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Retributivity and Public Perception on the Non-Custodial Sanctions

Antonio SANDU[1], Camelia IGNĂTESCU[2]

Abstract: The purpose of this research is to highlight the public perception on the non-custodial punishments, and thei implementation through means of probation services. The research was achieved using sociological inquiry based on survey, conducted on a sample of over 1056 respondents from the N.-E. area of Romania, and 432 from the Republic of Moldova. From the answers received, we can outline a model of humanistic-utilitarian probation, with retributive accents. The hypothesis referring to the existence of a strong retributive trend in the Romanian society only partially checks. The respondents have shown that the non-custodial punishments can be understood as being more efficient for the social reintegration of the offenders, than the carceral ones. The hypothesis according to which the activity of the probation services is less known in the two societies, which may lead to a lower degree of acceptance of the non-custodial punishments, is only partially sustained.

Keywords: probation; Probation Services; non-custodial sanctions; retributive justice.

Introduction

The purpose of this research is to highlight the public perception on the non-custodial punishments, and their implementation through means of probation services. This article is part of a wider research, whose purpose is to identify the particularities of the social construction of the profession of probation counsellor, in the N.-E. area of Romania, and the Republic of Moldova.

Literature review

Punishment is considered to be a reaction of the society to the deviant behaviours of its members, including formal and informal sanctions (Sandu & Unguru, 2014). *Penalty* is society's response reaction to the undesirable

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behaviour patterns, in addition to the retributive nature, including a series of educational and restorative characters (Szabo, 2010). From the perspective of establishing *probation* as practice of *control in the community*, of the phenomenon of deviance and delinquency, the penalty is self-autonomous compared to the punishment (Sandu, 2016; Gavrilovici, Necula, & Damian, 2016; Ioan, Coteti, Iov, et al., 2015).

In the post-totalitarian societies, there is a deep mistrust in the institutions, doubled by a relatively intolerant attitude towards the different forms of social deviance, including the minor forms of delinquency (Sandu, 2016). A survey conducted in the United States shows a high level of acceptance for the noncustodial punishments in the developed countries, and a low level of acceptance of in the less developed countries (Spoială, 2009, p.189). Another survey, conducted in 2009 in Chisinau, shows that the Moldavian citizens are generally willing to participate in the social reintegration of people under probation, but of all the respondents, only 27% are willing to get directly involved in helping them (Spoială, 2009, p.190). 26,23% of the respondents of another survey conducted in the Republic of Moldova declare their indisposition to help a former convict, while 14,75% would agree to it wholeheartedly, and another 56,56% would reflect upon it (Ardeleanu, et al., 2009, p. 36).

In terms of visibility of the Probation Services in the Republic of Moldova, in 2011 only 21% knew their activity well and very well, while 52% knew little to none (Dolea, et al., 2011). As we will see from the data resulted from our own research, the situation has changed very little, the percentage of people who have knowledge about the activity of the Probation Services remains almost the same, being also similar to the situation in Romania. The surveys conducted in Romania in 2009, before the significant changes in the Criminal Code and in the Code of Criminal Procedure, only 14% of the jurists surveyed could explain the term *probation* (Grecu, 2009; Sandu, 2016).

The functions of punishment considered in preparing this research are *retribution, deterrence, incapacitation and rehabilitation* (Szabo, 2010, pp. 455-482).

The probation services are asked to supervise the execution of non-custodial punishments, at the intersection between the institutions with welfare primate, the legal ones and the ones focused on a carceral paradigm.

Imprisonment is considered the sanction with the highest level of punishment, being the society's most severe answer to crimes and criminals (Dilion, 2005, pp. 47-52). The need for grading the punishment, and a less severe answer of the society, according to the level of social danger

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estimated and implemented by courts, led to the emergence of different types of *noncustodial punishments* (Balahur, 2001; Sandu, 2016).

The prison-centred paradigm is a retributive one, the sanction remaining the society's favourite answer to crime. The non-custodial punishments remain in the retributive logic, them being actually a decriminalization of the punishment (Sandu & Unguru, p. 194). The dominant trends in supporting the social alternatives to imprisonment shows that the society understands the disadvantages of prison in the social recovery of the criminals.

Martin Killias and Patrice Villetaz (2008) perform a secondary data analysis out of 300 available studies in the scientific literature, showing that the subjects of non-custodial punishments are less prone to recurrence. However, from the meta-analysis conducted by the aforementioned authors, we may conclude that the risk of relapse is almost the same in case of serious offenses, punished with imprisonment or alternative solutions, being however much lower in case of minor offenses – whose social danger is small. The authors consider these results as being on the account of the perpetrators' low intention to perform a major antisocial act, in which situation, the non-custodial punishments who keep the offender out of jail, also keep him from criminogenic socializing in the prison. The authors of the study doubt the fact that the alternative solution is what leads to diminishing the solution for relapse (Killias & Villetaz, 2008, pp. 29-34). A real alternative to the prison-centred paradigm would be derived from the restorative justice, which would eliminate the idea of sanction and not only punishment, transforming it, at least at a discursive level – into educational measures of social reintegration (Sandu, 2016).

The normative framework in Romania and the Republic of Moldova

Introducing probation in the two countries was the result of aligning the legislation to the European one – Romania, as EU member, and the Republic of Moldova – of state which is candidate to adhering to EU-, and less the awareness of a public need of limiting the material and social costs of a retributive criminal philosophy, based on a custodial model. The beginning of probation in Romania were based on implementing the restorative models of probation, which resulted in a constitutive paradigm of probation (Sandu, 2016).

In the Romanian context (according to NPPC), the term *punishment* refers to the custodial sanctions: life imprisonment and detention. The same forms of punishment are part of the idea of punishment also in the legislation of the Republic of Moldova (Mariţ, et al., 2013, p. 101).

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The fine is also included among the punishments that can be administered by courts to those who committed criminal offenses. The non-custodial punishments applied to minors are not considered punishments (according to the Romanian legislation), and the Probation Service is particularly involved in their execution (Sandu, 2015). Minors cannot be punished, but they can receive penalties – with role of educational measures –, custodial, or non-custodial.

The non-custodial educational measures are penalties too – since they are the consequences of criminal liability – but cannot be classified as punishments (Sandu, Unguru, 2014, p. 188; Sandu, 2015). The legislation of the Republic of Moldova (Criminal Code of the Republic of Moldova, 2002; Code of Criminal Procedure of the Republic of Moldova, 2003; Code of execution of the Republic of Moldova, 2004; Law no. 8-XVI, 2008; Regulation on organizing and functioning of probation organs, 2010) makes no express reference to the difference between sanction and punishment, and it is not clear regarding the prohibition of *punishment of minors*. The fact that the Romanian legislation, together with the New Criminal Code, excludes the educational measures in the area of punishment, represents a transposition of the European legislation in the field, which recommends avoiding imprisonment, and in general, punishment of the minors. The other forms of exercising the attributions of the Probation Services regarding adult persons, based on suspending the custodial punishment, postponing it, etc., are based on punishment with imprisonment whose serving is, however, postponed or suspended.

