

Probation and Mediation Service Act

**Act No. 257
of 14th July, 2000**

on Probation and Mediation Service and on Amendment to Act No. 2/1969 of Coll., on Establishing Ministries and Other Central Bodies of the State Administration of the Czech Republic subject to the wording of the ensuing provisions, Act 65/1965 of Coll., the Labor Code, subject to the wording of the ensuing provisions, and Act 359/1999 of Coll. on Socio-legal Protection of Children (**Probation and Mediation Service Act**)

The Parliament agreed on the following Act of the Czech Republic:

PART ONE PROBATION AND MEDIATION SERVICE

CHAPTER I ESTABLISHING, ORGANIZATION AND ACTIVITIES OF PROBATION AND MEDIATION SERVICE

Probation and Mediation Service

Section 1

(1) The probation and mediation services are established to carry out, in a scope stipulated hitherto or in a special act¹ the functions of probation and mediation in relation to matters resolved in criminal proceedings.

(2) The probation and mediation services are organizational units of the state and accounting units.

¹ Act No. 140/1961 CoL., Criminal Code
Act No. 141/1961 CoL., Code of Criminal Procedure

Section 2

(1) By probation it is understood for the purposes of this Act organization and execution of supervision over the offender, the charged or the convicted person (hereafter "offender"), monitoring of the execution of sentences not linked to imprisonment, including assigned duties and restrictions, monitoring the behavior of the convicted during a probation period of a sentence suspended from imprisonment, also individual assistance to the offender and influencing them so that they carry on a proper life style, meet the conditions set by the court or state prosecutor, and thus remediate the disturbed legal and social relations.

(2) By mediation it is understood for the purposes of this law out-of-court mediation with the aim of solving a conflict between the offender and the victim and activities leading to solving a conflict situation, which are carried out in relation to criminal proceedings. Mediation can be done only with explicit consent from the offender and the victim.

Organization of Probation and Mediation Services

Section 3

(1) At the helm of the Probation and mediation services stands a director which is appointed and removed by the minister of justice. The director of the probation and mediation services sees to its running in terms of personnel, organization, economical, material and financial.

(2) Completing tasks of the Probation and Mediation services in relation to courts, state prosecutors and bodies of the Police of the Czech Republic is secured by their offices which are located at the seats of the district courts or made-equal divisional or municipal courts (hereafter "district courts"). The offices of the Probation and mediation services (hereafter "offices") located at the seats of the district courts which are at the same time the seats of the regional courts or the City Court of Prague, secure tasks of the Probation and Mediation Services also in relation to these courts, the respective state prosecutors and police bodies.

(3) The authorization of the offices to execute tasks of mediation and probation is determined by the court and in the preliminary legal action by the state prosecutor in whose district the offices are located. In order to speed up the proceeding or for other reasons the senate chairman or Judge of peace/magistrate of the respective court and in a preliminary legal action the respective state prosecutor assign relevant steps to the office in whose district a person affected by them lives.

(4) In those municipalities that are the seat of two or more district courts offices may be integrated in such a manner so that their number is lower than the number of the local courts.

(5) An office can further be divided, depending on the necessity, into department focusing mainly on the minor offenders, offenders aged close to minors or users of abusive and psychoactive substances.

(6) Details for establishing offices and their internal organization are stipulated in the Statutes of the Probation and Mediation Services which are issued by the Ministry of Justice (hereafter "Ministry").

The Activities of Probation and Mediation Services

Section 4

(1) The probation and mediation services build foundation for legal actions to be resolved, in suitable cases, in a special means of criminal proceeding, or so that a punishment not linked to imprisonment can be pronounced and executed or detention could be substituted with another measure. For that purpose they provide the offender with expert guidance and assistance, monitor and supervise his/her behaviour and cooperates with the family and social environment in which s/he lives and works, with the aim of leading a proper life in the future.

