8th CEP Electronic Monitoring Conference

Survey of Electronic Monitoring in Europe: Analysis of Questionnaires 2012

Susana Pinto and Mike Nellis

Introduction

One of the continuing aims of the CEP EM conferences has been to survey member countries use of EM, to document the nature and scale of their programmes, and identify new developments.

In May 2012, the CEP Secretariat sent out questionnaires to designated individuals responsible for EM in the member countries. Despite subsequent promptings from the Secretariat, the response rate was respectable, but lower than it has been in the past: only thirteen countries returned questionnaires. This may be because of the shorter lapse of time between CEP EM conferences than is usual; eighteen months as opposed to two years - some potential respondents may have felt they had less new material to report. Whatever the reason, the picture we can paint of the state of EM in Europe is less comprehensive than it has been on past occasions.

The thirteen countries that responded are England & Wales, Estonia, Finland, France, Georgia, Germany (one lander), Luxembourg, Norway, Poland, Portugal, Scotland, Sweden and Switzerland (two cantons). Malta and the Czech Republic both notified us that they are not yet doing EM - and there are other non-using countries that could have done the same. Within CEP we are also aware of many more established and expanding EM programmes, and of new and imminent developments, and in their absence we should make clear that those reported upon here yield only partial insights into 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. Although this has improved over the years, different countries still 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. Comparative cost data - which we have requested as a "per day" expenditure on EM - is improved slightly by knowing what in general terms what cost items are included in arriving at the figure, but there are still significant variations which we cannot explain. Similarly, we may have data on the particular organizations that are involved in service delivery, but not the relationship and balance of responsibility between them, although probation services seem predominant here as the agency which runs EM schemes.

The two Tables of results are constructed differently from those in previous CEP EM surveys, mostly because of the smaller number of questionnaires, but also for greater ease of comparison of salient points. Previous questionnaires are available on the CEP website; these may yield a perspective on the growth and development of EM over time which this particular report does not do. Four areas on which our questionnaire requested data - victim issues, integration with social measures, remote alcohol monitoring and research - are not tabulated, but are addressed at the end of this report. All countries were asked, as they have been before, to provide an individual case study showing a reasonably typical use of EM; this year only Norway and Sweden did so, and these are included as appendices. We have tried to render the data we received with as much accuracy as we could (sometimes by simplifying or re-phrasing it), to create as clear and comparable an overview of EM in each country as possible: apologies where we may not have managed this.

Table 1 shows the nature and type of EM programmes in the thirteen countries. It distinguishes between radio frequency (RF) and satellite tracking (GPS) technologies, and identifies the commercial organisations involved in supplying the technology. The use of EM as an Execution of Prison Sentence and Early Release are the commonest form of scheme, closely followed by Parole (for longer term released prisoners) and pre-trial bail schemes. Two of the sample (Portugal and France) have developed (or are developing) domestic violence schemes to protect victims by monitoring both victims and perpetrators. Sweden and Finland are using EM to monitor the inmates of open prisons. No figures are given in this particular survey of the cumulative number of offenders subject to EM since particular schemes began, or over a five year period, rather a "current snapshot" of numbers on schemes towards the end of 2011 are supplied (most for 31st October 2011, two for 31st December 2012). Both Georgia (the only East European country to supply data) and the one lander in Germany (both of whose schemes are relatively new) supply "numbers" in a different form from the other countries.