In the Moldavian legislation, the terms *sanction* and *punishment* are interchangeable, probation being an independent sanction as a measure of state coercion, and therefore an alternative to imprisonment which targets the alternative ways of serving the punishment

The tasks entrusted by the legislator to the probation services according to the Romanian and the Moldavian legislation (Van Kalmthout & Durnescu, 2008, p. 21), are: (Spoială, 2009, p. 190). We recall that the Romanian legislation has an ambiguous nature regarding placing probation in the restorative paradigm, using a terminology which seems to originate from it, and according to which sanction is different from punishment, but excludes measures such as postponing the sentence for a probatory period, and most important, excludes the function of mediation between offender-victim-community, essential in the paradigm of restorative justice (Sandu, 2015).

The Moldavian legislation grants the probation services with tasks on the mediation between offender and victim (Van Kalmthout & Durnescu,

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2008; Sandu, 2015). In the practice of courts and Romanian probation services, the distinction between sanction and punishment is not yet rooted. In a prospective interview with the Director of a Romanian Probation Service, we could observe the confusion between the two terms, reffering to the probation practice for minors in terms of *punishment.*

In the Romanian practice, the New Criminal Code establishes the measures of supervision of the offender in case of release on parole (Art. 99), when the court is convinced that the convicted person is rehabilitated, and can reintegrate in the society. The Romanian system of probation established by the NCC limits the possibility of Probation Services to use the model of restorative justice, since article 101, align. 2., letter e) prohibits the supervised convict to communicate with the victim or members of its family (Sandu, Unguru, 2014, p. 206). Although NCC doesn't explicitly mention the criminal mediation in the relationship between the offender and the victim, the reconciliation between the victim and the offender removes the criminal liability and extinguishes the civil action in case the initiation of the criminal act was done by default, if the law expressly requires it (Art. 159 NCC). This provision leads the way of the mediation procedure in criminal causes, procedure which is specific for the *restorative justice.* The criminal mediation, however, is not part of the prerogative of the Probation Services, but – in case of both countries – of the private practitioners in the field of mediation. The criminal mediation represents a relatively recent institution, both in Romania and in the Republic of Moldova (Popa, 2005). The Probation Services in the Republic of Moldova are invested with attributions in the field of mediation of the victim-offender relationship, although this happen very rarely in practice, while in Romania, these attributions lack completely, the encounter between the victim and the offender being generally limited through the provisions of the NPC (Lupaşcu, 2014a) and NCCP (Lupaşcu, 2014b) which eliminates this role from the area of Probation Services. In Romania, according to Art. 67 in the Law of Mediation no. 192/2006, it is stated that "In the criminal process, provisions on mediation apply only in cases of offenses for which, according to the law, withdrawal of the preliminary complaint or the reconciliation of parts removes criminal liability", crimes which usually have a reduced level of social danger, and to the extent to which mediation is successful, the intervention of those Services no longer is in question, the two legal institutions operating in two different stages.

We notice the fact that NCCP also introduced the possibility of reaching an agreement of *acknowledging the guilt*, as an element of transactional justice, which would follow the American model, between the

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representatives of the prosecution and the offender. However, this agreement doesn't involve the victim, and unlike in the United States, where the prosecutor is considered the judge of the community, in the Romanian legislation, the prosecutor is a representative of the state, with status of magistrate.

Tabel 1 Activities and professional tasks of the probation counsellors in Romania and the Republic of Moldova

	Romania	Moldova
Supervision/organizing, etc. of the community service/ corrective labor[3]	x	x
Developing social surveys/ pre-sentencing reports		x
Supervision (of carrying out) sanctions/ probation conditions	x	x
Supervision (of persons carrying out) a sentence with suspension/ on parole	x	x
Supervision of following treatment regarding drugs/ alcohol and other therapeutic programs the person was forced to attend	x	x
Supervision of organizing educational and professional training programs, as well as carrying out educational measures	x	x
Supervision of persons released on parole/ suspension of serving the sentence	x	
Offering criminal mediation services/ victim support	x	x
Primary and secondary prevention		x
Assisting and support for convicts in prison; preparation for release; management of serving the sentence	x	x
Supervision of carrying out the special measures of treating addiction		
Conducting counselling reports in order to access amnesty/ release on probation	x	
Counselling and guidance for offenders under home arrest or supervision (suspending the measures of placing into custody)		
Supervision of persons who committed criminal acts that are not responsible for, due to suffering from mental illness/ supervision of non-voluntary hospitalization		

[3] By corrective labour, we understand both unpaid community service, as well as activities performed by convicts, as well as the practice of carrying out the punishment at the workplace, which is no longer in force.

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Supervision of offenders, whose sentencing was delayed on parole		
Supervision of electronic monitoring		
Supervision of carrying out open imprisonment (semi-free)		
Supervision of carrying out semi-open imprisonment (semi-detention)	x	
Support for persons granted amnesty	x	
Post-release care		
Day-centers for persons released under parole		
Compulsory registration of residence	x	
Monitoring the compliance with the prohibitions imposed by the court (for example of occupying a certain position)	x	
Supervision of carrying out restraining orders in case of suspending the punishment, in situations such as sexual abuse and of risk of abuse		x
Offering supervision services and support for persons placed into custody		
Offering support for the families of persons in prison		
Authority of supervising the persons released on parole		
Supervision of carrying out non-coercive measures imposed by the court	x	
Coordinating voluntary services in prisons		
Support (conducting interviews/ interrogations) in minors' hearing		
Preparing the offenders for the period of suspending the punishment and supervision of suspending the punishment		

Research hypotheses

1. Both in Romania and in the Republic of Moldova, there is a strong retributive current with a low level of social tolerance towards persons who commit criminal acts. Formulating this hypothesis arises from the assumption according to which *The general living conditions influence the level of social tolerance.*

2. The non-custodial alternatives are socially accepted punishments, especially for punishing offenders whose crimes are not a very high social danger.

3. Both in Romania and in the Republic of Moldova, the activity of probation services is less known, fact which may lead to a lower acceptance of non-custodial punishments.

Methodology

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The research targeting *The retributivity and public perception on non-custodial punishments in N.-E. part of Romania and in the Republic of Moldova* was based on a quantitative methodological design, whose basis was the survey based on questionnaire. The questionnaire had a total of 20 items that the respondents from Romania and the Republic of Moldova had to answer.

The questionnaire focused on two thematic axes, namely *highlighting the degree of retributiveness* versus *openness towards the non-custodial punishments of the population under investigation*, the level of knowledge of the existence and functioning of probation services. Applying the questionnaire-based inquiry was conducted using operators who received instructions on the type of persons that will be surveyed – see sampling of the research- and the way of conducting the survey, direct applying, face to face, with previous reading of consent regarding the respondents' possibility of withdrawing from the research at any given time, of not answering uncomfortable questions whose answers are unclear, as well as the fact that all data obtained are strictly confidential, their processing being done by strictly statistical methods. This instructions also have the role of informed consent for the participants to this research.

The sample was one of opportunity, non-random and non-probalistic. The sampling was done by the snowball method, the interviewers being requested to each chose 10 respondents, members of their own social environment.