(2) The probation and mediation services by the provision (1) mainly lie in:

- (a) providing background documentation relating to the offender and his/her family as well as social environment;
- (b) creating conditions for resolutions on suspended charges or consent to a settlement, above all negotiating and concluding an agreement between the offender and the victim on compensation for damages, or on release of unfounded enrichment, or an agreement on settlement, or possibly terms for further such procedures or punishment not linked to imprisonment;
- (c) supervising the behavior of the offender in cases when detention was replaced by a decision in favour of a probation supervision;
- (d) supervising the behavior of the offender in cases when supervision was assigned, in monitoring and supervising the offender during the probation period, supervising the execution of other punishment not linked to imprisonment, including the punishment in the way of community service, in monitoring the execution of preventive measures;
- (e) monitoring and supervising the behavior of the offender during a probation period in cases when a sentence suspension of the offender from an imprisonment term.

(3) Alongside the above, the probation and mediation service assist to the victim and other persons affected by an offence in eliminating the consequences of a criminal offence.

(4) The probation and mediation service pay great attention to the juvenile offenders and offenders around the age group of the juveniles, contributes toward the protection of the rights of persons affected by criminal activities and toward coordination of social and therapeutic programmes of working with

offenders, especially when dealing with the juveniles and users of abusive and psychoactive substances.

(5) The Probation and Mediation Service are active in preventing criminal activities.

(6) The functions of probation and mediation, unless the Probation and Mediation Service are solely entrusted with them by this law or another, may be carried out or participated in by other persons as well.

(7) The Probation and Mediation Service carry out within the scope of their activities tasks on an assignment from the bodies involved in criminal procedures and in suitable cases in the realm of mediation also without an assignment mainly on request from the side of the offender and the victim. In such cases they immediately notify the respective body involved in a criminal proceeding, which can decide that the matter should not be mediated and mediation will further not be pursued.

(8) With regards to tasks of probation and mediation the Probation and Mediation Service are entitled to obtain information and knowledge on the personality of the offender or statements of the victim relevant to the ruling of the court or state prosecutor.

(9) The police body and state prosecutor notify the office of matters suitable for mediation, mainly in criminal matters of juveniles it proceeds in such a way so that mediation is used just as charges are brought against them, or instead of it.

The Cooperation of Probation and Mediation Service with the State Bodies and Other Institutions

Section 5

(1) The Probation and Mediation Services proceed, if useful, in cooperation with the bodies of the social security, schools and educational facilities, providers of health services institutes, registered churches and religious communities, civil associations, foundations and other institutions pursuing humanitarian goals and if need be coordinate such cooperation from the perspective of using probation and mediation in a criminal proceeding.

(2) The Probation and Mediation Service, when carrying out their mission, cooperates closely with bodies which are empowered by the special law with the execution of socio-legal protection of children and providing benefits in material need to inadaptable citizens with social care.

(3) With regard to the execution of probation and mediation the employees of the Probation and Mediation Service are entitled to approach state bodies and juristic and natural persons with a request to share necessary pieces of data and these are obliged, unless a special law or an authorization stated in it stipulates otherwise², to pass on the requested data without unnecessary delay. Relating to performance of probation and mediation, the Probation and Mediation Service is authorized to request the copy of

² for example § 99 and § 100 of Code of Criminal Procedure

registration from the Criminal Records under a special law; application for the copy of registration from the Criminal Records and the copy of registration from the Criminal Records are transmitted electronically in a manner allowing remote access.

(4) If a state body, juristic or natural person declines without a reason to comply with a request by the paragraph (3), the employee of the Probation and Mediation Services puts it forward to the chair of the senate or a Judge of Peace/magistrate and in case of a preliminary action to the state prosecutor for further measures.

(5) If a criminal proceeding is in progress against the offender in detention or serving a prison term or if his/her accomplice or the victim is in detention or serving a prison term, the Probation and Mediation Service proceed with their tasks in cooperation with the Prison Service and Justice Wardens of the Czech Republic. If it is necessary with regard to obtaining or talking through his/her view of the legal action or with preparation of documentation for the ruling of the court or state prosecutor, the Prison Service enables the officer of the probation and Mediation Service to visit the offender in detention or serving prison term. If an offender remains in detention for reasons stipulated in Section 67 provision 1 letter b) of the Penal Code, the officer of the Probation and Mediation Service can visit him/her only on the consent of the chair of the senate or Judge of peace/magistrate, and in a preliminary proceeding the state prosecutor. S/he can visit other offenders in detention or serving a prison term without such consent.