Country Type of Scheme	Technology (+ provider)	Service Delivery By	Daily Cost	Daily Numbers (31st October 2011)
England & Wales a)Bail b)Court order c) Condition of court order d)Early Release e Parole inc MAPPA f)	In pre trial bail only RF; in court order and condition of court order RF and voice verification In early release and the other schemes only RF (Serco/G4S)	Private sector	Juveniles £18.01 (includes whole monitoring, service including,	31.10. 2011 Bail 9419 Court Order 6618 Condition of Court Order 5755 Early release and other schemes (post release) 3326
Estonia a) Bail b) Court order c) Condition of court order d)Early Release (since 1 st January 2011)	RF and satellite tracking. (3M EM)			Bail 16 Early release 78
Finland a)Exec of Prison Sentence b) Early release c) Open Prison pilot	Prison Sentence. GPS	Agency. Probation Service	€. Equipment cost only	Unavailable
France a) Bail b} Execution of Prison Sentence. c} Early Release d) Parole e) Domestic violence pilot	Both RF and GPS (G4S)	company. Probation Service. Prison Service - the	15.50 € for RF 30 € for GPS equipment, installation & monitoring	31.12.2011 Bail. 190 Exec of Prison Sent & Early Release Combined. 7886 Unavailable for GPS scheme

Table 1 - The Nature and Scale of EM Schemes

Country Type of Scheme	Type of Technology (+ provider)	Service Delivery By	Daily Cost	Daily Numbers (31st October 2011)
Georgia EM linked to Community Service began in April 2011.	GPS (Laipac)	Private company. Probation Service.	Unavailable	people on EM between April and December 2011 150
Germany (Baden-Württemberg) a) Execution of Prison Sentence pilot b) Early Release		company. Prison	30 € equipment, installation & monitoring	people on EM between October 2010 to April 2012 94
Luxembourg a) Execution of Prison Sentence. b) Early release	RF (3MEM)	company. Prison	4 € equipment & installation	31.10 2011 Execution of Prison Sentence. 23 early release 5
Norway a) Execution of Prison Sentence b) Early release	RF (G4S - Guidance Monitoring)	Private company. Probation Service.	100 €. salaries, equipment, maintenance and travel	31.10. 2011. Execution of Prison Sentence 102 Early Release 21
Poland a) Execution of Prison Sentence b) other schemes (prohibition from entering to mass events)	RF and satellite tracking (Consortium COMP SA/ Serco Geografix)	Service.	4.3 € equipment, installation, regular control of convict at his home	31 10. 2011 Execution of Prison Sentence 1545
Portugal a) Bail b) Exec of Prison Sentence c) Parole d) Domestic violence	Mostly RF. (domestic violence scheme uses GPS) (SVEP/3MEM)	Private company. Probation Service	when RF	31.10. 2011. Bail, 80 Execution of Prison Sentence 70 Parole 15 domestic violence 50

Country Type of Scheme	Type of Technology (+ provider)	Service Delivery By	Daily Cost	Daily Numbers (31st October 2011)
Sweden a} Execution of Prison Sent. a} Early Release c) Open Prisons	RF (3MEM)	company.	3.45 € equipment & installation	31.10. 2011. Execution of Prison Sent & Early Release combined. 446 in open prisons. 445
Scotland a)Court order b) Condition of Court Order c) Early release d) Parole e) Juvenile Intensive Supervision	RF (Serco)	Private Company. & Criminal Justice Social Work	Cost of 6 months on EM is 3500£	31.10. 2011.Court Order (inc conditions)311Early release368 on Parole20juveniles4
Switzerland (Vaud) a) Bail b) Exec of Prison Sentence. c) Early release d) Parole		Private company & Probation Service	47 Swiss francs equipment & installation	31.12.2011 Execution of prison sentence 73 early release 21
Switzerland (Basel) a) Exec of Prison Sent. b) Early release	All RF. (3MEM)	Private company & Prison Service	65 € equipment & installation	Unavailable

Table 2 displays more details about the operation of the EM schemes in the thirteen countries, including legal minima and maxima for various EM orders, and, in some instances, the average period spent subject to it. All but Georgia require assessment from probation services (or cognate body) before an EM order can be made, all permit the use of EM on older teenagers, and all require the consent of offenders to being subject to EM (and indeed the consent of householders to the presence of the tagged offender). Legal maxima for daily monitoring periods tends to be quite long: some respondents indicated a certain flexibility within this, permitting discretionary hours out of the home for reasonable periods of time, and we suspect that although respondents did not mention it, other countries may also do this, Different countries designate different authorities to revoke an EM-order (though most are "judicial" rather than "executive") and some tentative figures are given for revocation rates for different schemes. The variable and imprecise terminology used to describe the commonest offences for which EM can be given may make exact comparisons difficult, buyt there seems to be a degree of similarity between them across schemes. Exclusion criteria in different types of scheme are less consistent.

