



10th CEP Electronic Monitoring Conference

Survey of Electronic Monitoring in Europe: Analysis of Questionnaires 2016

Soraya Beumer and Marianne Kylstad Øster

Introduction

One of the aims of the CEP EM conferences has been to gather information about the use of electronic monitoring in different European jurisdictions. This usually includes a survey in advance of the conference, to provide the participants with an analysis to get an updated picture of the state of EM in Europe.

Prior to the last EM conference in Frankfurt, December 2014, CEP decided not to send out a survey. The reason for this was because the information was already gathered during the work with the Recommendation of the Committee of Ministers of the Council of Europe CM/Rec (2014)4, and in the following Multilateral Meeting on Electronic Monitoring, which took place in Strasbourg in February 2015.

For the 10th EM conference in Latvia 2016, the CEP Secretariat sent out questionnaires to designated individuals responsible for EM in the member countries, 33 in total. The response rate was low; only twelve countries returned the questionnaire: Austria, Czech Republic, Estonia, Germany (from Baden-Württemberg, Hessen and from the general surveillance office for all regions), Luxemburg, The Netherlands, Northern Ireland, Norway, Portugal, Scotland, Sweden and Switzerland (from Basel, Berne and Geneva). In addition, we got some information from Italy, in the form of a letter.

Some countries notified us that they are not, for different reasons, undertaking EM. Malta and Liechtenstein are not using EM at all. The Jersey Channel Islands did use EM as part of early release from prison, but discontinued it as they have been able to maintain similar levels of compliance through random police visits and telephone calls. Croatia responded that they do not have EM, but are just starting a new project “Support to further development and strengthening of the Probation Service in Croatia”, which will pilot EM. Romania did not complete the survey, but notified that EM can be used only in case of preventive measures, where the responsible body for the enforcement is the police department.

Due to the low response rate, and the lack of information of some of the largest EM jurisdictions (England and Wales, France and Belgium), this analysis will not be representative for what is currently going on in European electronic monitoring. As with previous surveys, we cannot be entirely sure of the comparability of the data we have been sent. Different countries supply different levels of detail, possibly because they gather information in different ways, possibly because particular individual respondents have incomplete access to the data in their country. Still, we appreciate the information we’ve got, and will try to make a comparable overview for certain aspects of the use of EM in the twelve countries available.

The questionnaire has been subject to some adjustments. The questions regarding cost data have been removed, because of the variation of what to include which make it not expedient to compare. We have added question about data collection and protection issues, as well as the relevance of the recommendation EC of EU. We also asked about the use of EM in other sectors, and for a short description of the benefits and challenges of EM in each jurisdiction.

1. Area covered, status of program and start date

The majority of the European EM programs are national and permanent. Germany and Switzerland are divided into several autonomic jurisdictions, ländern or cantons, which will count as regional for this matter. Scotland is making use of EM in different front door and back door schemes which are all both national and permanent, but did had a regional pilot with a pre-trial scheme for the period of 2005-2007. The cantons of Bern and Geneva report of pilots with execution of sentence as front door and early release which now have ended, but expect to come back into force with a revision of penal code in 2018. Portugal also makes use of a nationwide program with restraint orders for domestic violence, started in 2007. Sweden is also using EM to monitor the inmates of open prisons. The Norwegian program is still formally a pilot, even though the penal code concerning EM is permanent, and there is no actual plan of ending the pilot.

Table 1: The start year for each type of program and jurisdiction, and whether it's national or regional, pilot or permanent

Jurisdictions	National/ regional	Pilot/ permanent	Pre-trial	Front door	Back door
Austria	N	Per		2010	2010
Czech republic	N	Pi		2012	2012
Estonia	N	Per	2011	2011	2007
Germany (all)	N	Per			2011
Germany Baden Württemberg	N	Per			2012
Germany Hesse	R	Per	2000	2000	2000
Luxembourg	R	Pi		2006	2006
Northern Ireland	R	Per	2009	2009	2009
Netherlands	N	Per	1995	1995	1995
Norway	N	Pi		2008	2008
Portugal	N	Per	2005	2007	2007
Scotland	N	Per		2002	2004
Sweden	N	Per		1994	2005
Switzerland Basel	R	Pi		1999	1999
Switzerland Berne	R	Per	2007	2015	
Switzerland Geneva	R	Per	2007	2015	

2. Number of participants and average daily caseload of EM

The questionnaire asked about the number of participants in each program. The numbers are not representative when it comes to the volume of EM in Europe in general, but will only describe the situation in some countries.