Section 5

(1) The Home Office or the Police of the Czech Republic provide the Probation and Mediation Service for performance according to this law and other legislation with

- a) References from the basic population register,
- b) Data from the administrative information system of the population register,
- c) Data from the administrative information system of foreigners,
- d) Data from the birth certificate number register on natural persons, who were assigned a number, but they are not registered in the information systems given in letters b) and c).

(2) Provided data according to [paragraph 1 letter a\)](#) are

- a) Surname,
- b) Name or names,
- c) Address of permanent residence,
- d) Date, place and district of birth; with data subject, who was born abroad, date, place and state where he was born,

e) Date, place and district of decease; in case of decease of data subject outside the Czech Republic, the date, place and state of decease corresponding to the territory, where the decease occurred; if court decision on death pronouncement is issued, the day, which is given as the day of death in the decision, or the day, which the data subject, pronounced dead, did not survive, and the date of this decision's coming into force,

f) Citizenship, alternatively more citizenships.

(3) Provided data according to [paragraph 1 letter b\)](#) are

a) Name, alternatively names, surname, alternatively their change, maiden surname,

b) Date of birth,

c) Sex,

d) Place and district of birth; in case of a citizen who was born abroad, place and state, where the citizen was born,

e) Birth certificate number,

f) Citizenship,

g) Address of permanent residence, including previous addresses of permanent residence,

h) Beginning of permanent residence, alternatively the date of cancellation of permanent residence data or the date of termination of permanent residence on the territory of the Czech Republic,

i) Revocation or limitation of legal capacity,

j) Birth certificate numbers of father, mother, alternatively of another legal representative; in case, that one of the parents or another legal representative does not have a birth certificate number, his name, alternatively his names, surname, and the date of birth,

k) Marital status, date of its change and place of marriage,

l) Birth certificate number of husband; if the husband is a foreigner, who has not been assigned the birth certificate number, then his name, alternatively names, husband's surname and his date of birth,

m) Birth certificate number of child,

n) Adoption of child,

o) Date, place and district of decease; in case of decease of a citizen outside the territory of the Czech Republic, the date of decease, place and state, on which territory the decease occurred,

p) The day, which is given as the day of death in the court decision on the death pronouncement, or the day, which the citizen pronounced dead, did not survive.

(4) Provide data according to [paragraph 1 letter c\)](#) are

a) Name, alternatively names, surname, their change, maiden surname,

b) Date of birth,

- c) Sex,
- d) Place and state, where the foreigner was born,
- e) Birth certificate number,
- f) Citizenship,
- g) Type and address of residence,
- h) Number and validity of residence permit,
- i) Beginning of residence, alternatively the date of residence termination,
- j) Revocation or limitation of legal capacity,
- k) Administrative or judicial expulsion and the period of time during which the entry on the territory of the Czech Republic is not allowed,
- l) Marital status, date and place of its change, name, alternatively names, surname of husband, birth certificate number or date of birth,
- m) Name, alternatively names, surname of child, birth certificate number, if the child is a foreigner; in case, that the birth certificate number has not been assigned, the date of birth,
- n) Name, alternatively names, surname of father, mother, alternatively of another legal representative, their birth certificate numbers, if they are foreigners; in case, that one of the parents or another legal representative does not have a birth certificate number, his name, alternatively names, surname and date of birth,
- o) Date, place and district of decease; in case of decease outside the territory of the Czech Republic, the state, on which territory the decease occurred, alternatively the date of birth,
- p) The day, which was given as the day of death in the court decision on the death pronouncement, or the day, which the foreigner pronounced dead, did not survive.

(5) Provided data according to [paragraph 1 letter d\)](#) are

- a) Name, alternatively names, surname, alternatively maiden surname,
- b) Birth certificate number,
- c) In case of birth certificate number's change, the original birth certificate number,
- d) Day, month and year of birth,
- e) Place and district of birth; in case of natural person who was born abroad, the state, on which territory he/she was born.

