



EM and Human Rights

9th European Electronic Monitoring Conference Electronic Monitoring, Probation and Human Rights Frankfurt/Offenbach, 11th – 13th December 2014

*Conference report
by*

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Introduction

Germany, uniquely in Western Europe, has only used radio frequency Electronic Monitoring (EM) on a limited scale, in one region, but since 2011, as a consequence of an ECHR ruling, has been using GPS monitoring on released high risk sex offenders. The human rights implications of GPS technology - which can be used for anytime-everywhere tracking and/or the monitoring of exclusion zone perimeters, and combined with traditional curfew technologies - have so far been underexplored. This conference explored these issues directly through legal, sociological, and philosophical reflection, and paid particular attention to data protection and the needs, rights and interests of crime victims in this context. It offered a comparison of GPS in The USA, and reviewed relevant research results. The emphasis throughout has been on the implications of these developments and issues for legal, (probation) practitioners and policy makers.

More than 200 participants from over 30 countries participated to discuss the important issue of the use of EM within the field of Criminal Justice, especially Probation and Human rights.

During the 3-day conference, interesting presentations from a wide variety of participants and nationalities revealed more about the ethical and political difficulties some individuals and countries may have with Electronic Monitoring as a penal measure. It was a stage to learn about how some of the dangers and difficulties may be overcome. Best practices on the use of Electronic Monitoring were shared in workshops. Interesting discussions in the working groups helped to set the use of Electronic Monitoring in the context of Human Rights. There was a lot of opportunity to meet and talk with peers and exchange information and best practices. And also to meet representatives from the private sector and learn more about the technical possibilities.

This document is not an exhaustive summary of what was said at the 9th EM conference. It summarizes, paraphrases and sometimes simplifies arguments, but hopefully presents a clear sense of the discussion which took place. More details of the actual presentations can be found on the CEP website.

Opening speeches

Mr Jochem Müller, deputy head of the Ministry of Justice of the federal state of Hessen, started by thanking the CEP for holding the 9th conference in Germany, Hessen. The state of Hessen is happy to host the conference on EM, given the fact that in Germany, Hessen is considered to be a true pioneer when it comes to the use of EM. It started over 15 years ago, with a small scale RF based pilot project, and later extended to GPS for high risk offenders in 2009. Mr. Müller emphasized the importance of the decision from the European Court on Human Rights, on the legislative basis and practice of EM in Germany, on which Ms. Eilzer will elaborate in her plenary session. As a consequence of this ruling, since 2009, Hessen is the host of the nationwide EM centre, where the use of GPS is monitored. A sound legal framework for the use of EM is considered to be of great importance to both Germany and Hessen. Hessen is keen to learn from other countries about best practices. This is a good reason for Hessen to take upon itself the role of host of this conference, especially given the theme of the conference. Mr. Müller concludes by saying he hopes the conference will bring about interesting and fruitful discussions on the topic of EM, Probation and Human Rights.

Mr Marc Cerón, president of the CEP, thanked the state of Hessen to be willing to host this 9th conference. He also thanked the sponsors and the preparatory group. The sponsors for making the conference possible and the preparatory group and the CEP team for a solid preparation and organization. Also, he thanked the participants from more than 30 countries, of which 5 from outside of Europe, for attending. More than 220 participants with a mixed background have joined to learn from experts and from each other. The conference is an answer to the need of sharing knowledge and good practice. This proves to Mr. Cerón that this conference has relevance, and contributes to innovation and change, by its networking and sharing function. Based on earlier conferences, CEP managed to initiate and create together with the Council of Europe, a recommendation on EM, which he considers a good example of the influence this conference has. Mr. Cerón is especially pleased that the plenary sessions and workshop reflect on ethics and human rights, both topics being highly regarded values by the CEP. Mr. Cerón concluded with reflecting on the sad news of the passing away of Peggy Conway, who has been a dedicated participant of the conference for many years. She played a very important role in the development of EM in general and the success of the conference in particular.

The Plenaries

Electronic Monitoring, Human Rights and Jurisprudence

Ms. Silke Eilzer, a judge at the district court in Hanau, opened her presentation with a reminder to us all, that EM electronic monitoring creates great expectations among the population and that it's important to remember that in the end it's just a tool – even though a useful one!

