts Given the verdict of "Treatment and Probation"***

The pursuance system for all applications and procedures in the process from the application of the convict/patient to the health institution to when the convict receives his/her report is carried out at the relevant health institution. The period of validity of the referral of the convict/patient to the relevant hospital is five business days. If the patient arrives after the end of five business days, he/she receives a treatment. Furthermore, the fact that the convict does not apply to the health institution within five business days does not prevent the treatment (Ministry of Health 2015).

In the health institution, the psychiatric evaluation and examination is carried out on convict's/patient's first visit. Clinical interviews and biological sample tests for psychoactive drugs and stimulants, such as urine, blood, saliva, sweat, hair, etc., are combined and the patient's treatment program is established. If it is necessary, short interventions such as medication and/or psychotherapy are also performed. The doctor informs the probation patient about the treatment process, the treatment program and probation treatment service rules. The patient is also informed about the various obligations of the "Treatment and Probation" given under the Article 191 of the Turkish Criminal Code if he/she does not comply with the treatment process (Ministry of Health 2015).

**Table 1. Distribution of treatment and probation measures given to children and adults by years**

Treatment and probation (Article 191 Turkish Penal Code)	Adult	Child	Total
2013	1.295.720	99.057	1.394.777
2014	1.279.632	105.957	1.385.589
2015	1.122.986	87.842	1.210.828
2016	792.903	56.364	849.267
2017	600.572	39.011	639.583
2018 (First 9 months)	513.336	27.418	540.984
Total	5.605.149	415.649	6.021.028

These obligations are:

If the convict;

"...Buys, accepts or holds psychoactive drugs or stimulants, he/she may be sentenced to imprisonment of between two and five years." Also, if he/she is caught again in

this context in five years following the “Treatment and Probation”, the penalty may be executed.

In the relevant health institution, all the costs of the treatment of the patient are covered by the Social Security Institution if the patient has social security; If he/she does not, according to the relevant legislation of the Ministry of Health, necessary actions are taken. Related medical reports are issued and sent to the Directorates of Probation within the specified periods (Ministry of Health 2015).

According to Table 1 and Table 2 the number of Treatment and Probation verdicts for adults and children are decreasing. Because of the overcrowding in the prisons due to the verdicts for failed coup which had been attempted by members of terrorist organization in army, while the number of parolee verdict has been increased the number of Treatment and Probation verdicts has been decreased. It has been thought that the differences between the numbers of parolee and treatment and probation verdicts may occur due to the slightly recent history of probation services in our country which is 13 years. Moreover, aforementioned differences may occur because of the insufficient population of specialists (Zolru 2014, Ministry of Education 2018)

**Table 2. Distribution of treatment and probation measures for children and adults in months of 2018**

Treatment and probation (Article 191 Turkish Penal Code)	Adult	Child	Total
January	52.285	3.063	55.348
February	54.357	3.174	57.531
March	55.624	3.200	58.824
April	56.029	3.112	59.141
May	57.372	3.104	60.476
June	58.333	3.047	61.380
July	59.546	3.037	62.583
August	59.572	2.836	62.628
September	60.218	2.845	63.063

### Education and Betterment Practices

As a result of risk and needs evaluations at the Directorate of Probation, or when the court decides on the counseling practices, betterment practices are carried out according to the convict's needs (Ministry of Education 2018). Betterment and education services such as individual interviews with convicts, group work and utilizing free time are carried out by probation specialists working in education and betterment offices (Ministry of Education 2018). Treatment and rehabilitation are carried out in the probation process, which is a rehearsal of social life, by means of "Anger Management Program", "Change for Life Program", and so on. These programs are chosen according to the special needs of the convicts according to their individual, social situations, etc. Thus, the convicts' reintegration into the society is tried to be achieved in a healthy way and the reactions of the convicts to the problems they face in daily life can be worked on. The convicts also have the chance to rehearse how to react to the problems they can face with their family and in their social circles (Işık 2015).