Information about the total number for 2015 distinguished between the different programs is given in the table below. This shows that Scotland stands up as the country with the most extended use of EM, in both front door and back door scheme. Norway and Sweden report of a considerable volume of participants with EM, both as an execution of prison sentence and early release programs. The use of EM has increased in Norway since it became nationwide in 2014, as for Sweden the numbers has been relatively stable for the last years. The Netherlands reports about use of EM in many different programs, within both front door and back door schemes, and their numbers for the post release relates to a penitentiary program for adults. On a small scale EM is also used within youth probation. Both the Netherlands and Portugal report of a major use of EM in the pre-trial phase. Portugal is also using EM for domestic violence, as a restraint order. The Czech carried out a small pilot project in 2012 for house arrest and conditional release with conditions of house arrest, with the total of 43 offenders tagged. Northern Ireland and Hesse (Germany) did not separate the numbers in different programs, so the table only shows the numbers in total.

Table 2: Total numbers of participants in 2015

Jurisdictions	Front door		back door			Others	Total
	pre-trial	court order	condition of court order	execution of prison sentence	Early release		
Austria				628	177		805
Czech republic							
Estonia	14				233		247
Germany (all)						106	106
Germany Baden-Württemberg							
Germany Hesse							113
Luxembourg				63 ¹			63
Northern Ireland							195
Netherlands	456	316		630	135	746 ²	2283
Norway				2838	360		3198
Portugal	429	105			32	558 ³	1124
Scotland		1287	10		1642	13	2952
Sweden				1826	606		2432
Switzerland Basel				11	1		12
Switzerland Berne				81	6		87
Switzerland Geneva				35	1		36

¹ Numbers from 2014

² Penitentiary Program for youth probation

³ Domestic violence restraint orders

The questionnaire also asked about the daily caseload of tagged offenders in the last three years. The table below shows an increasing use of EM in the jurisdiction representative. Some countries did not complete the information about the numbers in average.

Table 3: Average daily caseload 2013, 2014, and 2015.

Jurisdictions	Average daily caseload EM		
	2013	2014	2015
Austria	230	266	292
Czech republic			
Estonia	83	110	129
Germany (all)	48	74	75
Germany Baden Württemberg			
Germany Hesse	77	52	43
Luxembourg	142		
Northern Ireland	29	36	41
Netherlands	150	250	500
Norway	169	250	307
Portugal			
Scotland	679	754	787
Sweden	325	314	331
Switzerland Basel	10	10	12
Switzerland Berne	19	18	27
Switzerland Geneva	6	4	7

Sweden also uses EM to monitor the inmates in four open prisons, with an average daily caseload of approximately 350 inmates.

In addition to the countries in the table, Italy has noticed us that they are using EM for house arrest and home detention of suspects and convicted persons, for which about 2000 devices are in use.

The questionnaire also asked for data about the daily caseload of prisoners and probation clients, to make a proportional comparison. Only a few jurisdictions provided these figures, so the information about this matter will therefore not be analyzed.

3. Technology

Radio frequency (RF) is the dominant technology being used for EM in the jurisdictions responded, even though we know from previous surveys that several non-responding countries in Europe are using satellite tracking (GPS). Sweden reports about a GPS-pilot to start in 2016. The table below shows that all of the countries using GPS always use this in a combination with RF.

The involving of the private sector varies, but the monitoring part is mostly carried out by the public sector. 3M is reported to be the most commonly used company.

Only Germany and Austria reports of using remote alcohol monitoring in addition to RF or GPS, and no one the use of other types of techniques, e.g. voice verification.