She continued with a short presentation of the development of EM in Germany, and the German system of Federal level and land level. EM was introduced in Germany in 2000, in the region of Hesse, with RF as an alternative to custody. In 2011, GPS tracking was developed by the Federal Government, for serious sexual and violent offenders. Her presentation EM, Human Rights and Jurisprudence, clarified and discussed three important issues; to know your objective, consent vs compliance and data protection.

Regarding the first issue, knowledge of the objective is important to secure the principle of proportionality, especially when it comes to choice of technology. What are the aims, what are the needs? She exemplified this with three different target groups, all with different needs and challenges. One is the unreliable offender, the original target group of the Hessen project, always returning to court after not being able to comply with parole, and with a lack of self discipline and motivation. This offender needs both close supervision and support by the probation service, and immediate reaction to breaches. EM and a daily schedule can assist with the element of structure in life. Use of RF is sufficient and simple in these cases, GPS would be like "shooting sparrows with a cannonball", and not very proportional. For suspects on remand, the important aim is to reduce the flight risk, and GPS offers the best possibilities to secure this. The immediate notice of escape is crucial. At the same time a reasonable question is why we use the most intrusive solution for a target group presumably innocent? It's all about the risk assessment, and the need for a high security to even consider the use of EM as pre-trial. When it comes to the high risk and sexual offenders, the most important aims are to reduce the risk of the offender to commit further crime by increasing the risk of discovery, and also to improve the victim protection. In these cases, GPS seems like the obvious choice of technology. The question about consent and compliance is also a question of target group, the type of scheme being used (front door or back door) and the technology being used. The use of GPS makes consent necessary, at the same time acknowledging that the more intrusive the technology, the less valid consent is as the sole legal basis. According to Ms. Eilzer, this calls for differentiation between RF and GPS regarding the need of consent. In the end, compliance is what we are seeking, so we should not only focus on consent, she added. Taken into account the relative recent German history of Stasi and surveillance society, data protection is a sensitive issue where restrictions are considered necessary and an important achievement in the context of human rights. GPS data do not only concern offenders or suspects, but also victims in a victim's protection project; they all have a need for private protection. At the same time, the restrictions must not defeat the purpose. Important questions to discuss, is whether the authorities should be able to check the data real time, and when the data should be erased? The answers differ a lot among the European countries, and the Federal approach in Germany seems to be one of the most restrictive. The data must be erased after only 2 months, and the authorisation to use the data is strict. Being a suspect in a criminal proceeding is not enough, the crime in question must be either a specific type of crime (e.g. sex offenders) and punishable by a minimum prison sentence of one year. The last requirement created much debate among the audience; the opinion being that two months could be a too short period of time and not necessary proportional with both type of offending and the length of sentence. Ms. Eilzer herself raised the question whether the Germans were overdoing the restrictions. It doesn't make sense to collect data, without the possibility to access them, does it?

The council of Europe Recommendation 2014 (4)

Dr. Dominik Lehner, member of the Council for Penological Cooperation (PC-CP), and in daily life Head of Penitentiary Administration Services, Departement of Justice and Security, Basel, Switzerland, introduced the Recommendation on EM to the participants, as a preparation for the discussion groups on the theme of data protection, which will take part after this presentation. The Council of Europe is looking after human rights that are described in the European Convention on Human rights, a treaty designed to protect human rights, democracy and the rule of law. The Council is considered to be a leading human rights organization.

Dr. Lehner stretches the importance of some other recommendations from the Council: the prison rules and the probation rules. He quotes Bob Lilly, also a former participant of the conference who said: "Whatever its limitations, Recommendation 2014(4) are a

wholly commendable development, a model document for any state that uses EM, inside or outside Europe."

The origin of the initiative of the CEP to contact the Council lies in previous conferences, where participants concluded they were in need of rules in the use of EM. At the conference in Sweden, a first attempt was made to draft some basic principles, which were discussed with Council members. Condition to be met when making regulation, is that you have to define very clearly what you are talking about: what is EM is and what it can do?

The aim of the Recommendation is to define a set of basic principles related to ethical issues and professional standards in the use of EM. EM is considered to be an instrument that supports social workers, and should not undermine or replace the building of constructive professional relationships.

The recommendation covers four groups of rules:

- 1) Rules about well-known general penitentiary basic principles
- 2) EM specific issues to be dealt with
- 3) Basic principles concerning third parties
- 4) Basic principles concerning goals and policy

Dr. Lehner concluded his session by saying that often, ethics are considered dull, until you start talking about examples. Then you see the relevance and importance. The recommendation encourages reading, understanding, legislating and acting accordingly. Ethics matter!

