

10th CEP CONFERENCE ON ELECTRONIC MONITORING IN EUROPE

BACK TO THE FUTURE
19 - 21 APRIL 2016

RIGA, LATVIA



Introduction

In April 2016 the City of Riga, Latvia welcomed delegates to the 10th CEP conference on Electronic Monitoring. The theme of the conference was 'Back to the Future'. Delegates included businesses representatives, government policy makers, practitioners, academics and researchers some of whom attended the first CEP conference on EM in 1998. As the use of EM has expanded and as EM technology has evolved the reach and impact of the CEP conference on EM has grown. This was reflected by the conference being held for the first time in one of the Baltic States where the use of EM is developing recently. The aim of the conference was to take stock of the knowledge gained from the use of EM so far, to identify good practices whilst utilising this knowledge to have an informed debate about possible futures for EM. This was achieved through three days of fascinating lectures and discussions from EM experts across Europe, as well as a number of workshops aimed at focussing on specific areas of EM. As well as a full programme of presentations and workshops delegates were also treated to a performance from a Latvian dance ensemble which took place during the official dinner. Guided tours of Riga also took place with the option of focussing on different aspects of the cities architecture and surroundings. Delegates had the opportunity to visit the conference sponsors' displays and to engage with a charity who specialise in assisting women and children at risk from domestic abuse (who received the proceeds of a lottery held during the conference).

This report provides an overview of the main speakers and workshop sessions which took place. Further information relating to the content of the presentations and workshops can be found on the CEP website: <http://cep-probation.org/knowledgebase/electronic-monitoring/electronic-monitoring-latvia-2016/>

Day One –Tuesday 19th April

The conference was opened by Dzintars Rasnacs, Minister of Justice for Latvia and Mr. Marc Ceron, the President of CEP. Delegates were welcomed and the aims of the conference were explained during the session.

Devices and Desires: Shaping Electronically Monitored Punishment in a Digital Era

Professor Mike Nellis

Professor Nellis has participated in all of the CEP EM conferences since they began in 1998 and took the opportunity to reflect upon the past conferences and on the future of EM. He addressed both technological and penological issues and started the presentation by discussing two propositions. Firstly, suggesting that we need to think about EM as a penal measure whilst at the same time recognizing that the applications on which it relies are the same as technologies used in everyday life. It was clear that EM will become more important in the future and the question is no longer whether the use of EM will remain but how it should be used in practice. The second proposition relates to the extent to which technological evolutions are controllable and whether this is something which should be done. The CEP conferences have played a major role in shaping EM practices providing a unique forum for debate. The debates which took place at the first CEP EM conference organized by Dick Withfield & Ruud Boelens are still relevant and include: how probation services use and engage with EM and how involvement of both the private and public sector are managed. The CEP conferences have been important in shaping best practices for EM and during the 7th conference the gold standard for EM was first discussed. One of the most relevant questions for debate is not what the technology can do but what penal problem is there to be solved. Experts and practitioners should be goal-oriented and with this in mind dialogue with commercial providers is important. The CEP conferences provide a unique framework in which respectful dialogue between public and commercial sectors can take place.

EM has so far been shaped in constructive ways and that the CEP has been and should continue to be a key driver in discussions about EM. EM could be used more strategically to achieve desirable penal goals. The European comparative research on the use of EM in five jurisdictions, of which the main results were presented by Anthea Hucklesby during the conference reflected some of the possibilities. One of the key debates is the role of GPS monitoring - Professor Mike Nellis suggested that it was unnecessary to replace RF technologies with GPS altogether and that both technologies are able to make unique and considerable contributions to panel landscapes. The involvement of probation services in EM is important but there is a risk that technological and economic pressures threaten or marginalize probation services role. Professor Mike Nellis concluded that probation services should become more involved in EM and work collaboratively with technological companies who openly value probation. The EM industry has its own views of what progressive futures might look like and these views should not be ignored but engaged with. At the same time, probation services must think about what they want from EM and how to use with it most effectively to support their valuable work.