The participants to the survey research came from the N.-E. region of Romania, a total of 1056 respondents (484 male and 572 female), and 432 from the Republic of Moldova (202 male and 230 female).

The age structure of the respondents from Romania is of 49% under the age of 35, 31% aged between 35 and 45, 20% aged over 45. The respondents from the Republic of Moldova are 63% aged under 35, 18% aged between 35 and 45 and 19% aged over 45.

The level of education for the Romanian respondents is: 4% with no education, 44% undergraduate, 47% graduates and 5% postgraduates. In the Republic of Moldova, the respondents were: 5% with no education, 32% undergraduates, 53% graduates and 10% postgraduates.

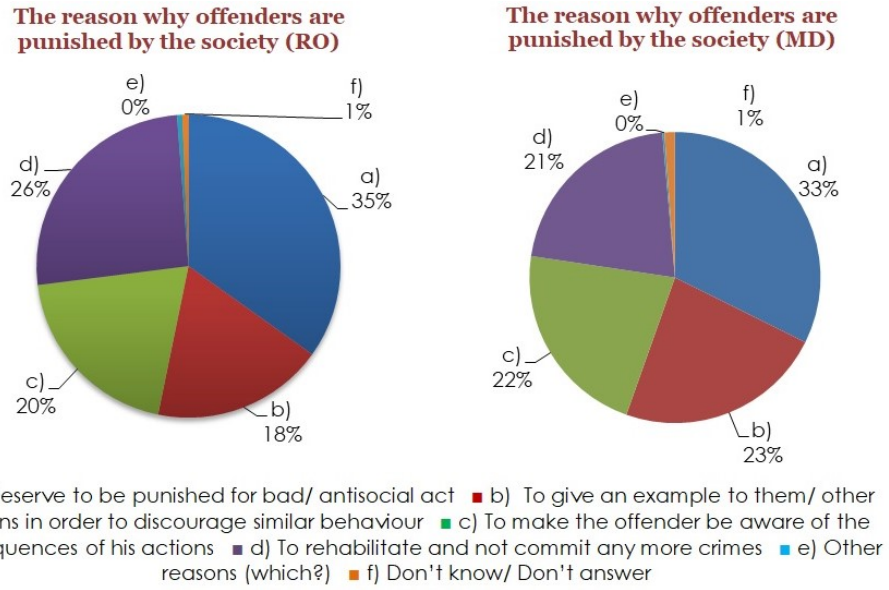
The income level of Romanian respondents is: 32% under 1000 lei (Romanian), 34% between 1000 and 2000 lei, 11% between 2000 and 3000 lei, 5% over 3000 lei, 18% non-answers. In the Republic of Moldova, the income level is: 23% under 1000 lei (Moldavians), 38% between 1000 and 2000 lei, 24% between 2000 and 3000 lei, 17% over 3000 lei, 8% non-answers. The parity between the Romanian and the Moldavian currency during the application of surveys was of 1/4,6. The high level of non-

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responses indicates, in our opinion, a high level of frustration towards the standard of living, expressed by the level of income, frustration which may potentiate the attitude towards persons who committed criminal offenses, acts (especially those of corruption) that are perceived as leading to a dramatic decrease of the standards of living in both countries.

Results

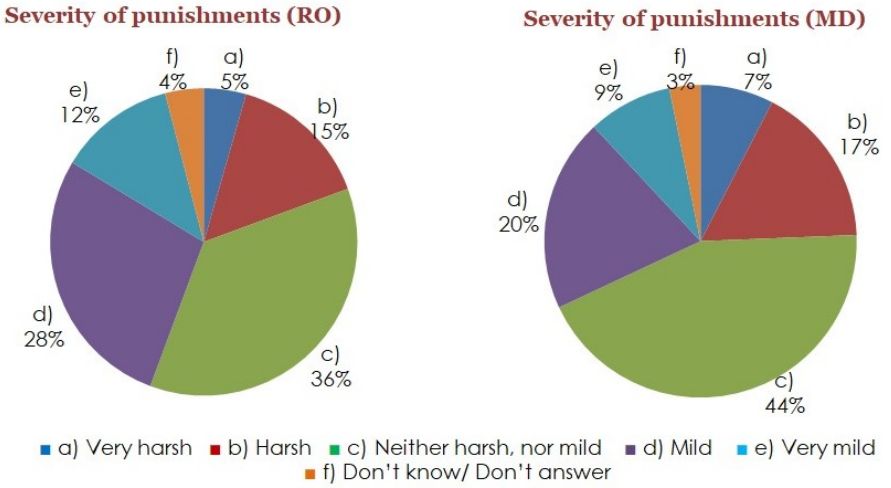
As for the reason why offenders are punished, 35% of the Romanian respodents are in favour of a retributive option (they deserve to be punished for committing a wrong, antisocial act), while 32% of the Moldavian respondents chose the same option. The results partially confirm our hypothesis, according to which there is a strong retributive current in both countries.



The correlation between the retributive option and the level of income is a positive one, 65% of the Romanian respondents who chose the retributive option having an income level of bellow 2000 lei/month. A similar score of 67% was obtained from the Moldavian respondents. We couldn't highlight a significant correlation between the level of studies of the respondents and the retributive option.

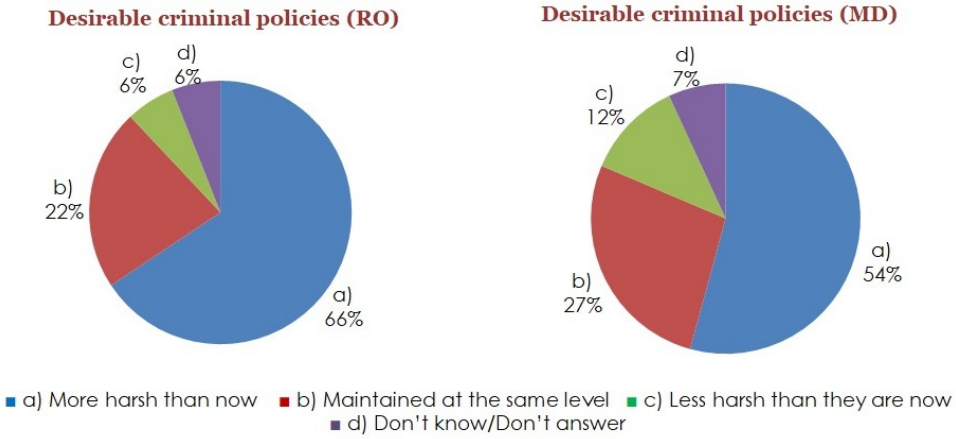
Regarding the other respondents' options, they turn to deterring the relapse (26% RO, 21% MD), of affirming the educational role of the punishment (20% RO, 22% MD), and of being an example for other members of the society (18% RO, 23% MD).

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Concerning the severity of the punishments in Romania, the respondents considered in proportion of 40% that these are mild or very mild; 36% considered they are neither harsh, nor mild, and only 20% considered that the punishments are harsh or very harsh.