### Supervision, Pursuance and Electronic Tagging in the Probation Services

In the “Probation” process, whether the convicts fulfill their responsibilities during the education and the betterment implementations or not is monitored by the “Supervision Office” (Yıldız and Tiryaki 2015). The convicts that are given other decisions and not given the treatment and probation decision are excluded from the education and the

betterment implementations. As a result, the Supervision Office's responsibilities include whether the convict fulfills the "Probation" given by the court (Ministry of Education 2018).

The control plan for the psychoactive drug abusers/users that are given treatment and probation is not prepared. Instead, an informing form containing the rules and the conditions to be observed by the individual is given to the convicts (Ministry of Education 2018, Orum et al. 2018). The report about Probation includes the convict's risk level and needs, personal characteristics, abilities and talents, preferences and areas of interest and the specialist's observations and evaluations about the convict. During the period of probation of the convict, the success of adaptation to society, changing their negative behaviors, etc. efforts and overall development including their acquisition in the betterment programs are evaluated in this report. A supervision report is prepared every three months for the obligations of convicts that are given "Treatment and Probation" which is given to psychoactive drug users/abusers (Ministry of Education 2018, Orum et al. 2018). The supervision plans are prepared by whoever is in charge of the case at least every six months considering the risks and needs of the convict (Ministry of Education 2018). Another duty of the supervision office is the electronic tagging, supervision and pursuance of the convicts subjected to a pursuance decision. The supervision office carries out the electronic tagging procedures that the individuals wear, in cooperation with the probation officers and law enforcement officers (Işık 2015, Ministry of Education 2018).

Another probation service provided in our country is victim support services. In the probation legislation, the concept of victim was first defined in the "Regulation on Probation Services" published in the Official Gazette No: 28578, dated March 5, 2013 (Ministry of Education 2018). When the victim applies to the Directorate of Probation, registration procedures are completed first and then he/she is directed to the victim support services office. This process proceeds as follows: the application of the victim to the probation directorate of the victim, the first information, the determination of the risks and needs of the evaluation planning office, the establishment of an supervision plan considering the result of the decision and evaluation given by the judicial authorities about the individual, individual interview conducted in person's execution and betterment offices, individual's inclusion in the programs such as group work and seminar, the initiation of the supervision and pursuance practices and the termination of the process with the completion of the execution period (Işık 2015). The needs of the victim are determined by the specialists in this office and they are directed to the relevant institutions, organizations or non-governmental organizations to receive support. In case the victim demands, the psychosocial support programs can be implemented and in-kind or in-cash, education and health benefits can be made.

## Discussion

When the countries' probation models are compared, even though the processes are mostly similar to each other, the point of view about crime in each country, criminality and convicts can change the probation policies in general. Different types of discussions can arise from the probation models of countries and the tools and personnel within the models.

In this study, criminal justice system concepts which are specialized by the USA and Germany's local government, Ireland's probation approaches to solve the problem of high crime rates due to alcoholism, "Probation System" that ensures the suspect's, defendant's or convict's socialization and his/her integration with the society in accordance with the supervision and the supervision plan within the conditions and time specified by the court by providing all kinds of services, programs and resources he/she needs, aforementioned countries are compared and suggestions are made.