Table 4: Types of EM technology, and who is delivering the technical service

Jurisdictions	Technology	manufacturer	installer	monitoring	
Austria	RF (97%), remote monitoring	GPS, alcohol	3M	prison	prison
Czech republic	RF		private	probation	project workers
Estonia	RF		3M	probation	probation / monitoring center officers
Germany (all)	GPS (100%)		3M	Hessische Zentrale (public)	Monitoring centre (public)
Germany Baden Württemberg	GPS (100%)		private	private	national agency
Germany Hesse	RF, remote monitoring	alcohol	3M	Hessische Zentrale (public)	Monitoring centre (public)
Luxembourg	RF		3M (G4S from 4/2016)	prison electrician	prison
Northern Ireland	RF		G4S	G4S	G4S
Netherlands	RF (41%), GPS		3M	DV&O	Tyco
Norway	RF		G4S	probation	probation / monitoring center
Portugal	RF (50%), GPS		3M	probation	probation / monitoring center officers
Scotland	RF		G4S	G4S	G4S
Sweden	RF, GPS-pilot in 2016		3M	3M	monitoring center/prison-probation HQ
Switzerland Basel	RF (99%), GPS		private	private	private
Switzerland Berne	RF		3M	authority of enforcement	Securitas
Switzerland Geneva	RF		3M	probation	Securitas

4. Operational aspects

The intensity of the EM program, regarding to the duration of the order and daily monitoring periods, varies among the jurisdictions. Germany describes duration of the post release program to be of maximum of five years, after a mandatory review by the court after two years. Scotland has no maximum period for post release. Portugal reports of the longest possible duration of up to 24 months for court order front door scheme. In both Bern and Geneva the duration for pre-trial and condition of court order is individually set.

Integration with support programs

Most of the programs are integrated to different kinds of support programs and other crime prevention and social measures, only Luxembourg reports of exclusively stand alone schemes. Yet it's difficult to be certain of the relationship between EM and programs/social measures, whether it's as a part of a multi-component sentence or as a rehabilitative measure. Care should be taken in the interpretation of this matter.

Table 5: Intensity of the EM program

Jurisdictions	Duration of order	Daily monitoring periods	Linked to support program
Austria	up to 12 months	24 hours	
Czech republic	8-121 days for court order, 37-56 days for early release	24 hours	
Estonia	1-12 months		
Germany (all)	max 5 years, after 2 years mandatory review by court	24 hours	yes, 100%
Germany Baden Württemberg	regular review	24 hours	yes, 100%
Germany Hesse	4-12 months, for pre-trial it depends on the necessity	court's discretion	100 %
Luxembourg	no statistics	no limits	no, only stand alone
Northern Ireland	12-90 days, average 60 days	2-12 hours, average 10 hours	yes, 100 %
Netherlands	1-362 days, average 84 days	24 hours	yes, 72%
Norway	14 days - 4 months	no limits, normally 15 hours	yes, 100%
Portugal	max 24 months, average 9 for court order and 12 for pre-trial, max 12 month for early release	12-24 hours, no minimum for pre-trial	
Scotland	max 12 months for front door, 6 months for early release, no max for post release	max 12 hours at monitoring address, up to 24 hours for post release	support programs can be imposed as condition
Sweden	14 days- 6 month for execution of sentence, 1-12 months for early release	8-23 hours, average 12	yes, 100 %
Switzerland Basel	20 days- 1 year	8-23 hours	yes, 20 %
Switzerland Berne	20 days- 1 year. Individual for pre-trial and cond. of court order	24 hours	yes, 100%
Switzerland Geneva	20 days- 6 month. Individual for pre-trial and cond. of court order	24 hours	yes, 100%

Pre-sentence report

A question was asked if there is a mandatory assessment report before EM is imposed, and if so; which agency prepares the report. In most of the jurisdictions such reports are mandatory, and made by the probation service. In respect of back door/ early release schemes, the report is often being made by the probation service together with a risk assessment from the prison service. For the post release program in Scotland, there is a report prepared by social work on suitability of EM prior to recommendation from the Scottish Parole Board. In Germany, a case conference consisting of members of the public prosecutor's office, probation service, prison service, police and sometimes the supervision authority take place to make a recommendation to the court via the prosecutor's office (may vary from Federal State to Federal State). However, since it is a court decision, the court may impose EM without a recommendation.