(6) Data which are given as references in the basic population register will be used from the administrative information system of the population register or from the administrative information system of foreigners only, if they are in a form preceding current status.

(7) In each particular case it is always possible to use only such data, which are required for meeting the given task.

CHAPTER II THE OFFICERS AND ASSISTANTS

The Status of Officers and Assistants

Section 6

(1) The tasks of Probation and Mediation Service are carried out within the employment framework of its offices by the employees of the state holding the posts of probation officers or assistants of the Probation and Mediation Service. Employment of the officers and assistants of the Probation and Mediation Service are governed by the Labor Code unless this law stipulates otherwise.

(2) An officer working with the Probation and Mediation Service shall be unimpeachable and have capacity for legal action and shall hold a university degree in the field of social sciences obtained by graduating from a master's degree programme and a professional exam which the office lets him/her sit for after passing an elementary qualification training for the officers of the Probation and Mediation Service.

(3) An unimpeachable natural person aged over 21 who has a capacity to take legal action and who completed a secondary school education in the field of social sciences may become an assistant of the Probation and Mediation Service.

(4) The officers and assistants of the Probation and Mediation Services must further educate themselves and broaden their professional knowledge.

(5) The scope and content of the qualification training and professional exams for the officers and the content of the specialized course for the assistants of the Probation and Mediation Service is stated in the Statutes of the Probation and Mediation Service.

The Rights and Obligations of Officers and Assistants

Section 7

(1) While executing the tasks of his/her post the officer of the Probation and Mediation Services is

obliged to obey the laws, other legal provisions and directives of the chair of the senate or Judge of peace/magistrate and in a preliminary proceeding of the state prosecutor, which however must not direct to the means and results of applied mediation. At the same time they must proceed in a responsible manner, respect and safeguard human rights and freedoms, a person's dignity, and avert activities which could result in barring the purpose of the criminal proceeding or raise suspicion about its objectivity and impartiality. In case of breach of these duties the chairman of the senate or Judge of Peace/magistrate and in a preliminary proceeding the state prosecutor may take the case away from the officer of the Probation and Mediation Service.

(2) The officer of the Probation and Mediation Service is entitled to find out the views of the offender on suspended criminal charges, to pronouncing another kind of punishment not linked with imprisonment, and when it comes down to consent to settlement they can ascertain the views of both the offender and the victim.

(3) If the offender breaks the terms, restrictions or duties set out for him/her in the framework of supervision, or breaks restrictions or duties set out for him/her in the framework of a punishment not linked to imprisonment, suspension of criminal charges and/or suspended release executed by the officer of the Probation and Mediation Service, the officer informs the chair of the senate or Judge of peace/magistrate and in pre-liminary proceeding the state prosecutor. In case of a less serious breach of the set out terms, restrictions or duties the officer of the Probation and Mediation Service may point out to the offender the found failings and inform him/her that if this repeats or a more serious breach of the set out conditions, restrictions or duties is done s/he will inform the chair of the senate or Judge of peace/magistrate and in a preliminary proceeding the state prosecutor.

(4) The officer of the Probation and Mediation Services has a right within the defined scope of its activities to read the criminal files logged at the court, state prosecution and the Police of the Czech Republic, copy and take notes from them and take photocopies of the files and their parts.

(5) The officer of the Probation and Mediation Services may not execute in the same case the tasks of probation and mediation.

(6) Individual tasks according to the instructions of the officer of the Probation and Mediation Service are performed and secured from the organizational point of view by the assistants of the office who also carry out necessary administrative tasks. When the assistants execute individual tasks according to the instructions of the officers, the provision (1) through (5) applies to them as well.

Section 8

(1) The officer and assistant of the Probation and Mediation Service are excluded from execution the tasks of probation or mediation for similar reasons which the law stipulates for excluding bodies active in

criminal procedures.³ As soon as an officer or assistant comes across facts or circumstances on the grounds of which s/he could be excluded, s/he notifies without unnecessary delay the chair of the senate or Judge of peace/magistrate and in a preliminary proceeding the state prosecutor. In the proceeding s/he can only execute tasks which cannot bear any delay until the exclusion is decided upon.