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Country	Assessment By.	Duration of	Daily	Revocation By	
,	Min. Age Limit. Offender Consent.	Order	Monitoring	and Revocation	Offences.
	Offender Consent.		periods	Rate	Exclusions
					Exclusions
Wales	made by prison/youth offending staff and may include prison service Post release: report made by prison staff and probation service 10-17 years: pre trial bail, court order, condit. of	6 months No legal minimum up to 6 months 2 weeks up to 4.5 months Post release. No minimum or	hours From 2 hours up to 12 From 2 hours up to 12 From 2 hours up to 12	contractors aren't informed if bail is revoked due to breach Court order and condition of court order: 5% Early and post release: 10%, Revocation by: police, case manager, court in pre trial bail, court order and condition of court order; in early release is prison service, in	violence, drugs, sexual offences, fraud. Early release: fraud and forgery, drugs, violence, robbery, theft and handling. Post release: no data available but target groups are high risk offender with record of violence and sexual
Estonia	court order and early release 15-17 years: early release and other schemes Consent only is required in early release and in some cases set in other post-release schemes Probation Service	Pre trial: from one up to	24 hours	prison service or probation service;	offences; Exclusions: some sexual or violent offences from early release Common offences
	14 years + Consent required in all schemes	twelve months; Court order: from one up to six months; Condition of court order: from one up to twelve months; Early release: from one up to twelve months;	24 nours	Up to 5%	No excluded offences
	Criminal Sanctions Agency or Assessment Canters 15 years+ for all schemes Consent required to Exec of Prison Sent, not for Early Release	Exec of Prison Sentence from 14 days- 6 months; undecided -6 months for Early Release	24 hours, with discretionary periods when EM is "switched off"	Sanctions Agency or Probation 16% revocation rate for Early	Uncertain as to what full range will be. Domestic violence excluded from Exec. of Prison Sentence

Table 2 - Operational Aspects of EM Schemes

Country	Assessment By. Min. Age Limit. Offender Consent.	Duration of Order	Daily Monitoring periods	Revocation By and Revocation Rate	Commonest Offences. Exclusions
France	voluntary association. 16 years+ for bail, 13years+ for Exec of Prison Sentence and Early Release: 18 years + for Parole Consent is Required	No minimum, max of 2 years for all schemes. Parole can be repeated for another 2 years. Average time on Parole is 379 days	or maximum in any scheme	case of early release) Bail 6.7%; Exec	Drugs, drunk driving, some violent offences No exclusions Rapists and murderers can be released on parole
Georgia	No Assessment Other Details Unavailable	Unavailable	Ullavallable	Probation Service Rate Unavailable	Unavailable
Germany (Baden- Wurttemberg)	Adults	0-6 months for both schemes	24 hours are permitted	Prison Service 1% on Early Release	Various offences No legally specified exclusions
Luxembourg	Probation Service 18 years + Consent is required	Both schemes between 3 month min and 2 year max Average 9 months		Attorney General's Delegate in charge of sentence implementation 6% revocation rate for both schemes	Drug offences, theft, traffic offences, assault sexual offences excluded
Norway	Consent is required	months for both	No limits, average is between 16 and 21 hours	Chief Probation Officer 4.3%	Traffic crimes and property crimes for Exec of Prison Sentence; Property crimes and drug crimes on Early Release. Domestic violence is excluded
	Judge can ask probation officer report. Adult (not specified) Consent is not required	From unspecified "days" to 12 months			Petty larceny and driving under influence of alcohol. Aren't excluded any type of offences but some type of offenders, such as recidivist offenders and those sentenced to more than 1 year