Decision of impose and revoke

The decision of impose and revoke EM depends on the type of program and varies among the jurisdictions. In Germany, Portugal and Estonia the enforcement of both impose and revoke all kind of EM programs is by the court. In Scotland it's the court that imposes and revokes all front door-program, but for the back door it's either the prison service (early release) or the parole board (post release). In Austria it's the prison service that has the enforcement to impose and revoke, as for the Penal Administration Service in Switzerland (Basel). The Netherlands reports the enforcement could be made by the court, prosecutor or the prison service. In Sweden the Prison and probation service is imposing, while the revoke is enforced by the probation board. For the pilot in the Czech Republic, the decision to impose was by the court, while the revoking by the probation. Norway is the only country that reports the probation service to be the enforcement agency for both imposing and revoking EM.

Revocation rates

Violations of programme conditions usually mean that electronic monitoring is revoked (or "breached" as it called in some jurisdictions). A revocation rate depends on the requirements of the programme and what would count as a violation, the level of control and the tolerance of breaches, which can be quite different in each jurisdiction. Among the responding jurisdictions in this survey the revocation rate was generally quite low. It reports a variation between 1 % in Switzerland and 12 % in Scotland for the court order front door scheme. The average reported revocation rate for all kinds of programs is 6 %. Care should be taken in the interpretation of this. A low figure could mean that there is low level of breaches of programme conditions for that jurisdiction, but it could also mean the level of tolerance for breaches is high.

Common or excluded offences

The questionnaire asked the jurisdictions about the most common types of offences for which EM is used, and for which offences EM is not available. The variable and imprecise terminologies used to describe the different types of offences make exact comparisons difficult. The table below shows the types of offences that have been reported by each jurisdiction.

It is clear that EM is used for a wide range of crimes. The most common seem to be offences against property, traffic offences and offences related to drugs. On the other hand, some jurisdictions reports of more serious offences for which EM is used, like sexual offences and violence. Nevertheless, the latter ones are also the most common grounds of exclusion, in addition to unspecified offences with an upper penalty limit. Switzerland and Sweden reports of assessments regarding to the risk of continous criminality and the threat of escape. The Netherlands do not report about different types of offences, only different types of modalities for EM and their goal oriented approach.

Table 6: Offender criteria

Jurisdiction	Common offences	Excluded offences
Austria	Offences against property, offences against life and limbs, drugs, offences against freedom	None
Czech republic	Obstructing the enforcement, neglect of compulsory maintenance, theft, menace due to intoxication	All criminal offences that are not classified as offences under criminal law. Offences are all negligent criminal offences and such intentional criminal offences for which the criminal law sets out a prison sentence with an upper penalty limit of up to five years
Estonia	Different types of offences	Lifetime prison sentence
Germany (all)	Sex offences, violent crimes	Offences that are not punishable with a prison sentence of at least one year, except for sex offences.
Germany Baden Württemberg	Bodily harm, homicide, sexual assault	Serious offences after prison sentence of at least 3 years
Germany Hesse	Fraud, theft, robbery, drug related crimes, traffic incidents, bodily harm	None
Luxembourg	Drugs	Sexual offences
Northern Ireland		
Netherlands	Not specific	Not specific
Norway	Traffic offences, drunk drive, drugs, fraud	Domestic violence, some sexual and violence offences
Portugal	Crimes against property, drug trafficking, crimes against people, traffic crimes, DV crimes	All crimes are admissible if punishable with 3 or more years of prison time
Scotland	Breach of the peace, vandalism, theft and assault	
Sweden	Drunk driving, drug related crime, assault	Where the crime has been committed from home and there is considerable risk for continuous criminality.
Switzerland Basel	Drugs, traffic, fraude, violence	None
Switzerland Berne		dangerousity, possible escape
Switzerland Geneva		dangerousity, possible escape

Victim aspects

We asked whether victims are informed that offenders are being electronically monitored. From the responses we received, it becomes clear that the majority of the respondents do not have a (mandatory) policy on this point, except for Sweden. In Scotland, victims who are registered on a victim notification scheme receive information. In a few other countries, this is being decided on a “need to know” basis, looking at the terms they use to describe their practice (“if needed”, “sometimes”, “only in exceptions”) or on a “want to know basis” (if specifically requested).