Baltic States: A Three Country Perspective

Mr. Imants Jurevicius (Latvia), Ms. Maret Miljan (Estonia), Mr. Giedrius Ramanauskas (Lithuania)

As this year's conference was hosted by Latvia it was an ideal opportunity to learn more about the use of EM in the Baltic States. The presentations began with an historical overview of evolutions in the penal field in Latvia, Estonia and Lithuania. During the post-Soviet period penal systems the Baltic States had to manage a number of problems including: retributive and insufficiently resourced penal systems; outdated prison infrastructure; stigmatization of offenders in the community; and no efficient alternatives to imprisonment.

EM in the three Baltic States was introduced in 2007 in Estonia, 2012 in Lithuania and in 2015 in Latvia. A cautious approach has been taken to the implementation of EM with the aims of strengthen efficiency of the criminal justice system, providing an alternative to imprisonment and as a tool to improve general community supervision arrangements. Despite the fact that there are significant differences regarding complex legal arrangements for penal systems and, in particular EM, the core of correctional practices in all three countries is the same. Probation services are delivered according to Risk-Need-Responsivity (RNR) principles where EM is seen as a tool to strengthen the implementation capacity of this model (EM integrated within community supervision, not as a standalone measure) and social reintegration of offenders.

The number of individuals simultaneously under EM in the Baltic States is relatively low because of the cautious approach taken (130 in Estonia, 50 in Lithuania and 30 in Latvia). Private sector involvement within EM programmes is strictly limited to meeting technological requirements and all offender monitoring procedures, including installation/de-installation of equipment, are performed only by well-trained public officials (prison and probation officers). In Estonia and Lithuania, the responsible authority for delivery of probation services and EM is the prison service, whereas in Latvia the EM program is managed by the national probation service. All three countries use only radio frequency in practice although the law provides for the use of both GPS and alcohol monitoring in Estonia but these have not yet been implemented

Procurement Needs - Client Needs

Mr. Laurent Wilms and Mr. Pedro Ferreira Marum

Public procurement is an often challenging aspect of the operation of EM. Public services must take numerous requirements into account when procuring EM services. This presentation provided advice from a legal point of view and gave an insight into the scientific literature on what consumers want.

The presentation started with an overview of what legal requirements are needed in order for EM to be effectively procured. The procurement process has two key stages: preparation and launching of the tendering process and the award and execution of the tender. During the preparation and launching phase, all available information should be collated and used to inform the contents of the tender. It is

important to separate different elements in tenders into the following sections: administrative, technical, financial and subsidiary. In all these sections, every aspect of what is required must be explained. The term of the tender should be as long as possible and fixed for legal and practical reasons. Potential contractors need to know all elements of the services they are expected to provide to respond the tender effectively. Of particular relevance is the need to ensure sufficient 'buffer stock' – i.e. that there are sufficient tags to cover peak usage. An opportunity for potential bidders to ask any questions is vital.

The second stage of the procurement processing is the award and execution of the contract. Objective criteria for awarding the contracts must be formulated reflecting the needs of services. It is necessary to test the technology and to specify to tenderers what is expected from them in this regard. It is important that a project manager is appointed whose role will be to provide a link between lawyers, practitioners and policy-makers. It is also useful to draw a list of all actions undertaken. This list will have a double utility for the contracting authority: it will help to transfer information quickly and ensure that all past mistakes are taken account of and avoided. It is necessary to keep in mind that in a public procurement, there are always three main principles: competition, equal treatment of tenderers and transparency.

Public services do not always know what they want from EM technology and what they can get from it. It was suggested that currently the wrong questions are asked by the wrong sector. Now it is the commercial sector asking EM users 'how does EM technology inspire you?' whereas it should be the public sector asking the commercial sector 'how does our job inspire you?'. Consequently, EM providers would then design technologies around what works for services. Finally it was explained that there are three layers to consider during procurement: long-term goals and purposes, the job which needs to be done and finally the features which can be translated into benefits and sacrifices.