In case of Moldavian respondents, they went further on the moderate option according to which the punishments were neither harsh, nor mild (44%), 29% consider the punishments are mild or very mild, while only 24% consider them harsh or very harsh.



Regarding out hypothesis according to which the two societies have a high level of intransigence towards committing criminal acts, the great number of answers in Romania which consider the punishments as being

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mild and very mild partially confirms it, while in the Republic of Moldova, the majority of the respondents chose the moderate option.

In none of the countries there was recorded a preponderance of opinions according to which the punishments are harsh or too harsh, which still indicates a retributive tendency.

Regarding the desirable criminal policies, 66% of Romanian respondents consider is necessary to make the punishments harsher, 22% consider they should be kept at the current level, and only 6% consider they should be reduced in harshness.

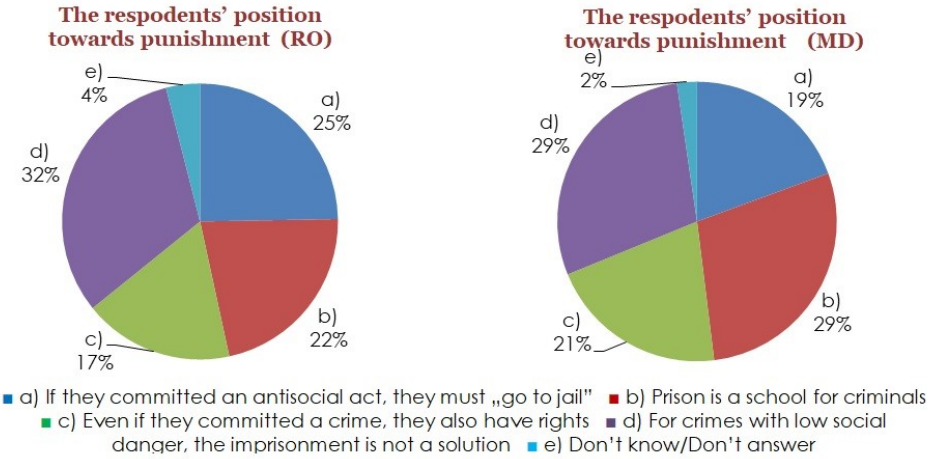
In the Republic of Moldova, the desirable criminal policy also aims to increase the severity of punishments, in favour of which 54% were pronounced, while 27% consider that the severity of punishments should be kept as it is, and only 12% consider their severity should be reduced.

We notice in both target groups a level of discontent on the proportion between the offense committed, and the criminal punishment imposed. It is considered that an afflicted punishment is a fair reaction of the legislator at the social consciousness' level of expectance, in relation to the inflicted punishment unaccepted by the respondents. The state's force of constriction also involves its capacity to create a balance between the criminal offenses and their punishment, both from the perspective of guaranteeing social security, and also from the prevention of crimes.

The retributive orientation is again highlighted through the great number of answers which consider it necessary to increase the level of punishment for offenders. The answers are consistent with those from the previous question. If the current level of punishment is considered low and moderate, the respondents' retributive attitude transpires as an option for making the penalties harsher. The small number of respondents who consider that the penalties should be diminished seems to confirm our hypothesis according to which the level of tolerance towards the persons who committed crimes – even though have a low level of social danger – is very small.

Regarding the respondents' position to punishments, the ones in Romania are placed on a retributive objective position (25% consider that if they committed an antisocial act, they should go to prison); on a social, non-prison position, open to social alternatives (22% consider prison is a school for criminals), and a humanistic side (17% - even if they committed a crime, the criminals also have a series of rights). When asked to give their opinion on the crimes whose level of danger is limited, 32% of the respondents stated that imprisonment is not a solution for such acts.

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The Moldavian respondents' position is similar, 29% considering that prison is not an option for punishing criminals whose crimes have a low level of social danger, and 29% being convinced that prison is like a school for criminals. Only 19% of the respondents are sure that the imprisonment is of universal application.

Basically, 52% of Romanian respondents and 58% of those from the Republic of Moldova one way or another declare themselves in favour of alternatives to prison. Corollar with the option for more harsh punishments, we believe that what is actually desired is a separation of punishments based on the social danger, the increase of punishments where the social danger is great and the progressive transition towards non-custodial punishments where the social danger is minor, and the (social) costs of imprisonment are high. The general attitude remains, in our opinion, a retributive one, the alternative punishments being still seen in a retributive manner. Proof that this opinion can be supported by the answers received is the rate of 25% and 19% of respondents who chose the imprisonment option, even when confronted with options that send to social alternatives and options that evoke the social costs of imprisonment. Regarding a justice centred on human rights, 17% of the respondents in Romania and 21% of those in the Republic of Moldova consider it a priority.

When reffering to the non-custodial alternatives in general, the respondents in Romania are in favour of using them in a percentage of 35%, in punishing criminals whose criminal acts are not a major social danger, and 22% are in favour of using those in punishing any kind of crimes, while 36% oppose to their use, considering them to be generating new crimes precisely due to their low level of harshness.

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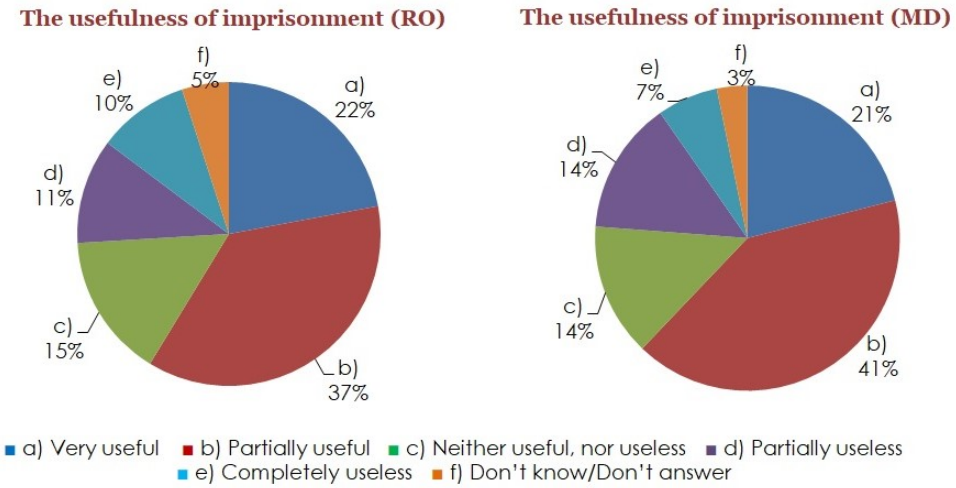
The respondents in the Republic of Moldova, in a number of 36%, are in favour of using alternative punishments only in case of low social danger crimes, only 28% agreeing to the use of such sanctions for any type of crime. 29% of the respondents in the Republic of Moldova consider this type of sanctions as leading to a high risk of relapse and encouraging criminality in general.

The social perception on alternative punishments that avoid incarceration is affected also by the lack of information on this subject, as well as of a long period of time when there was no such option, an aspect which generated this attitude, accustomed over time. Besides, as shown in the following charts, when asked about types of alternative punishments, the respondents appreciate their necessity and effectiveness.