The USA model has the criminal justice system conception specialized by the local government. In this model, the rehabilitation processes that are decided after the risk evaluations may vary on the convict's social security (insurance) while planning the convict's treatments. According to a study conducted in the USA with probation convicts in Florida, Kentucky, Missouri and Tennessee (Teague 2016), it was found that private probation organizations in these regions demanded large amounts of payment from convicts for probation services. Thus, it is almost impossible for individuals with low socioeconomic status to cover their probation fees. Consequently, convicts can get back to crime again in order to pay their debts to private probation organizations (Teague 2016, Human Rights Watch 2018). The community-based organizations/non-governmental in the probation systems of the countries examined in our study have an undeniable role in the process. Despite the financial conception in the United States, where private probation organizations charge fees from convicts for probation services, there is no fee requested from convicts in the probation process, except for criminal sanctions imposed by the relevant courts for the various offenses committed by individuals in Germany and Ireland. In addition, rehabilitation services and social integration projects in Germany and Ireland do not constitute a financial burden for convicts (Jehle 2015, The Probation Service 2017). In the probation services in Turkey; "According to the Article 78 (2) of the Execution of Sentences and Security Measures No. 5275; The Ministry of Health and the Ministry of Labor, Social Services and Family and the health institutions of universities are obliged to provide the necessary assistance for the treatment of convicts" (Ministry of Health 2015). Moreover, as a result of the evaluations made by the social workers in the Directorates of Probation, probation convicts' and their families' need of financial assistance is determined by reports, an application is sent to the Social Assistance and Solidarity Foundation Directorates that are attached to local authorities (governorates) and financial support is provided to the convict and his/her family. However, if the social examination reports that verify the convicts and their families' need of financial support are sent to the relevant courts, a "Inkind/In-cash Assistance" decision is issued from the courts for the aforementioned individuals and the governorates and the district governorates are notified about this decision, the decision will be standardized single handedly. Thus, providing financial support to the convict and his family will be accelerated. As a result, since all the probation services in

our country are in the state administration and non-governmental organizations act on a voluntary basis, the process meets the non-criminogenic needs of the convicts without a material cost.

Despite the USA takes on the specialized criminal justice system conception, according to the USA's probation services, the "risk-need-sensitivity" system in the empathetic relationship between the convicts and the probation personnel is considered extremely important and is considered as a very positive contribution for the practice. According to this approach, the empathetical approach should be maintained both in the psychoeducation practices given to convicts to gain communication skills and throughout the controlling process. However, within the scope of psycho-education services, it has been a matter of discussion whether the "appropriate responses" or the positive communication techniques meet the needs of every convict. Likewise, there are also discussions whether every probation personnel integrated into the risk-need-sensitivity system can understand and internalize the skills required by this system. It is recommended that periodical orientation programs are carried out to the probation personnel in order to provide feedback (supervision) and to increase efficiency in this subject (Alexander et al. 2014).

Considering the factors affecting the positivity of the communication between the convict and the personnel, there are studies, which are carried out to examine the quality of the service given to the convicts, that indicate that the supervision of the convicts is effective. According to these studies, the probation personnel stated that lack of supervision could lead to role conflict. They also suggest that giving the probation personnel a clinical supervision for the convicts with personality disorders may have a more positive effect on the process. In Ireland and Germany model, probation personnel are given clinical supervision, and in Turkey, these trainings are given on the basis of local education projects. The supervisory system of these two countries is therefore differentiated at this point (O'Connell 2005, Subramanian and Shames 2013, Wood and Brown 2014).

In Turkey, the probation personnel are hesitant about the implementation of the existing executions according to the "treatment and probation" decision given by the courts and about which approachment models to choose on the rehabilitation and socialization practices for betterment of the convicts (e.g. the therapeutic principles and techniques to use during the individual interviews with the convicts). Moreover, the inadequacy of the skilled personnel to hold the group sessions with the convicts therapeutically as psychological counseling and to carry out the socialization and rehabilitation practices can cause this process to be inefficient and even more difficult than it already is (Wood and Brown 2014, Zorlu 2014, Altın 2015). It is thought that this situation, in contrast to the system in Germany, derives from the fact that job descriptions in our country are not performed according to the competencies of probation personnel. In the studies conducted, it was found that the role conflict of the personnel was directly proportional to the burnout of the personnel (Allard et al. 2010, Altın 2015).