Day Two – Wednesday 20th April

The second day of the conference began with the first series of workshops. Delegates chose which two workshops they wanted to attend, from a selection of six. This section will present the main issues presented and discussed at the workshop sessions with any relevant matters arising at the two sessions. Following on from this there will be information relating to the presentations which also took place on day two.

Workshop A: Technological Golden Rules: should there be EU guidelines on (minimum) technical specifications for EM equipment?

Led by Mr. Dave Wharton and Mr. Pedro Ferreira Marum

This workshop addressed whether EU member states should have a common EU technical framework for EM. David Wharton and Pedro Ferreira Marum examined a number of issues related to the various requirements services have when procuring EM devices. It is important to understand what the customer thinks they want and what problem (or issue) they are trying to solve. Procurement should be thought

about as a whole system instead of a technical specification. This can be a problem as policy makers are not always sure what they want from EM because there are both functional and technical specifications.

The boundaries are blurred between the two and it is not always clear how far one should go in specifying technological outcomes. For example a lightweight ankle tag may be less accurate because it has a smaller antennae.

The potential advantages of having technological golden rules were outlined. These were that there would be a common starting point for member states which would particularly benefit countries in the early stages of EM and EM procurement. Knowledge about what is procured would be available and there would be clarification of what is required which would assist equipment providers. Some potential disadvantages include that it is not always possible to know what technology is being developed and what is coming onto the market. If this is not known there is a risk of procuring a product which is unsuitable owing to future developments in technology. There can be a high level of bureaucracy when procuring EM because there are a high number of technological specifications.

During the workshops participants were asked about their views on whether technological golden rules and EU guidelines are needed. The majority of participants agreed that they would be useful. Participants were also in favour of flexible rather than tailored rules. It was agreed that the Council of Europe would take too long to agree a set of golden rules and that the issue of technology is not directly connected with its remit. Downsides of golden rules were discussed. Representatives from the commercial sector pointed out that every user has different needs and expectations. The danger with technical golden rules is that they are too late and/or are pitched at the wrong level. However, it was agreed that users need technical reliable EM systems.

Workshop B: Breaches: how they are handled and how do they compare to other breaches under supervision in Latvia and the Netherlands

Led by Mr Imants Jurevicius, Ms. Anneke Trinks and Mr. Eric Staal

This workshop provided an overview of the EM breach system in two countries. In Latvia breaches are managed by probation workers. People who violate their curfew are given a warning and serious violations result in prison sentences. False alarms do not lead to the start of a breach procedure. No further action is taken if information and an explanation provided by the curfewee are deemed to be satisfactory. However it is important that all breaches are investigated.

The way in which violations are dealt with has an important bearing on the credibility of the whole scheme. In Latvia, two warnings for non-compliance with specific EM conditions results in imprisonment. In the Netherlands, all information relating to breaches must be transferred to the Ministry of Justice since 2014. There are clear guidelines for managing each type of violation. The breach schemes should be related to risk assessment and evaluation of offenders, combined with general guidelines. It was noted that flexibility is required when dealing with breaches regardless of who is responsible for recording and dealing with the breach.

Workshop C: Data Protection Issues

Led by Mr. Bavo van den Heuvel and Mr. Michiel van der Veen

Mr. Bavo van den Heuvel explained the highlights of the new European Regulation on data protection, which will be incorporated into national legislation within two years. He explained what personal data are, what data processing means and at which points data processing takes place in the use of EM. Participants asked several questions about how to interpret new legislation on data protection. It became clear that several jurisdictions still struggle to get a good grip on how to handle data protection issues properly. A second issue which arose was how to deal with requests from the police or public prosecutor for EM data. Many participants felt this should be a decision made by judges however procedures in place in several countries appear to be inadequate. One of the main elements of data protection legislation is that the purposes for which the data are collected should be known in advance. However, the use of GPS 'trail' data raises particular concern in this regard when it is used within the context of probation work, for example in order to confront offenders about possible unwanted behaviour. These issues require further thought in the context of data protection and how EM data are managed.