Specifically questioned regarding the use of imprisonment punishment in the social reintegration of the criminal who committed low-level of social danger crimes, the respondents in Romania largely agree (59%) that this is partially useful or very useful, and only 21% expressed against the use of this form of punishment for criminals whose acts have a low level of social danger. 15% of the respondents consider that punishment in prison can't be consider neither useful, nor useless.

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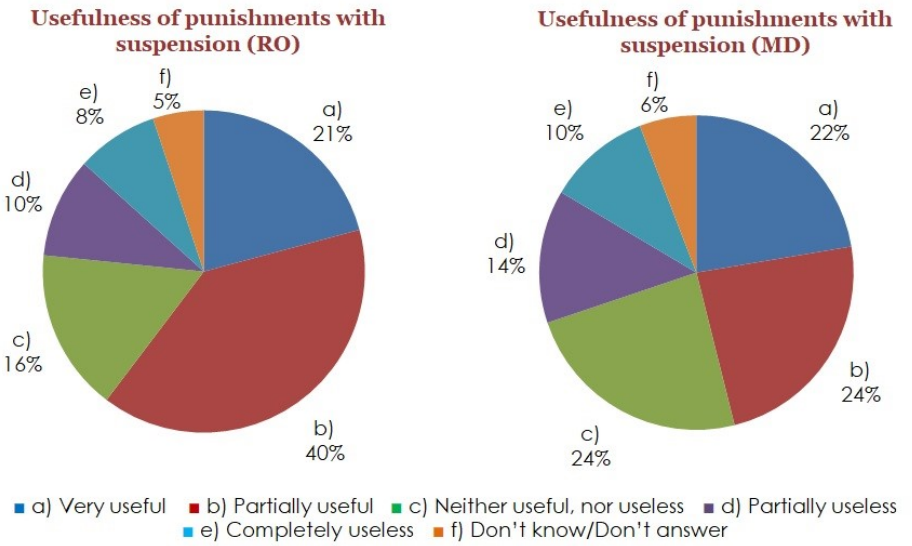
In the case of the respondents in the Republic of Moldova, imprisonment for criminals whose act have a low level of antisocial danger, is seen partially as being useful and very useful, by 62% of them, and namely partially and completely useless by 21% of the respondents, 14% considering it neither useful, nor useless.

Basically, the respondents in both countries see the usefulness of imprisonment in a proportion that exceeds half the number of respondents, without making a significant difference between the opinions expressed by the respondents in the Republic of Moldova from those from Romania. The retributive tendency is obvious, the prison-centered perspective being preferred by the majority of the respondents.

The next item targets the appreciation of the usefulness of the punishment with suspension and the measure of suspension under the supervision of a trained person (probation counsellor).

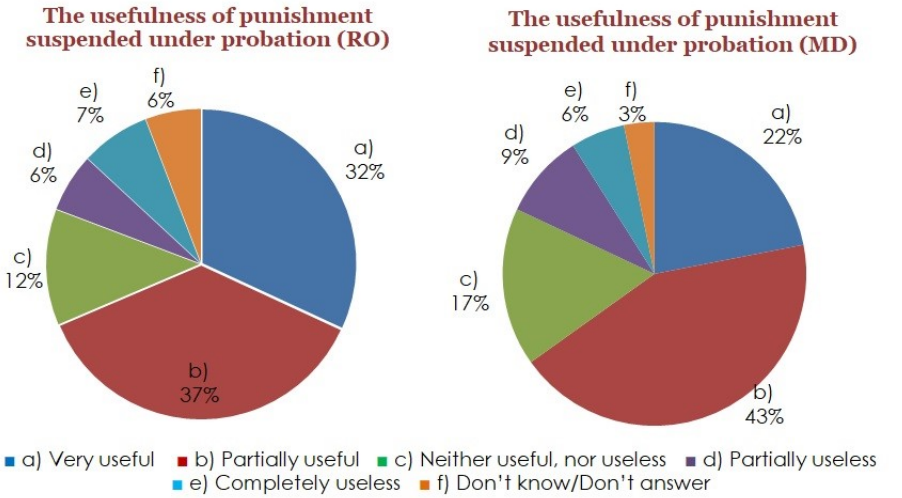
Regarding the suspended sentence – in the form that applies under the old Criminal Code in Romania, 61% of the respondents considered it partially and very useful, while only 18% considered it partially or completely useless, and 16% found it neither useful, nor useless.

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In turn, the respondents from the Republic of Moldova considered that: it is partially or very useful – 46%, and partially or completely useless – 24%, while 24% consider it neither useful, nor useless.

Regarding the suspension of punishments under the supervision of a specialist – probation counselor, this is being seen as partially or very useful in 69%, while only 13% consider it partially or completely useless.



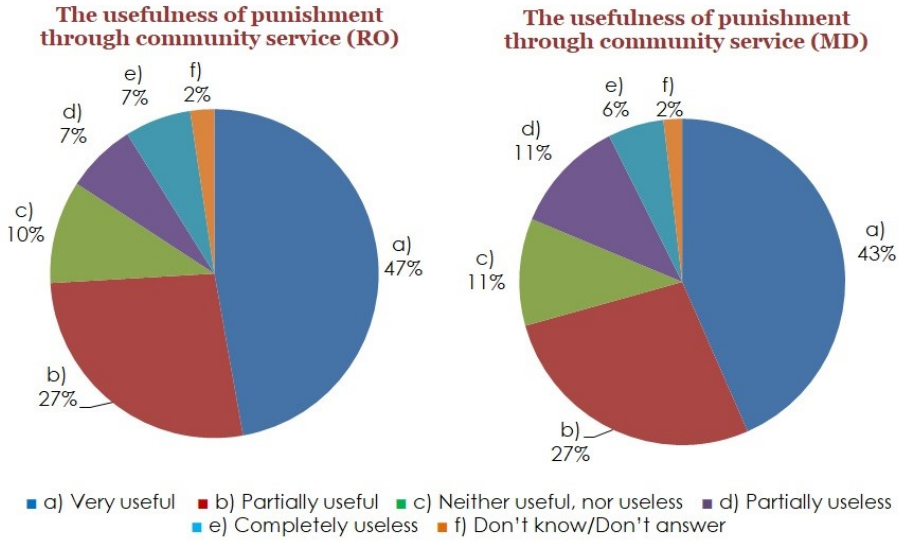
In the Republic of Moldova, the respondents considered that the suspension of serving the sentence under the supervision of a specialized person – probation counselor – is partially or very useful in proportion of

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67%, while the partial of total uselessness of this form of punishment of the criminals is mentioned only by 15% of the respondents. 17% of the respondents don't consider this measure neither useful, nore useless for the social reintegration of criminals who committed antisocial acts with minor social danger level.

The answers to the two questions concerning the suspension of serving the sentence and the suspension of serving sentence under supervision, along with the following questions referring to unpaid community service and serving the punishment at the workplace – a form of punishment no longer existent in the current version of the criminal code in both countries, but which existed in the communist period of time – wanted to test the public's attitude towards the non-custodial punishments.

