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Offender Electronic Monitoring in Poland: Expectations and Results

Abstract

Electronic monitoring was introduced in Polish law in 2007 and in practice in 2009 in the area of the Warsaw Appellate Court, and then in the area of other appellate courts. Since January 2012, it is applied throughout the country. The principal aim of electronic monitoring was to reduce prison overcrowding. Statistical data and results of an audit conducted by the Supreme Audit Office revealed that in practice the reduction of the prison population was much lower than expected. The average cost of electronic monitoring per monitored offender, although almost twice lower than the cost of incarceration, at the same time was significantly higher than presented to the public by the Ministry of Justice and the Central Administration of the Prison Service. So far, no research on re-offending after electronic monitoring has been carried out. The lack of evaluation studies makes it difficult to develop evidence-based criminal policy, including the effective use of electronic monitoring.
Keywords: electronic monitoring, prison sentence, prison population, prison overcrowding

Abstract

Die elektronische Überwachung wurde in Polen im Jahr 2007 in die Rechtsordnung eingeführt. Ihre praktische Umsetzung erfolgte im Jahr 2009, zuerst in der örtlichen Zuständigkeit des Berufungsgerichts Warszawa und später in den anderen Bezirken. Seit 2012 gilt das Gesetz in ganz Polen. Das Hauptziel der Einführung der elektronischen Überwachung war die Reduzierung der Überbelegung der Strafanstalten. Statistische Angaben und Ergebnisse einer Evaluation des Obersten Rechnungshofs zeigten jedoch auf, dass die Reduzierung der Überbelegung viel geringer ausfiel als erwartet. Die durchschnittlichen Kosten pro elektronisch Überwachtem betrugen dabei fast zwei Mal weniger als die Kosten pro Gefangenem in einer Strafanstalt, gleichzeitig jedoch waren sie viel höher als die, die der Öffentlichkeit seitens des Justizministeriums und

der Zentralverwaltung des Gefängniswesens präsentiert wurden. Bisher gibt es keine Studie über die Rückfälligkeit nach der elektronischen Überwachung. Der Mangel an Evaluationsstudien macht eine evidenzbasierte Kriminalpolitik, die auch für eine effektive Nutzung der elektronischen Überwachung notwendig wäre, sehr schwierig.
Schlagwörter: elektronische Überwachung, Freiheitsstrafe, Gefängnispopulation, Überbelegung im Strafvollzug

A. Origins of electronic monitoring in Poland[1]

In Poland, issues concerning the introduction of electronic monitoring of offenders became the subject of discussions among politicians at the beginning of this century. At that time, the growing interest in electronic monitoring resulted mainly from prison overcrowding. Prison overcrowding is defined by the Ministry of Justice as occurring when the total number of prisoners[2] across the country exceeds the total capacity of prisons. Since the political, economic and social change of 1989, the basis for calculation of prison capacity as a rule has been the standard 3 m² of living space per prisoner.[3] After 1989, prison overcrowding defined in this way occurred for the first time in September 2000.[4] It grew during the next months and years and reached its peak in 2005 (*Table 1*).

1 *Frieder Dünkel's* scientific interest and personal friendships reach far beyond the German border. His international contacts are well known and many foreign researchers were able, thanks to his support, to broaden their knowledge in Germany in the framework of different seminars, meetings or exchange programmes. Some day in the 1980s Frieder in that way met the Polish prison researcher and human rights activist *Zbigniew Hołda*. The resulting friendship later was handed over by *Zbigniew* to both his collaborator and now successor *Barbara Stańdo-Kawecka* and his former student *Joanna Grzywa-Holten*, who in the meantime became research associate in Greifswald, at *Frieder Dünkel's* department of criminology. This friendship has been lasting for many years now and enriched the private life as well as the professional career of both authors.

2 The total number of prisoners includes suspected or accused persons detained on remand and persons serving prison sentences for offences as well as penalties of arrest imposed for petty crimes (*contraventions*).