Workshop D: How does EM fit in the approach towards domestic violence in Turkey and Portugal

Led by Ms. Deniz Özyörük and Mr. Nuno Caiado

Ms Deniz Özyörük (Turkey, Ministry of Justice) and Mr. Nuno Caiado (Portugal, Ministry of Justice) presented their views on the experiences of the use of Electronic Monitoring in cases of domestic violence. Ms Özyörük focussed on the implementation of EM and domestic violence in her organisation and in the legal framework. The importance of working with shared protocols with all competent authorities involved was discussed. Mr. Caiado presented the experience in Portugal which has over 500 domestic violence cases where EM is used. He stated that domestic violence is a difficult phenomenon to recognise and also to define: there are many types, it happens in all social classes, at all ages and therefore professionals working with EM and domestic violence need special expertise and skills. Mr. Caiado also mentioned the potential 'net-widening effect' as EM is used in many cases of domestic violence in Portugal as a preventive measure.

The main questions and areas of discussion were about how to control offenders and how to deal with victims at the same time. Participants recognised the complex position of probation professionals. Questions were asked about how to deal with breaches and with false reports that often occur. It was suggested that in some jurisdictions collaboration between Victim Support Organisations and Probation are not working well. The shared conclusions of the participants were that the use of EM in cases of domestic violence are very different from regular EM. Cases are more complex because more parties are involved. Managing and understanding specific data are an issue and special expertise is needed to deal with the sometimes ambiguous behaviour of victims. More research is therefore needed.

Workshop E: Running EM in rural versus urban environment in Norway

Led by Ms. Marianne Kylstad Øster

This workshop provided an overview of the EM program in Norway. Norway is a country with challenging geographical and demographical conditions and the workshop explained the influence of remote and rural issues on the legal framework for EM and the experience of offenders. Both the need for local adjustments and at the same time measures to decrease any differences in how EM is applied were discussed. Even though the probation service has the responsibility of all parts of the programme in Norway, the geographical conditions make it necessary to cooperate with other agencies including the police and social services, in addition to private supervisors. The speed of the response to violations, discretion of the probation service over recall of offenders and breach protocols was also discussed. There is a strong commitment to involving probation support as part of the EM service, despite implications (e.g. cost) for doing so in the most remote areas. The Norwegian model is based on administrative decision-making by the probation service in order to prevent net-widening. Communication is necessary to build public awareness of and confidence in the EM programme and there is a need for trust in the professionalism and judgment of the probation service.

Workshop F: Alcohol monitoring: an innovative response to the London Alcohol Challenge

Led by Ms. Naomi Simpson and Mr. Amit Sethi

This workshop provided an examination of successes and challenges thus far of the alcohol abstinence monitoring requirement (AAMR) in London. Discussion took place around the issue of whether AAMR is a proportionate response to drink driving offences. Discussions also took place relating to data access and storage and whether there is evidence of displacement of alcohol with other substances and whether it is suitable for domestic violence offences. The positive view of the pilot was deemed a success in terms of take-up and compliance. There are challenges with scaling up from the pilot and implementing AAMR. A partnership between criminal justice agencies and co-provider of the pilot is considered the key to success.

Electronic Monitoring in Europe

Professor Anthea Hucklesby, University of Leeds

Professor Hucklesby presented findings from the European Commission funded comparative research project on EM which examined 'Creativity and Effectiveness in the use of Electronic Monitoring as an Alternative to Prison in EU Member States'. The contributors and collaborators involved in the research were Belgium, England and Wales, Scotland, Germany and the Netherlands. EM uses vary across jurisdictions and it has many uses including being an alternative to prison and creating a structure for daily life. Radio frequency (RF) EM differs to that of GPS monitoring as GPS technology can monitor people away from their accommodation. However RF EM can be useful for people on a curfew as it creates an excuse to stay at home which can stop patterns of offending. Professor Hucklesby explained that EM can be used indefinitely, however discounts in sentences should be implemented when EM has been used at the pre-trial stage. In addition it was found that previously EM did not have a great deal of credibility with the police, however this is changing and the police are now looking at ways of using EM. In terms of understanding how EM is used across different jurisdictions the use of language is important. For example some countries have hours of confinement whilst others have hours of freedom.