Country	Assessment By. Min. Age Limit. Offender Consent.	Duration of Order	Daily Monitoring periods	Revocation By and Revocation Rate	Commonest Offences. Exclusions
Portugal	16 years + Yes	Averages 6-12 months Bail; 9 months Exec of Prison Sent; 4-6 months parole; 4-6 months domestic violence	24 hour max for bail, no min; 12-24 hour for Exec of Prison Sent & Parole.	Exec of Prison	Property crime and drug dealing on bail; road crimes and drunk driving for Exec of Prison Sentence; all these plus offences against persons and property on parole. There aren't any excluded offences
Scotland	Work, Prison Service for Early Release 16 years +; with some younger juveniles on intensive supervision Consent required except for parole	Court Order 12 months max; early release 2 weeks - 6 months; parole - depends on licence length; juvenile intensive supervision 6 months max\ Averages court order 4 months; Early release 3 months: Parole 3 years	13 hours max for court order and early release; 24	Court Orders; Prison Service revokes early release, Parole Board revokes parole; Children's Hearings revoke juvenile intensive supervision	Breach of the peace, vandalism theft and assault on Court Orders, plus penalty for breach of the Court Order itself. No details for those on early release and parole Sexual offenders are excluded from Early Release, not from other measures
Sweden	Probation Service, and Prison Service for Easy Release Adults only Consent required		both schemes	Probation Board 11% for Exec of Prison Sentence, 1.2% for Early Release	Drunk drivers, drug users and assault on Exec of Prison Sentence; all types of offence on Early Release . Domestic violence and foreign nationals due for deportation are excluded
Switzerland (Basel)	18 years +	-	hours	2% revocation rate for Early Release; 1% for	Drug abuse, theft, disturbance of the peace, bodily injury Addicts without drug substitute are excluded

Country	Assessment By. Min. Age Limit. Offender Consent.	Duration of Order	Daily Monitoring periods	Revocation By and Revocation Rate	
(vaud)	Probation Service In practice people aged 36-50 are given EM on Exec of Prison Sentence and Early Release, no data data for bail consent is required			Penitentiary Service revokes Exec of Prison Sentence and Early Release 10% for Exec of Prison Sentence;	Drink Driving, more varied on Early Release No exclusions, although "escape risks" are excluded from bail.

Victim Issues

Reference has been made in the Tables to those countries that are developing domestic violence schemes, using GPS "bilaterally" to monitor both victims and offender, enabling the former to know if the latter is coming into proximity to her, and alerting the authorities at the same time. In Portugal's domestic violence scheme, the victim's consent is also a requirement of EM. Scotland has long had the facility within its EM schemes to use RF monitoring to create exclusion zones around victims's homes, but the meaure is little used by the courts. The questionnaire asked if crime victims more generally were notified that "their" offender was on EM, something which Sweden pioneered. England and Wales say vicitms are notifed "in appropriate cases". Switzerland's Vaud canton permits this if the court orders it in respect of EM- bail, France allows it "on demand" (presumably if the victim demands it of the court) and Scotland requires it in respect of prisoners released on EM (only if vicitms are registered on a victim notification scheme) but not offenders on court orders. Poland puts the onus on victims to request it, in which case it is permitted. Estonia does notifies victims whose offedners are on EM in respect of "crimes of violence". In the main victim notification is not common - Norway going so far as to say this measure was "not necessary" - and there is scope for clarifying exactly what is being done. In