Towards a Research Agenda for Electronic Monitoring in the USA

Mr. James Kilgore, a Research Scholar at the University of Illinois, US, gave a personal and therefore unique exploration of the use of electronic monitoring in the USA, based on personal experiences and several years of researching. After completed six and a half years in prison, he was released with electronic monitoring for one year as a condition of his parole. His experiences during this year raised questions, which led to his attempts to situate the bigger picture and brought him to define the following preliminary conclusions for the research agenda on EM;

- the need to add the voice of the monitored
- the need to contextualize EM: mass incarceration and punishment paradigm
- the need to understand the industry, and their interests

One of his major issues was the voice and the rights of the monitored, explored by discussions and interviews with offenders, their relatives and practitioners in the field. He was told about the stigma wearing the bracelet and to cope with technical problems like looking for signals and the need for charging. The monitored experienced the movement restrictions and the limitation of activities as challenging, which also put a pressure on the relatives, adding extra burdens on their family members which could lead to increased tension in the domestic sphere. There is a financial cost of being monitored, as individuals have to pay a set up fee and a daily charge to be monitored and for drug control. This constitutes a major financial obligation which can be a crucial issue for many people. As one of the interviewed stated; "The monitor is the 21st century slavery, electronic style". He emphasized the lack of clarity what a person on EM can do and what he can't do. There is a big grey area, in which probation officers have discretionary liberty to impose restrictions of movement, like a 24 hour "lockdown". In this respect he also mentioned the difficulties in managing expectations from employers, who demand flexibility, opposed to the relatively inflexibility of the monitoring schemes.

Another issue of his research was the profile of the industry, with approximately 300,000 persons being monitored per year. With a roughly estimated income of \$200 million a year for the private companies, we have to keep in mind that the development is guided

by profit-making concerns. Despite the prediction of rapid growth for electronic monitoring in the criminal justice sphere, this expansion has not happened. Mr. Kilmore explained that there is more money to be made in the prison industry and that the legislation is not enabling an increase of electronic monitoring. Bad publicity regarding crimes committed by people on monitors has added to scepticism about the limitations of monitoring among the public and the judges. In his research, Mr. Kilmore found the legal framework to be full of contradictions. It is also very complex, with each of the 50 states having their own legal code as well as criminal justice and correctional system. There are many legal issues still to be explored. The race and class-issues in the US criminal justice system in general have got a lot of attention in USA, but not in the system of electronic monitoring in particular. Is electronic monitoring an escape from incarceration for a certain privileged layer of the population? On the other hand, EM is not always a privilege, when it is used as an add-on to traditional regimes of parole, probation or pre-trial. Is EM an extra punishment and does it cause a net-widening for poor people of colour? He concludes that there simply is a need for more research on the topics on the topics earlier mentioned.

As for the future of electronic monitoring, Mr. Kilmore is concerned about the technology of surveillance, with a range of new modes of social and behavioural control, referring to Tony Fabelo's term of "techno-corrections". This could be a threat to democracy, and there is a need of a debate concerning the ethical and legal questions arising. Finally, he acknowledged the important work done by European researchers and the Council of Europe Recommendation from 2014, which inspired him to draft guidelines for people on parole in the US.

Creativity and effectiveness in the use of Electronic Monitoring as an alternative to imprisonment in EU member states

In her session, **Professor Anthea Hucklesby from the University of Leeds in the UK**, elaborated on the comparative research on EM in five European jurisdictions: Belgium, Germany, England & Wales, Scotland and the Netherlands. EM is organised and used differently in all of the countries, and comparative research will assist in identifying what works and will recover best practices. The research, consisting of documentary analysis and different forms of empirical research, will:

- describe and explain the legal and policy context in which EM operates and identifies ways in which EM is implemented in each jurisdiction
- identify the ways in which EM is implemented and used in each jurisdiction and examine a range of outcomes including compliance and offending rates. It will also explore conceptions of effectiveness in different jurisdictions and the role of policy transfer between EU member states
- compare practices and outcomes between jurisdictions drawing out similarities and differences and drawing conclusions about best practice in the implementation of EM and effectiveness
- disseminate the findings of the project

Professor Hucklesby is convinced that the numbers of EM will increase throughout Europe, so in her opinion this only proves the importance of more research on key questions like creativity, effectiveness, efficiency and proportionality of the use of EM. She believes that the use of EM will increase because 1) the prison numbers increase, 2) technology will improve and 3) the political climate, which is strongly in favour of EM. Increased use of EM might decrease the need for probation work, which could be cost effective. One of the remarkable differences between the jurisdictions in this research is that there are two groups: one group with increasing prison population (England & Wales, Belgium) and one with decreasing prison population (Germany, The Netherlands).