3 According to orders issued by the Minister of Justice in 1989, the minimum living space for one prisoner was different for males and females; it amounted to 3 m² per male prisoner and 4 m² per female prisoner. The 1997, the Code of the Execution of Sentences unified the minimum living space for prisoners regardless of sex and established it at the level of 3 m²; see *Nawój-Śleszyńsk*i 2013, 54.

4 *Nawój-Śleszyński* 2013, 123.

Table 1. Prison population, prison capacity and density in Poland, 1990-2013 (31 December)

Year	Number of prisoners	Total capacity of prisons	Prison density per 100 places
1990	50,165	67,380	74.4
1992	61,409	66,929	91.8
1994	62,719	67,350	93.1
1996	55,487	67,432	82.3
1998	54,373	66,728	81.5
2000	70,544	69,545	101.4
2002	80,467	70,571	114.0
2004	80,369	71,105	113.0
2006	88,647	75,550	117.3
2008	82,882	83,112	99.7
2010	80,522	84,852	96.6
2011	81,179	86,058	95.8
2012	83,987	86,729	96.8
2013	78,832	86,893	90.7

Source: data for 1990-2011: *Nawój-Śleszyński* 2013, 120; data for 2012-2013: Ministry of Justice, Central Administration of Prison Service 2013 and 2014.

Prison overcrowding resulted in a deterioration of living conditions in prisons. Limited budgetary resources did not allow building the required number of new prisons. In order to satisfy the growing need for prison places in many prisons premises that had been previously used for sport, cultural and therapeutic activities, were transformed into cells. The negative effect of such transformative efforts was the reduction of prisoners' opportunities for participation in rehabilitation programmes.[5]

Prison overcrowding and its negative effects had been ignored by the Polish government for many years despite interventions of the Ombudsman[6] and recommendations of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT). After its periodic visit in Poland in 2000 the CPT recommended to the Polish authorities to pursue the application of a range of measures designed to combat prison overcrowding, including policies to limit the number

5 More about the Polish prison system in international perspective, human rights standards in Polish prisons and overcrowding problems can be found in *Grzywa-Holten* 2015.

6 *Informacja Rzecznika Praw Obywatelskich* 2002, 90-94.

of persons sent to prison.[7] After its next periodic visit in 2004, the CPT called upon the Polish authorities to redouble their efforts to combat prison overcrowding.[8] Finally, the government was compelled to take action aiming at reducing prison overcrowding as a result of judgments given by the Constitutional Court, civil courts and the European Court of Human Rights (ECtHR).

In 2009, the ECtHR found that overcrowding in Polish prisons had revealed a structural problem.[9] In 2008, the Constitutional Court found that a person could not be afforded humane treatment in a prison cell, in which individual living space was less than 3 m². At the same time, it stated the unconstitutionality of legal provisions that allowed for the placement of prisoners for an indefinite period in a cell where the living space per prisoner was smaller than the statutory size of 3 m². Having regard to the permanent overcrowding of Polish prisons, the Constitutional Court delayed the entry into force of its judgment in order to enable the Polish authorities to undertake a series of measures aiming at eliminating overcrowding.[10] At the same time, there were significant changes in civil courts' jurisprudence in cases concerning overcrowding in prisons. As a result, a consistent practice of civil courts was established according to which prisoners placed in overcrowded cells might effectively seek redress at the domestic level and bring a civil action for compensation for the infringement of their personal rights under the Civil Code.

Thus, from the very beginning of legislative works on the draft of an act on electronic monitoring it was commonly accepted that its principal aim was to reduce the prison population. In the explanatory memorandum to subsequent drafts of the act it was stressed that electronic monitoring constituted a remedy for the major threat to fundamental rights of prisoners arising from prison overcrowding. Additionally, an urgent need to adopt such an act was justified with the purpose to counteract the loss of authority by the state in a situation in which a significant number of offenders sentenced to prison sentences stayed at large because there were not enough places in prisons to enforce imposed penalties immediately.[11]