Three countries (Norway, Portugal, Switzerland) report to have specific, designated programmes for the protection of victims. More details on these programmes are not available to us. Estonia reports that by law, they have the opportunity to provide for such a protection. In practice however, this possibility is not used.

In three other countries (Northern Island, Sweden and The Netherlands) exclusion zones can be used to protect the victim(s).

Data collection and protection

Questions on data collection and protection are often an important subject of discussion at the conferences on EM. Most countries collect a variety of data, concerning the use of EM, but their focus can vary; some countries only focus on specific points such as curfew compliance (Scotland) or the number of exclusion zones and inclusion zones (Geneva, Switzerland). The majority of the countries register data in several categories, concerning:

- the EM orders: for example number of orders, length of order, type of order, start date of order, end date of order
- absences, breaches, violations and other “incidental information” (term was not specified)
- the client/offender under EM: for example age (groups), gender, date of birth, offences, risk category

Who scrutinises the data that are collected is not answered by the majority of the respondents. The given answers from 5 countries show a great deal of variety. In Scotland this is the task of the service provider, in Portugal and The Netherlands this is the responsibility of the probation service and in Norway that of the Directorate General of the Norwegian Correctional Service. In Germany the Joint Monitoring Centre of Federal States scrutinizes the data they collect.

Quite a number of countries (7 out of 12 countries) publish (a part of) the data they collect, for example on a website. Estonia mentions publication of the total number of clients on EM on a weekly basis. In Switzerland, only in the Basel region data on the total number of cases and days are published.

The majority of the countries (9 jurisdictions in 8 countries) report that they have specific rules relating to storage of monitoring data. Unfortunately, few specifications were given about these rules. Remarkable point is the variety when it comes to the maximum period of storage of data. The period after which collected data are erased, varies between 6 weeks after the end of EM (Hesse, Germany) and 5 years (The Netherlands). In Germany an exception can be made on the general rule, after a plausible cause for keeping data is established; this possibility is mentioned in the Federal legislation.

A majority of the countries (10 countries; 12 jurisdictions) report having specific regulations and procedures to authorise access to monitoring data. In Portugal, no specific legislation is available, apart from what in general is stated in the penal procedure code.

Recommendation EC of EU

In 2014, the recommendation on EC of the EU was published, a document the last CEP conferences debated about. Therefore a few questions on this recommendation were added to the questionnaire. On the first question, whether the legal and policy documents meet the requirements in the recommendation, the majority of the countries (7 countries, 10 jurisdictions) responded with a “yes”. Four countries report that they comply partly or mostly. In two questionnaires, this question remained unanswered.

The question whether the country already complied with the EC recommendations without making any changes to law, policy or practice, was also answered positive by the majority of the countries: in 8 countries (in which 10 jurisdictions function). Two countries report to have complied “almost”. In three questionnaires this specific question was not answered. Only one country reports that prior to the recommendation, the country did not comply with the requirements.

The minority of the jurisdictions have translated the recommendation into their own language. Three jurisdictions report that a translation is available. In two English speaking countries, translation is not needed. In two questionnaires, this question remained unanswered.

Finally, a small majority of the jurisdictions (8) indicate that the recommendation is not (yet) available to a general public. In 6 jurisdictions it is available to the general public; 3 of them indicate that the recommendation is available via the world wide web or the CEP website. In two questionnaires this question remained unanswered.

Benefits and challenges in general

This summary shows that there are a lot of differences between the jurisdictions in the way they use EM. Nevertheless, there seems to be a clear understanding between a lot of countries about the general benefit of EM. Several countries indicate that EM is seen as a good alternative to imprisonment; either in general or for certain (low risk) target groups. More specifically, the fact that negative effects (on work, housing, social network) of imprisonment are avoided, is being considered a major benefit. Some countries mention that this will avoid the offender asking for social and financial support. Several other countries mention the availability of supervision during a period of EM as a specific benefit.