This raises the question what part EM can play as an alternative to imprisonment, not only as an addition.

The research project started in May 2014, and will end in April 2016, when one overall final report will be produced as well as jurisdictional reports. Early 2016, a conference on the results of the research will be held in London and Brussels, preceded by regional workshops. Professor Hucklesby is already looking forward to the 10th EM-conference, where she might present the findings of her research.

How effective is EM? Some reflections on evaluation

Professor Dr. René Levy, senior research director at the Centre for Sociological Research of Law and Criminal Justice Institutions in Paris, France, presented some reflections about the difficulties of evaluation on electronic monitoring, based on different global research concerning two main issues: the costs and the impact on recidivism.

The question of costs regards to both direct costs and to cost-effectiveness, which includes the issue of recidivism, both during and after EM. Dr. Levy presented several reports from both France and US, comparing the cost and cost-effectiveness of different types of electronic monitoring and sanctions. The findings in the reports, in several countries and states, and over a period of time, were quite different. He attributed this to the difficulties of evaluations, caused by three factors:

- the versatility of EM
- multiplicity of objective
- complexity of evaluation

The versatility of EM refers to the diversity of target groups, various stages of penal process and the diversity of protocols. The multiplicity of objectives refers to the different purposes of EM, whether this is an alternative to short-term imprisonment, rehabilitation, incapacitation, and early release, reduction of recidivism or protection of victims. The complexity of evaluation is about the different designs and ethical, technical and political issues. This also means that it is not possible to draw conclusions about the absolute effect of EM, but only about a relative effect: the effects of EM as opposed to effects of other, poorer, measures.

Dr. Levy concluded that the evaluations he presented, concerning cost issues, "being clear as mud". The direct costs vary between 2 Euro in Estonia and 100 Euro in Norway. It is obvious that they are measuring different kind of costs, only unit and equipment costs or the total costs, which include the whole system, which again will vary on the number of people and the infrastructure costs. The results are therefore difficult to compare. The only conclusion can be that EM is cheaper than prison and more expensive than traditional probation. There are no savings unless EM is a substitution for a more expensive sentence. The questions about costs and the numbers are estimations, based on complex economic models, and so we should not take the results for granted.

When it comes to the question of reoffending, it's important to remember that the topic has different meanings, depending on the criteria used. Dr. Levy showed the results from studies on reoffending from four different countries, with all different target groups and length of measuring. This makes a comparison less usefulness. In addition, the results from each country are not giving any firm conclusions. Only one conclusion can be firm: EM is not worse than what it's compared to.

To answer the big question "does EM work", he pointed out the need for more evaluation research, and that in this research the aim ought to be clarified for better tuning and

targeting. The question of cost-effectiveness cannot be generalised, and is always relative to the existing. Dr. Levy concluded with his opinion that EM is here to stay, even without an evidence based policy, making the ethical issue of its development of great importance.

The development of EM in Germany – From Radiofrequency to Global Positioning System?

Dr. Rita Haverkamp, professor at the University of Tübingen, Germany, explained how EM has developed in Germany, and which conclusion can be drawn from that development. First, she made clear why the development of EM only reluctantly took place. Around 1990, there were overcrowding prisons, which led to rising costs of the prison system. Moreover, prison conditions did not meet (inter)national standards. Nevertheless, it was hard to find a suitable target group for use of EM. The public and political debate on the use of EM was an emotional one, due to the fear that use of EM would encourage the growth of the surveillance society. Both opponents and proponents got caught in contradictions in the public debate. Arguments pro and contra were also overlapping. Ultimately, the ruling of the ECHR concerning preventive detention (which Ms. Eilzer talked about in more detail) made the introduction of 24/7 GPS supervision possible. There was consensus among politicians that high risk offenders were a suitable target group. GPS is thus considered to be a way to monitor a target group who, according to civilians, politicians and policy makers, should normally belong in prison.

