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Survey of Electronic Monitoring in Europe: Analysis of questionnaires 2018

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INTRODUCTION

One of the aims of the CEP Electronic Monitoring (EM) conferences has been to gather information about the use and experiences of EM in different European jurisdictions. A survey has been conducted in advance of the conferences providing participants with a picture of the current state of EM in Europe. The format of the survey has been changed for this conference to an online survey, with the aim of improving response rates by making it easier to complete and to extract the data. Some of the questions were also changed making it difficult to compare the findings with previous surveys.

For the 11th EM conference in Croatia, Zagreb 2018, the CEP Secretariat sent out questionnaires to designated individuals responsible for EM in member countries, 35 in total. Half of the countries (18) returned the questionnaire. Fifteen provide information included in the analysis: **Austria, Belgium, Czech Republic, Finland, France, Georgia, Greece, Ireland, Latvia, Lithuania, the Netherlands, Norway, Portugal, Sweden and Switzerland/Basel-Landschaft**, but the surveys were not always completed fully. Croatia, the host of this year's conference, did not complete the survey because it has run only a limited EM pilot which has now finished. No EM is currently being used in the Channel Island of Jersey or Malta.

Considering the response rate of 50%, the analysis is not representative for what is currently going on in the field of European electronic monitoring. We also cannot be sure of the comparability of the data provided. However, this report provides an overview of certain aspects of the use of EM in the 15 jurisdictions who responded at the start of 2018.

1. GENERAL

EM is being used at different stages of the criminal justice process. Table 1 shows EM is used most frequently at the sentencing stage, as a form of execution of prison sentences or on early release from prison, which have direct impacts on prison numbers. France stands out as the country with highest use. Its use compares with England and Wales, who did not respond to the survey, but who have been the highest user of EM in Europe historically. Several East-European countries have established EM in the last few years, with a wide range of modalities in use but numbers remain moderate. Belgium, France and Portugal report extending EM into the pre-trial stage and Portugal use it as a restraint order in cases of domestic violence on a large scale.

The majority of the European EM programmes are national and permanent. Only Finland and Switzerland report the existence of regional programmes and a few pilots are taking place in the Czech Republic and Greece.

Table 1: Status of programme and average daily caseload (per June 2017)

jurisdictions	pre-trial	court order	condition of court order	execution of prison sentence	early release/parole	domestic violence	remote alcohol monitoring
Austria	2 permanent			348 permanent			permanent
Belgium	216 permanent	15 permanent		844 permanent	572 permanent		
Czech Republic	pilot	pilot			pilot		pilot
Finland		39 permanent			199 permanent		3 regional pilot
France	279 permanent			10.920 permanent	43		
Greece	2 pilot				pilot		
Ireland					10		
Latvia					33 permanent		
Lithuania					90		
The Netherlands	permanent		permanent		permanent	regional	Pilot
Norway				328 permanent		4 permanent	
Portugal	337 permanent	68 permanent			20 permanent	555 permanent	
Sweden				209 permanent	128 permanent		
Switzerland/ Basel	regional		1 regional	11 permanent			

2. TECHNOLOGY

The majority of jurisdictions are using both RF and GPS technologies. Lithuania is the alone in reporting the use of GPS technologies only whilst RF only use is reported in Georgia, Latvia and Sweden.

Mostly, the probation agencies are responsible for the monitoring service. The prison service is responsible for monitoring offenders on early release in Finland and in Austria, it monitors all EM modalities (pre-trial, execution of prison sentences and alcohol monitoring). In Norway, the police have the responsibility of monitoring offenders on domestic violence restraint orders, in cooperation with probation.

