



Electronic Monitoring in Hesse

Silke Eilzer, Judge at the district court, HMdJIE



Two different approaches to EM:

A. The Hessian project since 2000

B. The Federal approach since 2011



AO The Hessian project

The Hessian project:

- implemented in 2000 as an educational project to avoid imprisonment
- Hesse is still the only Federal state using EM in this regard, the Federal approach has a different scope of application
- No GPS, only RF-technology
- Consent of the participant is necessary



Scope of application

Electronic Monitoring may be used

- ▶ based on the existing law as an unnamed instrument
- ▶ as a court order
- ▶ with the consent of the participant

It is



neither a sanction



nor execution of a sentence



More precisely:

▶ Probation

in accordance with sec. 56, 56c, 56f, 57 German Criminal Code
(app. 70 %)

▶ Suspension of an arrest warrant

in accordance with sec. 116 German Code of Criminal Procedure
(app. 30 %)

▶ Pardon

▶ Supervision of conduct (sec. 68b German Criminal Code) if not covered by the new federal approach



Target group I

Offenders, who are **too unreliable** to observe the conditions set by the court because

- ▶ they lack **self discipline** and **motivation** and
- ▶ are therefore not able to live **a structured life**

are usually very difficult to handle by the probation service and the justice system.

Consequently, parole will be revoked or will not be granted in the first place.



Electronic Monitoring may be of help. It combines

- ▶ **24/7 surveillance**

allowing an immediate reaction to breaches and

- ▶ **close supervision**

by the probation service in an effort to help the participant to live a more **structured life** by giving him or her a **daily schedule**

= specific times for being at or absent from home (work, therapy) or for leisure

Target group II: Avoiding pretrial detention

- ▶ Compared to an **obligation to register with the police Electronic Monitoring** provides a more effective way of surveillance
- ▶ **Reducing the flight risk** may allow suspension of an arrest warrant

Weekly schedule and its control

- ▶ **Every participant receives a detailed weekly schedule**

specific times for being at or absent from home (work, therapy) or for leisure

- ▶ **Immediate reaction to breaches**

24/7 service by the Joint Monitoring Centre not only for intervening but also as contact for the participants

The probation service is vital to the project:

- ▶ recommendations to the court on the suitability of a participant within one week
- ▶ weekly personal contact with the participant
- ▶ receives reports on events by the Joint Monitoring centre on the next working day to be included in the educational work
- ▶ reports to the court on the development of the participant and makes recommendations



OB

The Federal approach

Since January 1st, 2011:

- Courts may order using EM via GPS as part of the supervision of conduct according to sec. 68b German Criminal Code
- against the will of the participant
- interference with functional capability punishable by law



Aims

- to increase the offender's inhibitions to commit further crimes by increasing the risk of discovery
- to improve victim protection
- to use the data in criminal proceedings in case of re-offending

But:

- It is not allowed to observe the movements at will, the authorities need plausible cause as defined by the federal legislator
- No substitute for detention
- The Data must be erased after two months (sec 463a German Code of Criminal Procedure)

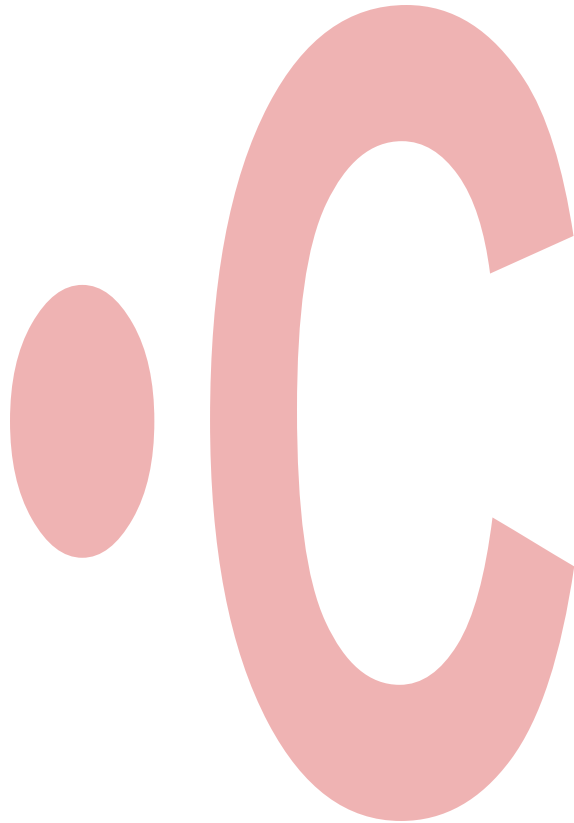
Legal Prerequisites

Direction of a supervision order

- ✓ must have fully served a sentence of at least 3 years or a measure of correction and prevention must have been suspended
- ✓ offence listed in sec 66 of the German Criminal Code (e.g. sex offences and violent crimes)
- ✓ risk of re-offending with regards to the listed offences
- ✓ EM is necessary to prevent the offender from re-offending
- ✓ no unreasonable demands may be made to the lifestyle of the convicted person

Differences to the Hessian project:

- ✓ Different target groups
 - Sex offenders and violent offenders instead of offenders lacking discipline
- ✓ Preventing relapses instead of avoiding imprisonment
 - No immediate cost savings
 - No substitute for detention
- ✓ No consent necessary
- ✓ GPS instead of RF



The Joint Monitoring Centre



Implementation of the Federal approach

- Due to the Federal structure of Germany, it is the obligation and responsibility of the Federal states - not the Federal government - to implement the Federal approach to EM.
- Therefore, there could have been 16 different ways of implementation with all its complications should an offender change his place of living and the costs for each Federal State.
- Instead, the Federal states decided to work together on the implementation.

The Joint Monitoring Centre

„Gemeinsame elektronische Überwachungsstelle der Länder“

- installed in 2012 by interstate treaty
- located in Bad Vilbel (Hesse)
- may be used by all Federal states
- consists of 15 Hessian civil servants including its head
- works in 12-hour-shifts, each shift includes a social worker
- does not replace the local probation service but supports it



The Joint Monitoring Centre

- receives 24/7 all events that may imply a potential dangerous situation or a violation of directions
- contacts the participant in order to find out the reason for the event and to de-escalate the situation
- if necessary informs the police
- reports to the supervising authority / the probation service