Dr. Haverkamp further mentioned two pilot projects on RF and GPS, one in Baden-Württemberg and one in Bavaria, which both did not meet the expectations, are were not pursued. The first project concerned prisoners who were eligible for home detention and early release. The pilot aimed at low risk offenders. There was a lack of interest among the prisons and the convicts, especially among the target group of fine defaulters.

In Bavaria, the pilot was aimed at juveniles. Technical failures of the GPS equipment characterized the project. In addition, the project did not bring about the expected savings in staff, which also contributed to the decision not to pursue the project.

The German legislator has recently integrated use of GPS in the framework of measures of prevention and correction. Main target groups are sex offenders and violent offenders, with a high reconviction rate. Dr. Haverkamp mentioned that according to this legislation, GPS supervision could take place on a lifelong basis; this use is explicitly mentioned by the legislator for pedophiles. Aim of the GPS monitored supervision period is not only to know the whereabouts of the offenders, but also to support reintegration. The legislator considers GPS to be of help to the offenders, who can use it to improve and internalize self control. Dr. Haverkamp points out that there is no evidence to support this view.

She concluded that although EM is not widely used in Germany, it has nevertheless become appealing as a modern sanction. The use of GPS technology has generated constitutional concerns, but up till now, they are not addressed. Several complaints have been made to the Federal Constitutional Court about the use of GPS, but so far, only one of them has been ruled on. So it remains unclear how these concerns are to be dealt with.

The ruling of the European Court on Human Rights regarding preventive detention has encouraged the use of GPS: the constant police surveillance has been replaced by use of EM. Dr. Haverkamp thinks the legislator is choosing the easy way: the decision to make use of EM is based on wishful thinking, rather than based on findings of academic research. There are no conclusive findings that support the aim of EM to contribute to the prevention of reoffending or to rehabilitation. Though Germany has put a lot of effort in producing evidence from evaluation, this has not been taken into account in the process of political decision making. She feels that a rational discussion about the how to deal with sexual and violent offenders is almost impossible. Dr. Haverkamp points out that a technological tool like GPS cannot by it self provide sufficient safety to deal with the problems these offenders cause.

EM in context of the German "Surveillance Society". A philosopher's reflection.

Dr. Michael Nagenborg, Assistant Professor for Philosophy of technology at the University of Twente, the Netherlands, explored EM in Germany from a philosophical point of view, with a focus on how the public sees the technology, which might explain the German skepticism for EM. He started with a definition of the term surveillance; "*any collection and processing of personal data, whether identifiable or not, for the purposes of influencing or managing those whose data have been collected*" (Lyon 2001) and of surveillance society; "*A society, in which surveillance (broadly understood) has become a part of everyday life*". Dr. Nagenborg then presented his thesis on why EM has little acceptance from the public.

First of all, he claimed that there is a remarkable difference in the public perception of and reaction to state surveillance and to non-state surveillance. State surveillance has a clear negative connotation, with the history of Stasi in mind. EM in Germany seems to be an issue of state surveillance, which has influenced the debate. At the same time, the non-state surveillance is increasing, such as the use of online, smart phones and location based services. Dr. Nagenborg finds the great acceptance of this kind of surveillance through the social media a strange contrast to the general skepticism for EM.

Secondly, he believes that the current public perspective of EM in Germany is framed in the context of behavior control technology, which involves a large scale state surveillance that aims to modify the behavior of a larger number of persons. This is a contradiction to the traditional emphasis on autonomy, and not likely to be accepted in Germany. So the aspect of behavior control should be downplayed in the public debate, with more focus on the opportunities of EM and a better understanding of what EM does and means.

Dr. Nagenborg's third thesis, is that when EM was implemented in 2011 on a federal level, it was a reaction to the preventive detention ruling from 2009, and accepted as an alternative to a 24/7 surveillance by the police. The emphasis was on the fears in the population and the need of public protection. There was never a substantial public debate and only focus on the use of EM as the "lesser evil" alternative to prison.

The lack of public debate is his last explanation of why EM is not being broadly accepted in Germany. There have been no thorough discussions on the ethics and the goals of penalties and punishment in general, and the use of EM as an alternative to prison in specific. "If we're not clear on what we want to achieve, how could we discuss the use of EM and its possibilities and limitations?" Dr. Nagenborg asked, and he concluded that there is a need to debate the bigger picture of this issue in Germany.