Table 2: type of EM technology and who is delivering equipment and service

jurisdictions	technology	manufacturer	monitoring service
Austria	RF / GPS	3M***	prison
Belgium	RF / GPS	3M	probation
Czech Republic	**	Supercom	probation
Finland	RF / GPS	3M	probation/prison
France	RF / GPS	G4S	prison
Greece	RF / GPS	G4S	private
Ireland	RF / GPS	Other*	private
Latvia	RF	Supercom	probation
Lithuania	GPS	Geosatis	probation
The Netherlands	**	3M	**
Norway	RF / GPS	G4S	probation/police
Portugal	RF / GPS	3M	probation
Sweden	RF	3M	probation
Switzerland/ Basel	RF / GPS	3M	probation

* Not informed about which private company

** Not answered

*** Formerly 3M, now Attenti

Great variations exist in the use of GPS. Finland, France and Lithuania are using GPS for offenders on early release, Austria for execution of sentences and Switzerland as a condition of court orders. Greece is using GPS for both pre-trial and execution of sentences and Norway and Portugal for domestic violence only. The target group for GPS is predominantly offenders of medium to high risk who have committed or been accused of sexual and terrorism-related offences.

About half of the responding jurisdictions reported using other control measures in addition to the electronic monitoring, such as alcohol and drug testing and unannounced visits at the offenders' homes or place of work.

3. LEGAL AND JURIDICAL ASPECTS

Pre-sentence report

Respondents were asked whether a mandatory assessment report was prepared before EM is imposed, and if so; which agency prepares it. In most of the jurisdictions, such reports are mandatory and written by probation services. In Belgium, Czech Republic and Greece, assessment reports are not mandatory. In Switzerland, reports are not necessary for early release from prison but for other programmes assessments are carried out by the correctional department. In Norway, the police carry out assessments for domestic violence restraint orders.

Decision of impose and revoke

The decision to impose and revoke EM depends on the type of programme and varies between jurisdictions. In most cases courts or similar judicial bodies have the power to impose and revoke EM. In France, Latvia, Lithuania and Portugal the courts impose and revoke EM. Norway and Sweden are the only countries which do not involve the court in the process of imposing and revoking EM. In Sweden, both prison and probation services are able to impose EM but only the probation board have the power to revoke it. In Norway, EM is imposed and revoked by the probation service, except in cases of domestic violence which are the responsibility of the police.

Table 3: assessment report, decision of imposing and revoking

jurisdictions	assessment report mandatory	impose	revoke
Austria	yes	court/prison	court/prison
Belgium	no	court/prison/probation judge	court/prison/probation judge
Czech Republic	no	court/probation	court
Finland	yes	court/prison	court/prison
France	yes	court	court
Georgia	yes	court/standing committee	court
Greece	no	court/prison	court/prison
Ireland	yes	prison	prison
Latvia	yes	court	court
Lithuania	yes	court	court
The Netherlands	yes	court/court of prison	court/court of prison
Norway	yes	probation/court*	probation/court*
Portugal	yes	court	Court
Sweden	yes	probation/prison	probation board
Switzerland/ Basel	yes/no	court/correctional dept.	court/correctional dept.

* Court for DV only

Intensity of programme

The intensity of the EM programme in relation to the duration of orders and integration of different conditions and kinds of support programmes varies between jurisdictions. Most of the orders are linked to some kind of programme. Only in Lithuania are orders exclusively stand-alone. In Portugal and Switzerland a combination of schemes exist some involving integration with programmes and others not.

At the pre-trial stage, most countries reported that EM is used for only a few months. Exceptions were Portugal and Greece where the average time spent on EM is 14 and 12 months respectively. The average duration of domestic violence restraint order is 3.5 years in Norway and 8 months in Portugal. The Czech Republic, France and the Netherlands did not respond to the question regarding average length of EM orders.

Chart 1: average length of EM (in months) divided by type of orders and countries (not including DV in Norway and Portugal)



Table 4: the average length of orders of all responding countries, in months

pre-trial	7.2
court order	5.5
condition for court order	17.33
execution of prison sentence	4.49
early release and/or parole	6.56
domestic violence	38.33

Revocation rates

The survey also asked for information relating to revocation rates. However, revocation rates are difficult to interpret and compare because they depend on the requirements of the programme, what counts as a violation, the level of control and the tolerance of breaches. Very few countries responded to the question which maybe related to these problems of interpretation. However, revocation rates appear to be low - Portugal reports of a revocation rate of between 1 and 8%, Norway 4%, Latvia 6% and Sweden between 3 and 15%. Rates vary depending of the type of programme.