The research found that there is little creative use of EM and its use is often highly structured, for example in England and Wales RF EM is used for twelve hours a day in one continuous curfew. The Netherlands has a good example of how free time can be managed as the person on the curfew can begin the curfew with less free time and, as time moves on more freedom can be granted. Curfews should therefore be tailored more to the circumstances of individuals and offences. Support twenty four hours a day, seven days a week is important, and the Anglo model is successful at achieving this. However where probation services are responsible for the monitoring of EM, problems can occur as probation staff are unavailable overnight when there can be a greater need for support. All jurisdictions had a graduated approach to curfew violations and it was clear that the different jurisdictions had spoken to each other about breach criteria. More use could be made of violation reports but some work needs to be done on making them more accessible to practitioners because there is a clear sense that these reports are difficult to understand.

Professor Hucklesby concluded the presentation by stating that the findings from the research were that EM is a permanent fixture in criminal justice and now is an ideal time to review its use, to discuss the necessity of EM and to think more about how EM can aid desistance processes.

How does EM fit in the strategy against radicalization?

Mr. Marc Cerón, CEP President (scheduled speaker Mr. Simon Cornwall, UK)

RAN is the radicalization awareness network, aimed at providing actions to empower communities and key groups engaged in the prevention of violent radicalization and recruitment. RAN was an action included in the EU internal security strategy. It formulated five steps towards a more secure Europe in 2010. However, it was not launched until September 2012, after the Oslo attacks.

RAN is led by EU's DG on migration and home affairs. It consists of one steering committee, eight working groups, with one on prison and probation. The main challenges it deals with, can be summarized in these questions:

- How to balance the prison dominance?
- How to involve other agencies?
- What is the right definition of radicalization?
- What is the main goal: deradicalisation or disengagement?
- How to deal with ongoing new processes?
- How to create urgent solutions for not well known problems?

Tackling radicalization is a multi-agency task. Gaps in coordination and lack of information sharing result in poor outcomes. There are currently promising specific assessment tools available, but there is a need for more such tools. A good and differentiated training should be made available to the staff. As many EU nationals are involved, resettlement is an issue.

Furthermore, prison should be incubators and we should be careful when sending people there. The intervention should also be differentiated. Leaders and followers need a different intervention. However, there is no unique profile of offenders. We do know that there are gender differences. What we furthermore know, is the importance of families, relatives and communities, both in a positive and negative way.

For the topic of radicalization, we must question whether a fear for this topic may lead to an equal treatment of those who present different risks and have particular needs. Probation is at least as important as prisons when it comes to dealing with radicalization. We furthermore have to answer the question what EM can contribute, more than offer information for more supervision and control.

Day Three: Thursday 21st April

Commissioning and Conducting Successful Evaluations

Professor Carol Hedderman

Professor Hedderman has been undertaking evaluation research since the 1980s and has both commissioned research and conducted it. In order to have a successful evaluation, the people commissioning research, the people being subject to research and the people conducting the research should have a clear knowledge of what is going on. Success can mean different things depending on the perspective from which it is being addressed. A commissioner of research does not want to see a project fail to achieve its objectives. Success for the people providing the project can be about securing funding and they do not want to learn that they have been a failure. Success for evaluators is slightly different. They are happy when they learn something that is interesting and although researchers can get a more enhanced reputation by finding successful outcomes, it is also true that an entire career can be made in discovering that some projects do not work.