Conclusions from the discussion and working groups and closing words

Mr. Willem van der Brugge, Secretary General of the CEP, presents the conclusions of the discussion groups on the Recommendation on EM of the Council of Europe, and the conclusions that can be drawn from the workshops.

The discussion groups show that the Recommendation:

- is widely welcomed by the participants
- has come at the right time
- deals with a wide and relevant range of topics related to the use of EM
- stimulates the right discussion, without in itself being able to resolve all problems on items as a) the degree of judicial accountability, b) public/private sector relationship c) whether consent of the offender is needed
- can probably not lead to a standardised practice in Europe, but
- can stimulate better practice
- reveals that there is still work to be done when it comes to the aspects of data protection, given the possibilities of GPS

Mr. van der Brugge would welcome it if, at the next conference, some countries can draw upon their experiences on implementing the Recommendation.

Again, the workshops proved to be of added value to the participants, given the comments that were made. The lessons learned from the workshops in this conference were:

- The discussions in the workshops on (detailed) issues are greatly appreciated by the participants;
- There is need for a specific approach on EM from the perspective of women;
- GPS police led schemes are worthwhile to be closely investigated and discussed;
- The media play an important role when it comes to shaping the concept of EM. The instrument itself and its practitioners should be safeguarded from expectations that are not realistic;
- The benefits of human relations and support in dealing with offenders and offences are highly valued; this support can not be replaced by only a bracelet;
- We should learn more from the Scandinavian schemes, giving the effect that EM actually leads to a decrease in the use of prison for short term sentences
- We have not done enough when it comes to victim protection, which is regarded to be one of the potential benefits of EM.

Mr. van der Brugge concluded that, listening to the feedback he has received so far, this 9th edition of the conference can be regarded as a success. He has seen a lively interaction between the participants, interesting conversations with the sponsors, vivid visits at their displays and an active audience at the plenary sessions.

Mr. van der Brugge hopes to meet all the participants and sponsors for the next EM conference, and wishes all a good and safe journey back home!

Finally, **Mr. Marc Cerón**, with great pleasure, presented the venue for the next EM conference which will take place in Riga, Latvia in spring 2016. On behalf of the Latvian government, **Mr. Imants Jurevicius**, from the State Probation Service, said Latvia is grateful for the honour to be the host of the 10th CEP conference on EM. He heartily welcomed everyone to Riga in 2016!

Summary of the workshops

A. Electronic Monitoring in Hessen (Germany) and Austria

Ms. Silke Eilzer, judge at the district court in Hesse, and Mr. Gerhard Nograthig from the Ministry of Justice in Austria, described the development of EM in Germany and Austria. EM was introduced in Germany in 2000, in the region of Hesse, as an alternative to custody. In 2011, GPS tracking was developed by the Federal Government, for serious sexual and violent offenders. The work of the Joint Monitoring Centre of the Federal States was described, as well as the data protection issues. In Germany, all movement data collected from GPS is deleted three months after the event, but can be given to the police for use in other investigations. EM is not used on a great scale in Germany, and the prognoses regarding supervision orders with GPS are hardly possible to realize. Pre-trial detention might be a future focus for the Federal legislation in Germany.

In Austria, EM is a way of serving the remaining sentence up to 12 months, and in a few cases for pre-trial detention. Due to a victim's media campaign, sex offenders are practical excluded from the Austrian programme of EM, unless a guaranty for not reoffending is given – which is not possible. Austria is focusing on reducing the prison population, and is considering extension to 18 months remaining of the sentence, and more use of GPS. EM is an administrative decision in Austria, but is subject for a judicial review.

B. Executing prison sentences at home with EM – advantages and disadvantages of the Scandinavian Model.

Ms. Anette Esdorf from the Ministry of Justice in Denmark, and Mr. Tony Rørbu from the Directorate of Norwegian Correctional Service, gave an introduction to the way EM is used in Denmark and Norway. They explained how all the Scandinavian countries have been influenced by Sweden, which was the first European country to establish EM as an alternative to imprisonment. In that manner, the Scandinavian countries have much in common regarding the use of EM, and therefore developed a kind of "Scandinavian Model".