Offender criteria

All but three countries (Czech Republic, Lithuania, The Netherlands) provided data about the most common type of offences for which EM is used. At the pre-trial stage, France, Portugal and Switzerland reported using EM mainly for drug related offences but also for offences against property and violent offences. Arsonist and economic crimes were also mentioned. In terms of sentences including court orders, conditions of court orders and execution of prison sentences 8 countries provided responses. They reported a prevalence of traffic offences (including drink driving) and theft and drugs related offences. In terms of early release and parole, EM was used for a wide diversity of offences but they tended to be more serious and included violent and sexual offences including trafficking, in addition to drug related offences and fraud.

There is no pattern in terms of any offences which are excluded from the use of EM, partly because this question was not answered by the majority of respondents. However, it is noted that no offences are excluded in the Netherlands for any modality. In several countries (France and Portugal) individuals are not eligible for GPS if they are accused or convicted of minor offences. Finland excludes domestic violence offenders from EM at both the sentencing and parole stages. EM is not available for individuals accused of sexual offences pre-trial in Austria and for parole in Lithuania.

In most of countries offenders consent is legally required to impose EM. There are three exceptions to this: Norway does not require consent in domestic violence cases; Georgia for conditions of court orders; and the Czech Republic for any of its uses. The majority of countries also legally require the consent of other household members. Again there are exception. The Czech Republic and Greece does not require the consent of cohabitants at all. Other jurisdictions require consent for some uses and not others – in Belgium consent is not required for pre-trial use and court orders, in Ireland not for parole and Austria did not answer in relation to its pre-trial use.

Victim's aspects

Jurisdictions were asked about whether victims were informed about the use of EM. The responses were diverse with the Netherlands, Norway and Portugal failing to provide information. In the Czech Republic, France, Sweden and Switzerland victims are always informed about the imposition of EM. In the other jurisdictions victims are not informed.

4. ELECTRONIC MONITORING IN OTHER AREAS OR SECTORS

EM is not widely used within prisons of the jurisdictions of respondents. Only Finland, Sweden and Switzerland reported the use of EM in prisons, involving a few hundred prisoners.

Three countries indicated the use of EM for terrorism-related radicalisation cases. The Netherlands is using "*EM in the temporary administrative law against terrorism*", France "*if those persons are convicted by a court for terrorism or, exceptionally, suspected by the police with other specific conditions, it is possible to use EM*" and finally Austria answered "*in some cases EM is used for executing the imprisonment also for terrorism related cases, but not as an additional measure*".

Only two countries indicated that EM is used in sectors outside of probation and prison systems. Both Sweden and Norway has domestic violence schemes operated by the police. The Swedish National Board of Institutional Care is making use of EM, in welfare institutions for juveniles.

5. DATA COLLECTION AND PROTECTION

The majority of countries do not have an independent body or other organisation to scrutinise the use of EM or data arising from its use. In Belgium, the Court of Auditors checks EM expenditure against numbers on EM and in France scrutiny is provided by the National Commission for Informatics and Freedom. No country has designated courts as independent bodies for scrutiny.

Every responding jurisdiction except Belgium has legal regulations relating to the storage of, and access to, EM data. These rules are regulated by general law in Greece, Czech Republic, Ireland, Latvia, Lithuania, Norway and Switzerland while Finland, France, Georgia, Portugal and Sweden have a specific law for this matter. No specific regulations/procedures to authorise access to EM data exist in Norway.