Integration of EM with Social Measures

This was commonplace - only Poland states clearly that it does not offer social support with *any* of EM - although precisley what the relationship between EM and social measures are is harder to ascertain. Is EM the "punishment part" of a multi-component sentence, as it is understood in the Intensive Supervision and Support Programme (ISSP) for young offenders in England and Wales, or is it itself understood as a rehabilitative measure? We cannot say for certain in respect of most of the schemes covered here. England and Wales makes widespread use of stand-alone EM, and support is not a requirement except in respect of parole, but where someone is already on a previous court order, against which EM runs concurrently, support may be offered by probation services or youth offending teams. Sweden and Switzerland (Vaud) both referred to "work, study or

treatment", the latter specificially emphasising "social re-insertion". Switzerland's other canton, Basel indicated the availability of social advice, alchol and drig therapies, and even psychotherapy. Norway referred to "occupations and meetings", France to "support programmes, supervision and healthcare". Finland spoke of "supervision done by support patrols and prison staff". Estonia does not offer support for those on EM-bail, but does so for those on court orders and early release. In Portugal, even EM-bail entails individual social work by probation service" (as it entails "supervision and helathcare" in France). Luxembourg offers "social, psychologicial and therapeutic support, and social advice". Georgia ties the use of EM specifically to community service. Scotland indicated that it was possible to integrate EM in "community payback orders" made by courts, but not in relation to licences for released prisoners: its juvenile intensive supervision scheme includes EM curfews as a punitive element, which is controversial in an otherwise very welfare-oriented approach to young offenders.

Remote Alcohol Monitoring

None of the thirteen respondent countries were using this form of EM technology. (Although the questionnaires did not mention it, experiments in the use of remote transdermal alcohol monitoring are know to be under ocnsideration in `Glasgow Scotland and London, England).

Reasearch

The CEP questionaire asks respondents to identify research into EM which has been undertaken since the last survey, and a number of countries have indeed produced some.

England & Wales – http://www.justice.gov.uk/publications/research-and-analysis/moj/2011/effect-hdc-recidivism

France - "La récidive des premiers placés sous surveillance électronique" (A. Benaouda, A. Kensey, R. Levy) - March 2010 <u>http://www.justice.gouv.fr/art_pix/2010-03-11_la-recidive-des-premiers-places-sous-surveillance-electronique[1].pdf</u>

"Le placement sous surveillance électronique mobile : Un nouveau modèle pénal ?" (Olivier Razac) - September 2010. <u>http://www.enap.justice.fr/files/Rapport_PSEM_avril2011.pdf</u>

Germany is planning more research into EM, to be undertaken by the Max Planck Institute.

Norway - Evaluation 2012 with English summary: http://brage.bibsys.no/krus/handle/URN:NBN:no-bibsys_brage_28871

Poland - www.dozorelektroniczny.gov.pt

Sweden - Brottsförebyggande rådet (2010:8) Utökad frigång och återfall (swedish only) An report regarding the Back door scheme and revocation, <u>www.bra.se</u>

Switzerland "L'electronic Monitoring en Suisse" by Nathalie Berlovan in Jusletter 19.März 2012

Appendix 1

Case Study – EM in Sweden

Offender: Male, aged 29 years **Crime:** Drunk driving, Road Traffic Offences

Penalty: 3 months in prison **Period of Monitoring:** 2 months (2/3 of 3 months)

Background:

In Sweden we have since 1994 what we refer to as a front door scheme presenting an alternative for short term prison sentences with a maximum of six months. The idea underlying electronic tagging is to enable individuals who are sentenced to a maximum of six months imprisonment to avoid serving short period of time in prison and run the risk of losing their jobs.

On the other hand we have in Sweden since 1 October 2001 a back door scheme presenting a possibility for imprisoned offenders to serve the last part of their sentences outside a prison, under home detention with electronic monitoring.

A Front Door Case:

After the offender has been convicted in court, he is contacted by the Probation Service that informs him of the possibilities to apply for electronic monitoring. After the offender has applied the Probation Service start an investigation. It is also the Probation Service who decides whether the offender should serve his prison sentence at home with electronic monitoring or not.