Another category of non-custodial punishments targets the community service. In favour of its usefulness in punishment and social reintegration of criminals who committed criminal acts with a low level of social danger, 74% of the respondents in Romania are voting for, and only 14% are against its usefulness, 10% considering it neither useful nor useless.

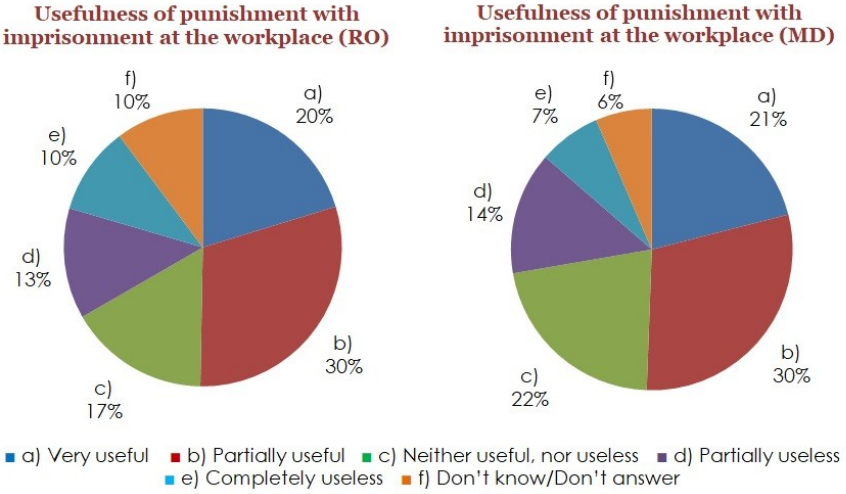


In turn, 70% of the respondents from the Republic of Moldova have ruled in favour of community service as a form of non-custodial punishment, 22% considering it useless and only 6% considering neither useful, nor useless.

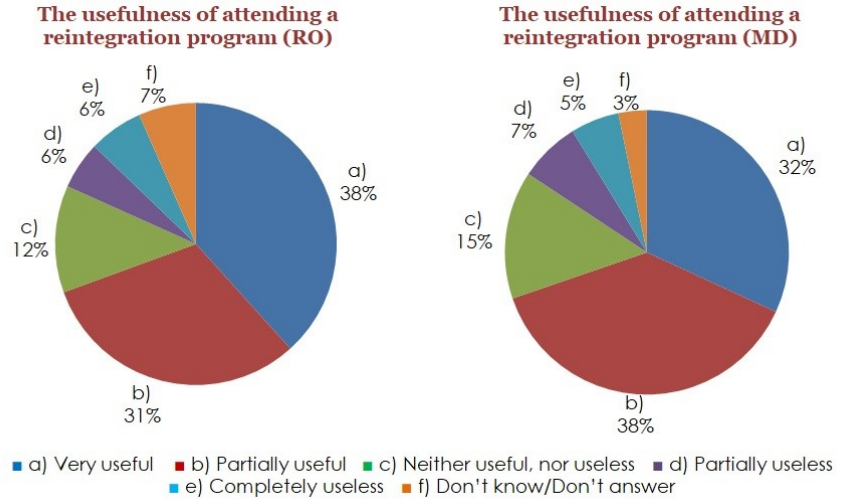
Regarding the penalty of imprisonment at the workplace, which only existed in the Criminal Code in the communist regime, this is appreciated as

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positive by 50% of the Romanian respondents and by 67% of those from the Republic of Moldova. The smaller percentage of respondents in favour of this type of punishment shows that the respondents in both countries have greater confidence in the modern forms of punishment, rather than the communist ones.



The obligation of the offender to follow a number of reintegration programs is seen as favourable by 69% of the Romanian respondents, and by 69% of those from the Republic of Moldova, while only 12% of the respondent from both Romania and the Republic of Moldova are against using this type of sanction, and also 12% from each country find it neither useful, nor useless.



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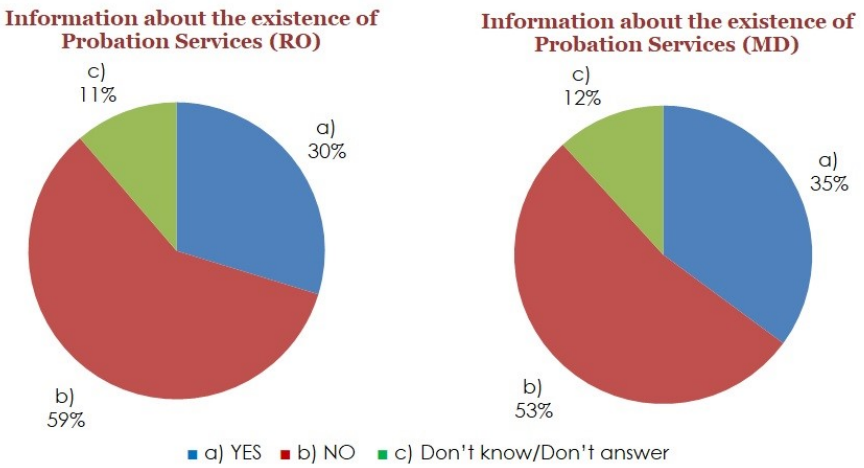
The respondents' attitude is supportive towards the suspension of serving the sentence, especially when this is supervised by trained staff – probation counsellors. We preferred to formulate the question including both the term *trained staff*, and *probation counsellor*, starting from the idea that at least some of the respondents are not familiar with the term of *probation counsellor*, this being a relatively new profession in both countries. The level of acceptability of non-custodial measures such as suspending the serving of punishment is greater than the one the respondents show towards the custodial measures, especially when the non-custodial ones are accompanied by a qualified supervision, which makes the non-custodial punishments be acknowledged by the wide audience as sanctions.

The fact that the public appreciates more the importance of non-custodial punishments rather than the imprisonment sanction, allows us to state that the implementation of certain policies of promoting the social importance of probation services and their efficiency in the social recovery of the offenders, especially in the case of acts with a low level of social danger, would lead to an increase in the social tolerance towards this category of criminals.

The two sets of questions were refered to the perceived importance of the custodial punishment and of the non-custodial alternative, and didn't aim to measure the retributive attitude (partially evaluated in the previous sets of questions). We can consider that despite a predominantly retributive attitude which requires a certain level of severity of punishments, when discussing the perspective of social reintegration of the offender, although the custodial methods remain important, the non-custodial ones are seen as being more efficient.

The next set of questions targets the level of awareness of the existence and of the specific activities of the probation services/ the probation offices. 59% of the respondents in Romania and 53% of those in the Republic of Moldova state that they have no knowledge of the existence of probation services. To these results we must add the 11% (RO) and 12% (MD) who were non-answers, and that can partially be considered as due to the lack of information concerning the existence and functioning of these services.

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In the next question of this series, the respondents were proposed a series of activities specific for the probation services, and asked to choose that/those activities they considered important for the social recovery of the offenders. The question was later repeated, as a control question, with the items slightly modified, to check if there are significant variations, which might arise questions about the validity and credibility of the results.