Also the structure and routine that are imposed by complying with an EM scheme is considered by some countries to have a positive effect on the behaviour of offenders. Austria described this effect as follows: It believes that the EM period provides for a good training setting: one can only train socially constructive behaviour, when faced with the real challenges of freedom, the “burden of freedom”. A few countries mention specifically that in their opinion, EM contributes to more motivation or ownership with offenders to complete the sentence. Besides these effects, several countries also mention the benefit of lower costs, in comparison to other sanctions.

The answers to our question what major challenges exist in using EM differ, from more practical issues to technical and legal issues. Only one issue was mentioned by several countries. They referred to “technical problems” to describe their major challenge. Sometimes without mentioning more details, but sometimes also with specific examples, such as problems with devices, range issues with RF, accuracy issues with GPS, false alarms, creating appropriate schedules, including changes. An oversight of some other challenges that were mentioned:

- Increasing the number of offenders on EM
- Geographical and demographical challenges, which increase the costs
- Adaptation of the offender to requirements and conditions of EM in daily life
- Data protection issues
- Encouraging staff to identify EM as part of a cohesive supervision plan
- Being used as a source of information during the crime investigation by police and prosecution
- Lack of knowledge and high expectations about EM with partners within criminal justice chain
- Use of EM provides a threshold for offenders to reoffend.

Use of EM inside prisons and in other sectors

EM is not widely used within prisons of the jurisdictions of our respondents. Only Sweden reports the use of EM on a daily basis of 350 cases within the prison system. In what way EM is being used is not specified.

On a small scale, EM is used in the jurisdictions of our respondents outside the criminal justice system. Both Sweden and Norway report the use of police run programmes in situations with domestic violence. In Sweden also cases of stalking can lead to the use of EM; both applications (with domestic violence and stalking) are based on a decision of the prosecutor.

Within the health care system, in Sweden EM is also used on juveniles who are sentenced to care, by the Swedish National Board of Institutional care. Norway reports of some use of EM in public health care, as with patients who suffer from dementia. Finally, the Czech Republic indicates that EM solutions are used in several branches of the economy, for example logistics, animal farming and private security.

Research

All countries who (are planning to) use EM are keen to read evaluative research on projects, for several reasons. They want to know whether their projects are (cost) effective, win over opponents, impress policy makers, and so on. This “quest” for scientific research is always heard at the EM conferences. Five of the responding countries (Austria, Estonia, Germany, Norway and Scotland) report that recently research on EM has been published. Unfortunately, only the Scottish study is available in English. Another four countries (Czech Republic, Germany, The Netherlands and Norway) report that there is ongoing research at this moment.

Links to web sites on research:

Austria:

<http://www.irks.at/publikationen/studien/2012/evaluation-des-elektronisch-überwachten-hausarrests->

Estonia:

<http://www.kriminaalpoliitika.ee/et/elektroonilise-valve-kohaldamine>

<http://www.kriminaalpoliitika.ee/et/elektroonilise-valvega-lahenemiskeelu-kohaldamise-analuus>

Germany:

<https://www.jura.uni-tuebingen.de/einrichtungen/ifk/forschung/sanktionsforschung/aufenthaltsueberwachung>

<http://www.rsf.uni-greifswald.de/duenkel/forschung/forschungsprojekte/electronic-monitoring-in-eu-member-states.html>

Norway:

<https://ssb.no/sosiale-forhold-og-kriminalitet/artikler-og-publikasjoner/straffegjennomfoering-med-elektronisk-kontroll-i-norge#content>

Scotland:

<http://www.sccjr.ac.uk/wp-content/uploads/2015/08/Scottish-and-International-Review-of-the-Uses-of-Electronic-Monitoring-Graham-and-McIvor-2015.pdf>

In **appendix I**, you will find a description of the Swedish concept ISEM.

In **appendix II**, you will find a case study from the Czech Republic

Copies of the completed questionnaires will be available on request to the CEP Secretariat (Secr@cep-probation.org).