EM was introduced in Denmark and Norway in 2005 and 2008, as a way of serving an unconditional sentence for low-risk offenders. Both countries described a model of a very tight offender management, with both control and support, and several meetings at the probation offices during a week. Most of the participants in the work shops were surprised of the very intense supervision for this target group, but both Denmark and Norway reasoned with the importance that EM is an alternative to prison and should reflect that in the way of implementation. The very strict management and prompt reaction to breaches is also one of the reasons for the broad acceptance to EM, by the public opinion, the media, the justice system and by the politicians in both countries. Another main issue in the Scandinavian model is the fact that EM is an administrative decision, and no alternative measure sentenced by the court. According to Denmark and Norway, this solution has mostly advantages, especially that there is no risk of net-widening. It's also more flexible and enables a quick response to breaches. The question is, if the administrative decision gives less judicial control, is there a risk of not taking into account the protection human rights? The recommendations from the Council of Europe do acknowledge that the judicial review may be undertaken by an ombudsman – which is possible in both Denmark and Norway. Even though some elements of the Scandinavian model are debated, there is no doubt that the results in Scandinavia are very positive; using EM as both a human and trustworthy alternative, reducing the use of short prison sentences and in the end reducing the recidivism.

C. Electronic Monitoring – a police and probation perspective from England and Wales

Ms. Tessa Webb, former Chief Probation Officer and Mr. Dave Wharton, Chief Police Officer from England and Wales presented the way police and probation work together in Hertfordshire, in an (GPS) EM scheme on voluntary basis. They described the several benefits for the offenders themselves and for the public and professionals. Partnership between probation and police is important to create good results; the scheme and cooperation enhance probation supervision. The GPS tag is a part of a broader programme, which can consist of f.e. treatment, housing and education. This is because the combination of support and monitoring creates better compliance rates. To impose only external controls without addressing underlying personal and social problems is a flawed strategy, they explained. Also, they mentioned that a GPS tag is not a “panacea”. They learned that their approach works best with offenders who are “rational calculators”, which also means that it excludes some. Police officers developed a different view on the offenders. Instead of working on them it feels like working with them. Next to benefits there are also challenges that have to be dealt with. They mentioned f.e. the need to address public expectations and the experience that the offender sometimes moves over to other types of crimes (shoplifting instead of burglary). The most important topics of discussion were: 1) is this scheme really voluntary, given the (lack of) alternatives? 2) there are unresolved data issues 3) is the tag a rehabilitation tool or a public protection tool? A shared conclusion was that the tag is a part of the solution, not the whole solution.

D. Women offenders and Electronic Monitoring

Ms. Ella Holdsworth and Prof. Anthea Hucklesby from the University of Leeds, UK, outlined the way EM is imposed to women, and the different issues that arise – especially considering that this is a system mostly designed for men. Their research shows how the current EM regimes fail to take into account the differences in women’s life and their offending, and the fact that there is not enough attention paid to women and EM – even though there are many advantages in using EM for female offenders. The main discussion in the work shop was how to design the EM programme to become more “women-wise”. It needs to be adjusted in several areas; the equipment, the regime and the compliance policies and practice. The tag needs adjustment to women, in order to avoid discomfort and embarrassment. The size needs to be smaller so it will fit better to women’s ankles and be less visible. Both the curfew hours and the area that the offender can be during the curfew do affect men and women differently, due to different living arrangements and caring responsibilities. Therefore the regime should be more flexible and adjusted to women and their lives. The breach policy should take into account the fact that there are a higher number of females breached for time violations due to circumstances around children or household. The conclusions drawn was that there is a need for further discussion regarding the potential of EM for female offenders, also as an alternative to other community sentences and to fines.

E. GPS and high risk offenders with a 3 country perspective from Germany, France and the Netherlands

Mr. Remi Bonnard and Ms. Marie Deyts from the Ministry of Justice in France and Ms. Anneke Trinks from The Probation Service in The Netherlands compared the legal framework and practice on EM in both countries. **Professor Dr. Jorg Kinzig and Ms. Anne Bräuchle from the Criminology Department from the university of Tübingen in Germany**, revealed the German legal framework, and presented the preliminary results of their research on GPS monitoring. This research indicates that only