Back to the future of electronic monitoring. Breaking the glass ceiling of EM technology

Mr. Nir Shelly

Nir Shelly is managing director of EMiS-CON, a technical and operational consultancy service for EM customers. His job consists of helping customers from the start of the tender process, finding the requirements, testing the system, until there is EM system in place. Mr. Shelly argued that if location tracking is used well it also meets the needs of radio frequency, because the home becomes an inclusion zone. One of the drawbacks of GPS is that it does not work indoors and is therefore unavailable 50 percent of the time. There are other technologies which are available, such as Bluetooth but the future of EM lies with WiFi. This is because it is not necessary to connect to WiFi networks, so there are no complexity or privacy issues. WiFi is also reliable because it uses a constellation of WiFi access points therefore it is not necessary to rely on offenders' routers.

Mr. Shelly suggested that more processes can be managed automatically and that interoperability is the most important principle when talking about standards. EM customers should be part of the loop, they need to drive the industry, the standards, they need to give a good insight about what they need and what experiences and outcomes have taken place following trials. Customers should be open to new technologies, to new trials and to new experiences in technology to get mature solutions.

Panel debate: possible futures of EM: the policy makers wish list

Mr. Vivian Geiran (Ireland), Ms. Maret Miljan (Estonia) and Mr. Julien Morel d'Arleux (France)

Chair: Mr. Andy Bruce

The panel debate started with a question about how EM is used in each of the jurisdictions. In Ireland, there are 4.5 million people, of which around 3700 are in prison and a little over 8000 people on probation supervision. Legislation has enabled the use of EM for the past ten years but it has not been used because the value added by EM was unclear. More recently, the prison service has introduced EM on a very small scale. Tags are used in a very targeted way for people who are very ill or disabled and it is therefore deemed appropriate for them to remain in prison. Legislation for sex offenders under EM and EM at the pretrial stage for prolific burglars are also in development. The small number of tags that are currently available are used for early release from prison where EM provides an additional element of security.

In Estonia, there is a daily ratio of 130-140 individuals under EM. EM is used at the pre-trial phase as a stand-alone measure. For sentenced offenders, it is combined with rehabilitative measures. If curfewees violate their conditions or commits a new crime, it is possible to add EM to the probation measure. The technology used is RF.

In France, EM was introduced in 2001. Approximately 10,000 people are on RF EM and 50 people are tracked using GPS. It is possible to convert two years imprisonment to two years under EM.

The penal goals which can be achieved via EM were discussed. The main aim of EM identified by the members of the panel was rehabilitation. EM was viewed as a tool to facilitate a process that is outside of EM itself. It is seen to facilitate a reduction of reoffending as well as managing prison populations. EM can be used as an alternative to imprisonment and thus has the potential to reduce the number of people in custody, both people who are at the end of their prison sentence and people who do not need to be in custody at all.

The panel members were asked 'What technological innovations can enhance the use of EM?'. It was suggested that there is a need for more efficient software. There is a difference in using it in a punitive way or using it for rehabilitative purposes as this fundamentally changes the nature of the relationship between offenders and the probation officers they are working with. It would therefore be helpful if there was a system that does the first analysis.

Finally the panel members were asked 'How might EM develop to ensure an efficient, effective and creative use in the future?'. In response an individualised and flexible approach was suggested by the panel members. EM can be seen as a form of e-governance. For some target groups the processes could become more automated, with the help of voice verification or ID-cards particularly for low-risk offenders who may not need a great deal of supervision. For higher risk groups, probation officers are required, with a mix of digital and face-to-face communication. A graduated approach would ensure sufficient time is available for the right interventions to be targeted at the correct group. It was also suggested that although it is attractive to look at technological solutions, the focus must remain on offender management and rehabilitation. Finally it was agreed that it is important to be proactive in terms of communication, in order to manage the situation when things go wrong. But it is also important to have a communication strategy at different times with information about what people need to know about new initiatives.

The conference was closed by CEP Secretary General Willem van der Brugge. He thanked the sponsors, speakers and workshop leaders. The administrative team from CEP were thanked for their very efficient management of the conference. The next conference will be held in 18 months. The venue will be announced in due course.