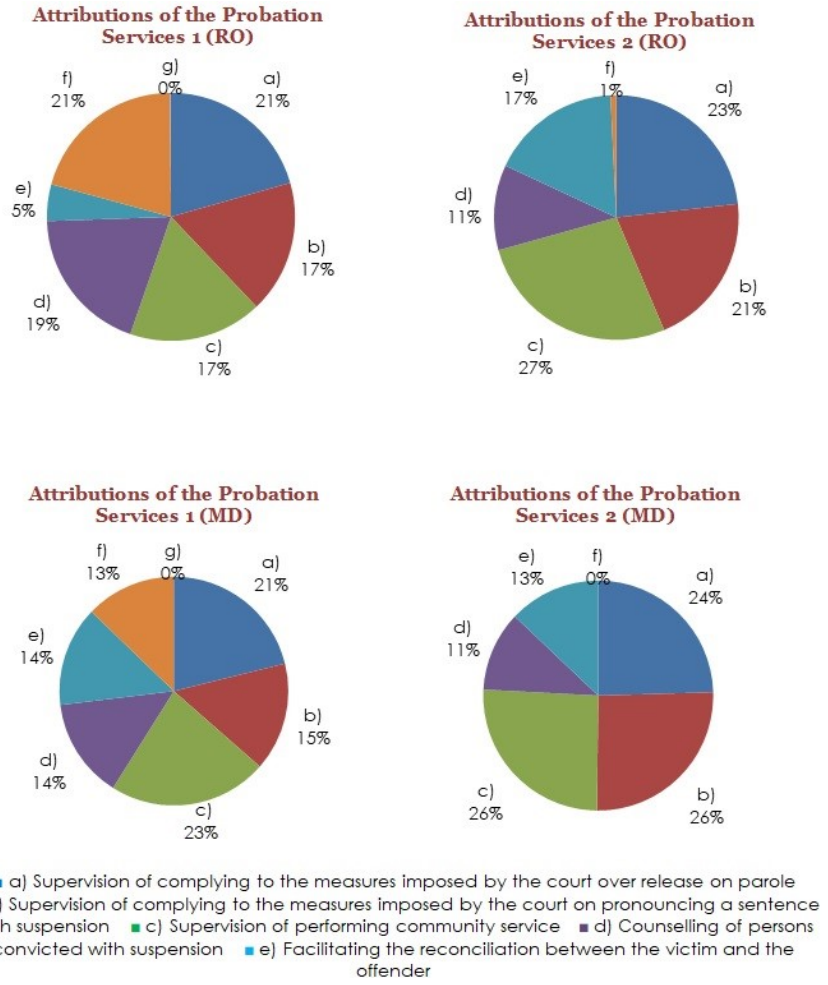
In the first version of the question, the respondents -38% (RO) and 21% (MD)- considered that the supervision of measures imposed by the court is the activity of the probation services, 17% (RO) and 23% (MD) consider is the supervision of doing community service, 19% (RO) and 14% (MD) consider it is counselling the persons released under parole.

In the second version of the question (the control question), the respondents appreciated that the role of the probation counsellor is: 20% (RO) and 20% (MD) – to supervise the implementation of measures imposed by the judge in case of non-custodial punishments, 23% (RO) and 21% (MD) considered it is about activities of counselling for persons under supervision, 11% (RO) and 15% (MD) – the supervision of doing community service in favour of persons under supervision (option which didn't exist in the first version of the question).

The differences of options in the answers to the first and the second question are generally small, the only difference that we consider significant is that reffering to the option of *supervision of executing the non-custodial measures*, where the differences are no greater than 10% between the first and the second question. In our opinion, these differences are explainable through the differences in formulating the question, in the first version being given two options (the supervision of complying to the measures imposed by the judge

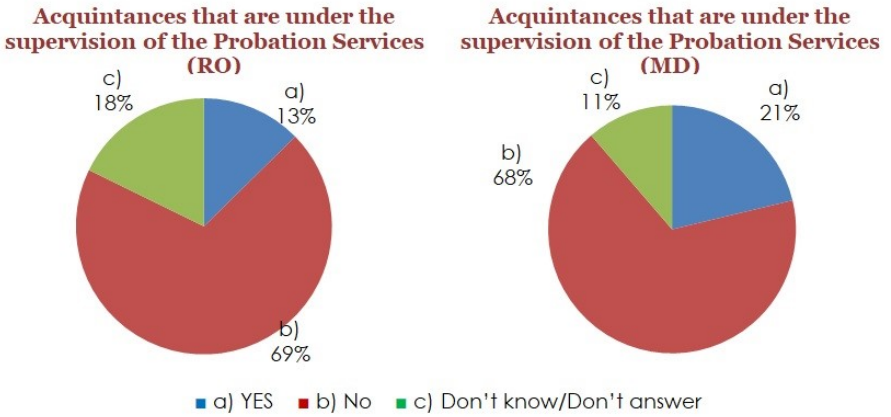
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over parole, and the supervision of complying to the measures imposed by the judge in pronouncing a sentence with suspension), while in the control question, the two options were reunited under the *supervision of complying to the measures imposed by the judge*. Both questions could be with multiple options, the respondent being free to choose one or more options. The respondents who answered to the first question by chosing the supervision of complying to the measures imposed by the judge, simultaneously chose both forms of this question at the rate of 11% (RO), and 15% (MD), which makes the answers be compatible for both questions. In our opinion, the answers convergent to the two questions (in the original formulation, as well as in the control question), both for Romania and the Republic of Moldova, allows us to confirm the validity and credibility of the data obtained.



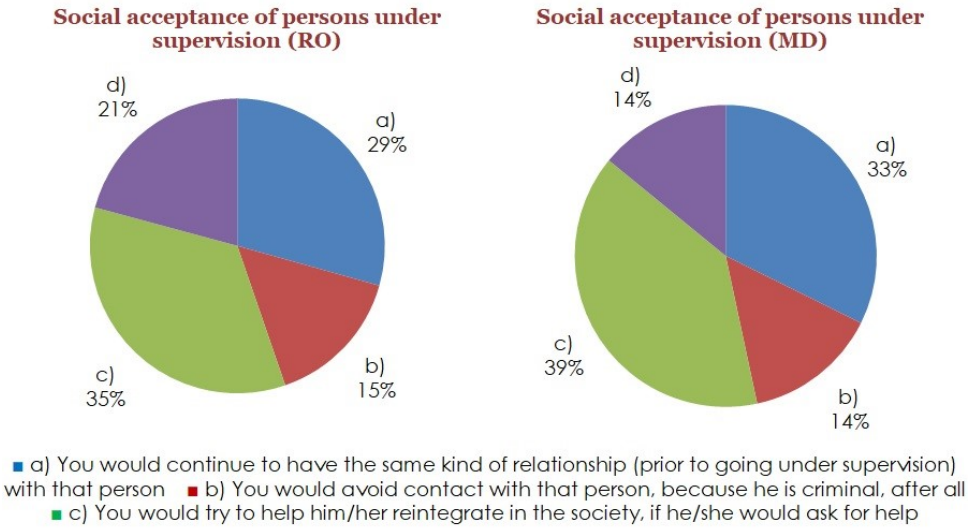
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Also to highlight the level of knowledge over the activities of the probation services, we addressed a question that requested the respondents to state if among their acquaintances, there are people in the records of probation services. 69% of the respondents in Romania and 68% from the Republic of Moldova have no such persons as acquaintances. The answers are convergent with those to the previous questions, including the one in which approximately 59% of the respondents in both countries declared that they don't know of the existence and activity of probation services.