(2) The chair of the senate or Judge of Peace/magistrate and in a preliminary proceeding the state prosecutor decides on exclusion by a resolution, this resolution does not allow for any appeal measure.

(3) Once it was decided that an officer or assistant is removed, the chair of the senate or Judge of Peace/magistrate or in a preliminary proceeding the state prosecutor designates another officer or assistant.

Section 9

(1) An officer or assistant of the Probation and Mediation Service are obliged even after terminating a work relationship to keep in confidence matters which they had learned about in connection to work in their post. The condition to remain silent cannot be used when executing probation toward a police body, court or the state prosecutor. Similarly, they cannot pledge confidentiality toward the Ministry when it comes down to data essential to meeting obligations by promulgated international agreement binding on the Czech Republic.

(2) Nor the officer and assistant of the probation and Mediation Service may be interrogated, with regard to their mediation activities, about factual circumstance which s/he learned about when mediating a resolution of a conflict or with regard to it and which did not arise while signing an agreement between the offender and the victim, with the exception of cases of a legally designed duties to hinder a completion of a criminal offence or to notify of a criminal offence.

The Head of the Office of the Probation and Mediation Service

Section 10

(1) The running of the office is organized and managed by the head who is appointed from officers of the respective office and removed on a proposal of the director of the Probation and Mediation Service by the minister of justice after discussion with the Council for Probation and Mediation.

(2) The head of the office may not issue directives to officers and assistants of the probation and

Mediation Service to carry out tasks of probation and mediation in contradiction to the instructions of the chair of the senate or Judge of peace/magistrate and in a preliminary proceeding the state prosecutor.

CHAPTER III THE STATE ADMINISTRATION OF THE PROBATION AND MEDIATION SERVICE

Section 11

(1) When executing state administration the Ministry creates conditions for the probation and Mediation Services for proper performance of probation and mediation, especially in terms of personnel, organization, management and finances.

(2) The Ministry supervises the activities of the probation and Mediation Services.

The Council for Probation and Mediation

Article 12

(1) With the view to influencing and directing the activities of the Probation and Mediation Services conceptually and methodologically a Council for Probation and Mediation as an advisory body to the Minister of Justice is established.

(2) The members of the Council for Probation and Mediation are appointed by the Minister of Justice from judges, state prosecutors, officers of the Probation and Mediation Services and other persons with professional capacity and experience from the field of probation and mediation.

(3) The Council for Probation and Mediation mainly:

- a) proposes rules based on which probation programmes are built, and rules and standards of probation and mediation activities which are approved with a resolution by the Minister of Justice;
- b) discusses conceptual and methodological materials put forward by the Ministry;
- c) voices an opinion on appointments and removals of heads of the offices of the Probation and Mediation Services;
- d) voices an opinion on temporary allocation of the officers of the Probation and Mediation Service within the Ministry.

³ § 30 art. 1 of Code of Criminal Procedure

CHAPTER IV
COMMON, INTERIM AND FINAL PROVISIONS

Section 13

(1) Probation officers, high-ranking judicial officers, judicial secretaries and officers of state prosecutions who as of the effective date of this Act have been performing probation activities will become on their own request filed within a month ensuing the effective date of this Act the employees of the Probation and Mediation Service in an office located at the seat of a body whose employees they had been.

(2) The probation officers, high-ranking judicial officers, judicial secretaries and officers of state prosecutions who became by provision (1) employees of the Probation and Mediation Service may execute the activities of the officers of the Probation and Mediation Services in the duration of two years ensuing the effective date of the Act, although they do not meet the qualification prerequisites stipulated by this law. Providing they enroll in a university to study a master's degree in the field of social sciences and continue properly during this time, the possibility to perform the activities of the officers of the Probation and Mediation Service is prolonged until the time they complete their study.

(3) The officers of the Probation and Mediation Services who begin to study according to provision (2) become assistants of the Probation and Mediation Service after the period of two years elapses.

Section 14

The minister of justice may also accept as a final professional exam of an officer of the Probation and Mediation Service an exam for probation officers in front of a commission appointed by the minister of justice, which was successfully passed before the effective date of this Act.