In Sweden, the Probation Service is responsible for the installation and the actual monitoring. It is also the Probation Service which notifies the offender to the Probation Board of more serious misconduct. The Probation Board may decide in such cases that electronic monitoring should be abandoned and the remaining sentence to be served in prison.

The Offender:

Johan was convicted by the Stockholm District Court to three months in jail for drunk driving and violation of the Road Traffic Code. He has never previously been convicted of any crime. He has a job in a shop and lives with his girlfriend in an apartment in a suburb of Stockholm.

In connection with his application for electronic monitoring, he was informed about the rules regarding electronic monitoring. He accepted them because he felt that this was the only chance for him to keep his job as he liked.

The Probation Service conducts a visit during the investigation to check the house and the workplace. In this context the Probation Service also met his girlfriend and Johan employer. The Probation Service informed them about the rules that Johan need to follow during the electronic monitoring and they had to sign a written consent. Then the Probation Service also conducts a control of the company with tax authorities that it had all the necessary permits, etc.

The Support plan:

Then a schedule was made together with Johan that showed the times Johan was allowed staying away from home.

The weekly schedule was as follows:

Monday – Friday

07.00Leaving home08.00Beginning his work

17.00	End of work
18.00	Return to home
18.00 to 07:00	House arrest

Saturday – Sunday

12:00 to 14:00 Option to go shopping, walk, train or other Other time is under house arrest.

One day per week during working hours Johan need to attend the Prime For Life, a treatment program, at the local Probation office. This program is primarily for those who are convicted of alcohol-related crime.

At least two times per week the Probation Service do home visits to check the sobriety and at least one times per week the Probation Service visit Johan's workplace to verify attendance.

Johan may also provide a urine sample one or several times to check any drug abuse.

Summary of the electronic monitoring period:

Johan missed to follow his schedule by 15 minutes at three occasions during his period of electronic monitoring. This was not severe enough so that the Probation Service would report it to the Probation Board, but it was enough that Johan was given a warning.

After two months the electronic monitoring ends and Johan went out under the supervision of probation for 1 year. During this year, Johan meet with his Parole Officer regularly and then they go through how it works with employment, housing, substance abuse and possibly other problems.

Appendix 2

Case Study - EM in Norway

The offender:

Male, 26 years old, sentenced to 26 days imprisonment for driving under influence of drugs. He applied to serve the sentence in his own home, with electronic monitoring. The Correctional Services assessed his application against the background that he had suitable accommodation and controllable employment of 20 - 40 hours per week. He was in the target group for such a sentence, and The Correctional Services considered that sentence in his home with electronic monitoring was advisable and appropriate.

Background/situation:

The offender was living alone in his own apartment and participated in the qualification program by NAV (The Norwegian Labour and Welfare Service). The premises of the qualification program was, among other things, some kind of daily employment and that he would be given the possibilities for permanent employment in the long run. The offender's mother died when he was relatively young, and he grew up with an alcoholic father. He had struggled mentally, and had been outpatient at the psychiatric ward. He used to smoke marijuana regularly and did not regard that as a problem.

He got on very well having a job to go to, which was his main motivation for serving the sentence at home, and to avoid using drugs.

The sentence consisted of:

- Electronic monitoring with limited opportunity to leave home
- Employment
- Drug and alcohol control (exhalation and urine samples)
- Unannounced visits in his home and place of employment
- Individual counselling twice a week

Implementation:

The offender responded to the requirements of the scheme and carried out the sentence without irregularities. The probation office carried out frequent drug and alcohol controls, and the offender tested negatively during the entire period.

During the sessions of individual counselling, topics related to the crime and his situation in general were brought up and discussed. The offender reported at the end, that it had been important for him to serve the punishment with electronic monitoring in order to avoid absence from work.

For queries, clarifications and further information about this questionnaire, please contact Mike Nellis or Susana Pinto via CEP