The success of the criminal enforcement methods is examined through recidivism or repetition of the crime. In this respect, the recidivism rates of probation convicts in the United States of America, Germany and Ireland give an idea of the effectiveness of their probation concepts. According to a study carried out by Jehle (2015), while the



rate of those who could not complete the probation process in Germany due to recidivism in 2011 was 29%, this rate was confirmed as 37% after the 3 year follow up between 2012 and 2015 in Ireland (Jehle, 2015, The Probation Service 2015). The recidivism rates that occurred during or after the probation process in the United States were 35% within the first three years, and this ratio increased to 43% in the first five years (Markman et al. 2016). Therefore, in the probation systems of the countries mentioned, it can be said that the countries who observe their convicts' needs for socialization and their non-criminogenic needs (physical, emotional) are more advantageous in terms of reducing the recidivism of convicts.

## Conclusion

If we compare the probation systems in the USA, Germany, Ireland and Turkey, probation services in our country has a relatively short history. Therefore, when the short history of the probation system in our country is studied both in terms of legislation and implementation results, the process that takes centuries in comparative law is experienced very fast in our country. This inevitably leads to many important questions and problems in this field. Therefore, the laws, regulations and circulars which will increase the success (and reduce the recidivism) should be revised, new regulations should be introduced according to the need and they should be updated over the years.

While the probation system in the USA and Germany is slightly different in comparison to regions, a standardized probation system is applied in Ireland and in our country. In our country, studies aimed at reducing the risk in the cities with high risk should be carried out as well as preventive studies. However, in the low-risk cities, the authorities should concentrate more on the protective studies. In addition, creating a measurable data system related to recidivism rates in our country is important in terms of determining the risk factors that cause the crime to be committed again.

Probation is a difficult area of work as it includes stressful practices. The implementation of court decisions on convicts by probation personnel requires abiding by certain rules and sanctions. On the other hand, practices are tried to be carried out for treatment and improvement. This can lead to uncertainty in the fact that it is not possible to determine which one of the situations in which a punitive approach is taking place with a person-to-person rehabilitation approach. However, the personnel's experience of role conflict arises regardless of which type of approach is more dominant (Allard et al. 2010). In addition to the well-trained specialists, the necessary facilities should be provided in order to provide service by maintaining the internal factors that will negatively affect the working and communication skills to the maximum extent.

Taking into account that the basic skills of the personnel are included in the undergraduate education, the main focus of the probation is the rehabilitation, and besides training programs, it should focus not only on security but also on ethical principles. After the trainings, pursuance training should be organized in order to determine whether the personnel use the skills they have acquired, and the practices should be evaluated by going to the workplaces of the trainers.

Education and supervision are among the factors that can contribute positively to the process in the probation system. There are differences in personnel training worldwide in probation services. In Turkey, the importance given to the training of probation personnel and appears to be supported by in-service training of a large num-

ber of personnel training and development. Increasing the number of probation officers, limiting the number of files per person and achieving a flexible working practice unlike the traditional officer work system is a must for the success of the system.

In order to train probation specialists, master's and doctoral programs in the field of the Addiction and Forensic Sciences were opened in the universities in our country. The dissemination of the programs in these areas on a national basis and the appointment of experts in the probation departments of the mentioned programs will positively affect the quality of the probation process.

Although the situation in our criminal justice system imposes an inevitable obligation on lawmakers and practitioners to deal with many important problems; it allows us to be hopeful about the future considering the existence of the probation system, which focuses on discovering the "human", the source of innocence, and the mechanism of effort for their rehabilitation.

The aim of this study is to contribute to the future studies to reveal the different implementations of probation systems, to reduce the risk of crime and recidivism in our country as well as to enhance the communication quality between the probation personnel and the convicts and most importantly, to reduce the crime of convicts.

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**Authors Contributions:** All authors attest that each author has made an important scientific contribution to the study and has assisted with the drafting or revising of the manuscript.

**Peer-review:** Externally peer-reviewed.

**Conflict of Interest:** No conflict of interest was declared by the authors.

**Financial Disclosure:** The authors declared that this study has received no financial support.

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