Publication of data/information relating to EM is the exception. Information is available from the following government or services sites:

- Finland - www.rikosseuraamus.fi/fi/
- France - www.justice.gouv.fr/prison-et-reinsertion-10036/les-chiffres-clefs-10041/statistiques-mensuelles-de-la-population-detenu-etcrouee-29632.html
- Georgia - probation.moc.gov.ge
- Norway - www.kriminalomsorgen.no
- Portugal - www.dgrs.mj.pt/web/rs/estat

6. RESEARCH ON THE USE OF ELECTRONIC MONITORING

Since 2015, France, Latvia, Georgia, Finland, Norway and the Netherlands have undertaken research on EM. Findings are available on the following websites:

- Finland – 1) www.rikosseuraamus.fi 2) www.om.fi 3) www.helsinki.fi
- Georgia - probation.moc.gov.ge
- Norway – 1) www.ssb.no/276181/electronic-monitoring-and-recidivism
2) www.vistaanalyse.no/no/publikasjoner/evaluering-av-soning-med-fotlenke/
- The Netherlands – no web link available, but reports can be demanded.

In addition, Austria, Finland, Georgia, Latvia and Sweden are currently doing research on EM.

7. EM COUNCIL OF EUROPE 2014 RECOMMENDATION

Greece, Lithuania, Norway, Sweden and Switzerland reported that they have not translated the CoE Recommendation on EM into their national language. The other 10 countries confirmed that they had done so. In most countries, the legal and policy documents relating to EM meet the requirements of the recommendation. Greece reported that its do not whilst compliance was reported to be partial in the Czech Republic, Georgia, Lithuania and Sweden.

8. DESCRIPTION OF THE EM EXPERIENCE

The respondents were asked to describe the three main benefits of using EM. All countries, except of France, answered this question. Four main benefits of EM were mentioned:

a. social and personal advantages

- prevention of the negative side effects of prison/detention;
- less social exclusion, prisoners can continue to work and be a productive member of society;
- maintaining social and community ties and bonds, strengthening individuals' positive network, family ties and contact with other authorities;
- continuation of treatment;
- enhancement of self-discipline and awareness of the impact of offences;
- decreasing recidivism;
- provides structure to offenders' daily lives and the support of a social worker;
- reinforced and trustworthy way to give individuals better possibilities to live a life without drugs and crime.

b. supervision

- EM promotes compliance with probation strategies;
- efficient and effective monitoring of compliance with court conditions;
- effective control of offenders and accused;
- more effective supervision (behaviour-change) with combination of guidance and control;
- change crime patterns linked to places, people or specific schedules.

c. reduce the use of prison

- alternative to prison, reduced number of offenders in prisons, to avoid imprisonment by using EM;
- decreasing the use of imprisonment for low risk target groups.

d. finance

- reduce costs;
- less human resources needed compared to imprisonment.

Social and personal advantages were the most frequently mentioned with financial considerations being the least frequently referred to advantages.

In terms of the main challenges of using EM, five main themes emerged:

a. technological

- technical issues, problems with equipment, false alerts;
- future improvements in technical sectors;
- devices, enabling the equipment to operate in accordance with probation's vision, getting providers to understand probation's/prison services' needs;
- the location outside EU of technology companies and staff members providing EM technology;
- technical accuracy of GPS system;
- in a good and continuously trustworthy way introduce the use of GPS, to confirm GPS technology and procedures in Domestic Violence programmes .

b. **supervision**

- monitoring persons with drug issues;
- combining treatment with monitoring technology during probation.

c. **cooperation**

- organising cooperation efficiently between probation, monitoring centre, prisons and the police;
- time of intervention of police (domestic violence).

d. **trust**

- judges and community do not always trust in effectiveness of the system;
- explaining the benefits of EM of the general public;
- public opinion-individual cases influence the public's opinion of EM;
- some political trends and even some parts of authorities still do not understand EM.

e. **staff training**

- keeping officers well trained;
- education of personnel, improvement of routines and processes.

The main challenges of using EM are clearly dominated by the technological topics; this may reveal some stress concerning the quality or suitability of the technologies used currently as well as the importance that technology has in EM operations as a whole. Cooperation and trust between EM, probation and other agencies are also repeated topics, perhaps suggesting that there is still a way to go concerning how to work better inter-services and how to obtain trust from judges and community in general.