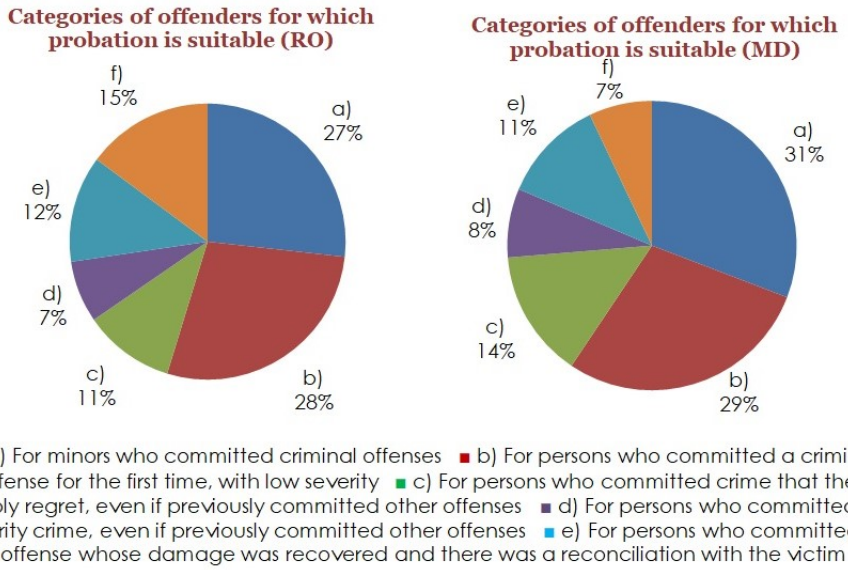
Regarding the social acceptance of the persons who committed criminal acts and are serving a non-custodial punishment, this is high in both countries, 29% of the respondents in Romania and 33% of the respondents in the Republic of Moldova showed that they would maintain the same kind of relationship towards them. Only 15% of the respondents in Romania and 14% from the Republic of Moldova tried to avoid contact with these persons, while 35% and 39% tried to support them in the process of social reintegration. The attitude of social acceptance of the persons serving a non-custodial punishment partially contradicts the hypothesis according to which the Romanian and the Moldavian societies, who are facing a long transition stage, have a low tolerance towards the persons committing criminal acts, but comes to confirm the second hypothesis, referring to the social acceptability of non-custodial punishments. The high rate of non-answers – 21% and 14% is interpreted as lack of knowledge over the functioning and attributions of probation services, which translates through the uncertainty projected over the beneficiaries of the services, uncertainty that cannot be overcome by social trust, nor in creating a social distance.

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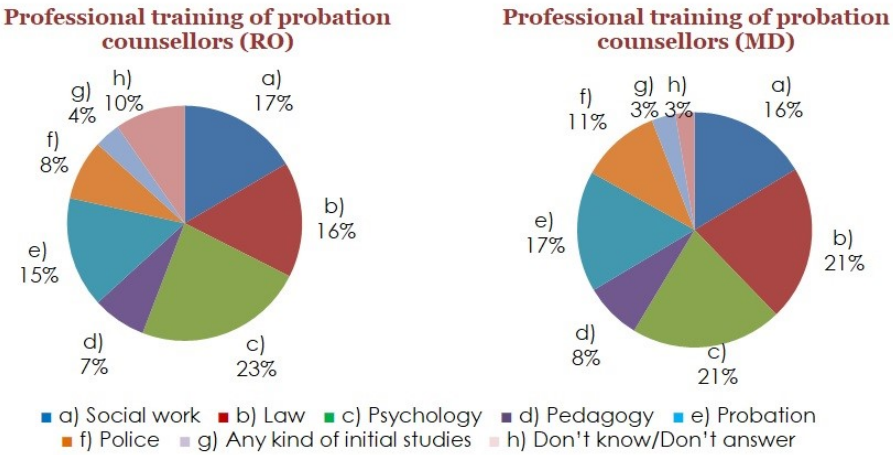


With regard to the categories of offenders for which the respondents consider it useful to apply non-custodial punishments under the supervision of Probation Services, are: minors who committed criminal offenses (27% RO and 31% MD), people who committed a criminal offense for the first time, which they regret (28% RO and 29% MD), people who deeply regret their crime, even if they previously committed criminal offenses (11% RO and 14% MD), people who committed crimes with low gravity, even if they previously committed other crimes (7% RO and 11% MD), people who committed criminal offenses whose injury was recovered and there was a reconciliation with the victim (12% RO and 7% MD). It is observed that the relapse is considered an impediment for applying non-custodial measures, even if the social danger of the crime is low. Also, the recovery of the prejudice and the reconciliation with the victim are no reasons to support the non-custodial alternatives, which is, however, widely supported in case of punishing minors or offenders who are at their first offense, and regret the deed.

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Regarding the professional training that the probation counsellors should have, the respondents consider it should be in the field of social work (17% RO and 16% MD), law (16 RO and 21% MD), psychology (23% RO and 21% MD), pedagogy (7% RO, 8% MD), probation (15% RO and 17% MD), police (8% RO and 11% MD), any kind of initial studies (4% RO and 3% MD). We notice a preponderance of preferences for training in the psycho-social area (47% RO and 45% MD), followed by law and other professions in the area of public safety and justice administration. The option for psycho-social training shows that, in the respondents' opinion, the activity of counselling and support should have priority over strict supervision.



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Conclusions

In our opinion, the responses received help sketch a model of humanistic-utilitarian probation, with retributive accents.

Hypothesis no. 1 referring to the existence of a strong retributive trend in the Romanian society checks out, meaning that although there is a rather strong opinion according to which the criminals should be punished exemplary, the level of punishment should also be increased in the two societies. The respondents showed that the non-custodial punishments can be seen in a pragmatic manner, being more efficient than the carceral ones, for the social reintegration of the offenders, especially in the case of minors and of those who are at their first offense, whose consequences and level of social danger are not particularly severe, and who regret the deed. The increased level of retributiviy in the society doesn't negatively influence the perception on non-custodial punishments, but rather does the lack of information regarding the major reforms existing in both societies.

The hypothesis according to which each activity of the probation services is less known in the two societies, which may lead to a lower level of acceptance of non-custodial punishments, is only partially sustained, meaning that although the majority of the respondents have no knowledge on the existence, attributions and functioning of probation services, they are generally open towards punishments that are alternative to imprisonment, in case of crimes with minor social danger.

In general, the public perception on non-custodial punishments is a positive one, both in the Romanian and the Moldavian societies, but a sustained promotion of the probation activities might lead to an increase in public support of the probation counsellors' efforts.

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