a minority of the (small) numbers on GPS are offenders released from preventive detention, which was meant to be the primary target group. The most striking difference between France and the Netherlands refers to the role of the probation and the judge. In the Netherlands, the probation plays an active role in informing and advising the judges. In France, the judges themselves are more leading in following and guiding daily practice. In both France and Germany, eligibility for GPS is connected to the sentence of the judge: this sentence must meet certain criteria concerning f.e. the length of the prison sentence. In The Netherlands, the use of GPS is connected to the scores on the risk of reoffending, in combination with certain categories of criminal offences. One of the questions was whether all countries have a clear definition of what a high risk offender is. Another question regarded the use of GPS in case of suspension of pre trial custody, a practice in both France and The Netherlands. Is this proportionate, given the assumption of innocence in this phase of the criminal trial? Joint conclusion was that attention should be given to victim protection in case of use of GPS, for instance about informing victims on the start and end of GPS monitoring. Another point of concern is the lack of clear guidelines how to deal with victims in case of breaches of an exclusion zone. A second shared insight concerns the high expectations in the use of GPS. There is no guarantee for 100% safety, but media and politicians are not willing to acknowledge this fact. This can create a high burden on practitioners and can cause them fear for incidents.

F. Offender perspective on Electronic Monitoring

Ms. Delphine Vanhaelemeesch from the university of Ghent, Belgium and Ms. Tami Mazel-Shachar from 3M Electronic Monitoring International presented each a view on the experiences of offenders. Ms. Mazel focused on the developments over the past decades in technology. The different devices that are used are more and more tailored to match the needs of the offenders and the type of scheme in which the devices are used. She demonstrated the added value of EM, based on the worldwide experience of 3M. In her opinion, the use of EM is cost effective, operational effective and also social effective. Ms. Vanhaelemeesch presented the results of the research she conducted for her PhD. She focused on the results of the qualitative interviews with both offenders and their co residents. Overall conclusions regarding offenders are that motivation and self discipline are important factors which influence the outcome. Also, the availability of individualized programmes is important to them. EM contributes according to their experiences to limiting risks, prevention of re offending and promotion of reintegration. The co- residents experience forms of co punishment (e.g. disruption of daily life, needs of offenders are leading), although they also report that the benefits of EM outweigh the disadvantages. Co-residents play an important, but no exclusive role for the offender. They make it both easier and harder for the offender to comply. The shared conclusions of the participants were that the importance of human relationships in EM is not to be underestimated, and secondly, that the experiences of both the offenders and co residents should be taken into account more often. The question was raised whether experiences of offenders vary according to the type of EM scheme.

G. The use of Biometric sensors to improve rehabilitation

Professor Mike Nellis, Criminal Justice department, University of Strathclyde, and Mr. Urs Hunkeler from GeoSatis Technology described the current situation of biometrics and EM and explored the future possible technological developments. This could be sensors to analyse behaviour and patterns, with a focus on offenders who need help and detect problems before they occur. The main questions and discussions in the

work shop were regarded to the actual need of using more techniques to improve rehabilitation, and how it could fit in to the daily practice. Another major question raised, was how these technical developments can be regulated in to the legal framework, especially taking in to account the Human Rights and ethical issues. There was a point made, that in order to take a stand to these questions, it is important to keep up with the developments and to understand and evaluate them, to be able to make a qualified choice in how to deal with it. In the end, EM is nothing more than a useful tool which should be combined with probation supervision.

H. Electronic Monitoring in Poland: zero to thirty five thousand monitored in five years, it can be done

Mr. Michiel van der Veen, EM consultant for the Dutch Probation Service and Mr. Graham Cottrell from Comp Electronic Monitoring and Mr. Mariusz Makowski from Comp Electronic Monitoring reflected on their experiences in developing the use of EM. Michiel van der Veen focused his presentation around the question whether, over the years, we got closer to the golden standard on EM. He stated that in order to achieve this, we should be less technology driven, and focus more on the goals that have to be achieved in using EM. It all begins with a clear and simple definition of the concept of EM that you want to use, and adapt the legislation to this aim. Mr. Makowski explained how the Polish government succeeded in the growth of the use of EM in 5 years time. Among other things he mentioned the importance of legislation and the use of a PR campaign, designed to explain the benefits of EM to the public. He also emphasized the importance of co responsibility between de public and private sector. One of the main questions that were raised was how to achieve a good balance between focus on quantity and focus on quality. The shared opinion of the participants was that the public and private parties should invest in further development of the golden standard, because a continuous orientation on excellent practice ultimately is a win-win strategy for both of them.