Section 15

(1) On proving unimpeachability and capacity to legal action of a state civilian of a member state of the European Union or of another state or of a stateless person an official document suffices, which is issued state for this purpose in the from which the applicant comes or is coming. If the state does not issue such a document, an applicant's affidavit suffices.

(2) To meet the prerequisites of education according to Article 6 provision (2) it suffices for an applicant to the post of an officer of the Probation and Mediation Service, who is a state citizen of a member state of the European Union or another state or a stateless person, to prove:

- a) that s/he is qualified as requested for the position of an officer of the Probation and Mediation Service in a member state of the European Union or another state from which

s/he comes or is coming, and passed a differential exam; or

- b) that s/he worked in a similar post to that of an officer of the probation and Mediation Service for the duration of two years in the course of ten previous years, in a member state of the European Union or another state which does not stipulate qualification prerequisites for this position, and passed a differential exam.

(3) The content and scope of a differential exam is set out in the Statutes of the Probation and Mediation Service.

(4) To meet the qualification prerequisites according to Article 6 provision (3) it suffices for an applicant to the post of an assistant of the Probation and Mediation Service who is a state citizen of a member state of the European Union or another state or a stateless person, to prove:

- a) that s/he is qualified to perform the duties in the position of an assistant of the Probation and Mediation Service in a member state of the European Union or another state from which s/he comes or is coming; or
- b) that s/he worked in a similar position to that of an assistant of the Probation and Mediation Service for the duration of two years in the course of ten previous years, in a member state of the European Union or another state which for this position does not stipulate qualification requirements.

PART TWO

The Amendment to the Law on Establishing Ministries and Other Central Bodies of State Administration of the Czech Republic

Section 16

Section 11 of Act no. 2/1969 of Coll. on Establishing Ministries and Other Central Bodies of State Administration of the Czech Republic, subject to the wording of ensuing provisions, Act no. 358/1992 of Coll., Act no. 548/1992 of Coll., Act no. 285/1993 of Coll., Act no. 135/1996 of Coll., and Act no. 272/1996 of Coll. are amended as follows:

1. Instead of provision (3) a new provision (4) is incorporated which reads: "(4) The Ministry of Justice is the central body of state administration for probation and mediation."

The existing provision (4) is marked as provision (5).

2. The existing provision (5) is deleted.

PART THREE

The Amendment of the Labour Code

Section 17

The Act no. 65/1965 of Coll, the Labour Code, subject to the wording of Act no. 88/1968 of Coll., Act no. 153/1969 of Coll., Act no. 100/1970 of Coll., Act no. 20/1975 of Coll., Act no. 72/A982, Act no.111/1984 of Coll., Act no. 22/1985 of Coll., Act no. 52/1987 of Coll., Act no. 98/1987 of Coll., Act no. 188/1988 of Coll., Act no. 3/1991 of Coll., Act no.297/1991 of Coll., Act no. 231/1992 of Coll., Act no. 264/1992 of Coll., Act no. 590/1992 of Coll., Act no. 37/1993 of Coll., Act no.74/1994 of Coll., Act no. 118/1995 of Coll., Act no. 287/1995 of Coll., Act no. 138/1996 of Coll., Act no. 167/1999 of Coll., Act no. 225/1999 of Coll., Act no.29/2000 of Coll., Act no. 155/2000 of Coll., Act no. 220/2000 of Coll. and Act no. 238/2000 of Coll. are amended as follows:

1. In Section 5 the wording "naval shipment" is replaced by the wording "employees of the Probation and Mediation Service."
2. In Section 73 paragraph (2) the wording "Prison Service" is replaced by the wording "Probation and Mediation Service".

PART FOUR

The Amendment to the Act on Socio-legal Protection of Children

Section 18

In Section 51 paragraph (4) of Act no. 359/1999 of Coll., on Socio-legal Protection of Children the full-stop is replaced by a semicolon and followed by letter c) which reads:

"c) provide on request the Probation and Mediation Service with information in the scope necessary for a criminal proceeding."

PART FIVE

Section 19

This Act comes into effect as of January 1st, 2001.

Klaus (signed)
Havel (signed)
Rychetský (signed for Zeman)