7 *CPT* 2002, 29.
8 *CPT* 2006, 56.
9 ECtHR 22 October 2009, *Norbert Sikorski v. Poland*, application no. 17599/05, § 152.
10 Judgment of the Constitutional Court 62/4/A/2008, available online: http://otk.trybunal.gov.pl/orzeczenia/teksty/otkpdf/2008/SK_25_07.pdf (access: 27.12.2014).
11 See the explanatory memoranda to the government draft of an act on electronic monitoring (*Uzasadnienie do rządowego projektu ustawy o wykonywaniu kary pozbawienia wolności poza zakładem karnym w systemie dozoru elektronicznego, druk nr 1237*) transferred to parliament on 7 December 2006, 1-3; and to the parliamentary draft of an amendment to the Code of the Execution of Sentences on electronic monitoring (*Uzasadnienie do poselskiego projektu ustawy o zmianie ustawy – Kodeks karny wykonawczy, ustawy – Kodeks wykroczeń oraz ustawy – Kodeks karny, druk nr 1352*) referred to parliament on 24 January 2007, 1.

The Act on Electronic Monitoring (2007 Act) was adopted by the parliament in 2007[12] and took effect in September 2009.[13] It entered into force gradually: at first in the area of the Warsaw Appellate Court, and subsequently in the area of other appellate courts. Since January 2012, it is applied throughout the country. Initially, it was adopted as an episodic law that was intended to expire in August 2014. In 2013, however, it lost its episodic nature because of an amendment passed by the parliament.[14] On 20 February 2015, the parliament adopted an Act amending the Criminal Code and the Code of the Execution of Sentences.[15] The Act was sent to the President for his signature. After being signed by the President, it will come into force on 1 July 2015. The 2015 amending Act repeals the earlier law on electronic monitoring and introduces a new scope of application.[16]

B. Preconditions of serving prison penalties under electronic monitoring in the initial version of the 2007 Act

In order to avoid a net-widening effect, the legislator decided to introduce electronic monitoring as a way of enforcement of imposed prison sentences instead of placing them in prisons. This aim was reflected in the title of the 2007 Act, which was: 'Act on the enforcement of prison sentences outside prison under the system of electronic monitoring' (*Ustawa o wykonywaniu kary pozbawienia wolności poza zakładem karnym w systemie dozoru elektronicznego*). Penitentiary courts were entrusted with the task to give offenders permission for serving their prison sentences outside prison under electronic monitoring. At the same time, in the initial version of the 2007 Act the legislator specified restrictive preconditions for obtaining such permission.

According to the initial version of the 2007 Act, the penitentiary court could give an offender permission to serve his prison sentence under electronic monitoring provided that he and adult persons living with him consented to it, that he had a stable place of residence and that his living conditions as well as technical conditions made it possible to use the system of electronic monitoring. The scope of application of electronic monitoring was limited to short-term prison sentences. In the *front-door* version, it was limited to prison sentences (the sum of sentences) up to six months, including prison sentences which were initially suspended and then revoked (because of violations of restrictions and obligations attached to them) and substitute prison sentences.

12 *Ustawa z dnia 7 września 2007 r. o wykonywaniu kary pozbawienia wolności poza zakładem karnym w systemie dozoru elektronicznego*, Official Legal Bulletin 2007, pos. 1366.

13 About the Polish system of electronic monitoring in German language, see *Grzywa-Holten* 2015 (in press).

14 *Ustawa z dnia 12 lipca 2013 r. o zmianie ustawy o wykonywaniu kary pozbawienia wolności poza zakładem karnym w systemie dozoru elektronicznego*, Official Legal Bulletin 2013, pos. 915.

15 *Ustawa o zmianie ustawy – Kodeks karny oraz niektórych innych ustaw*, available online: http://www.sejm.gov.pl/sejm7.nsf/proces.xsp?view=S (access: 28.2.2015).

16 For details, see *Grzywa-Holten* 2015.

The latter are imposed on offenders who violated obligations while serving the penalty of liberty limitation[17] or declined to pay a fine or to perform unpaid work for public purposes instead of paying a fine. In the *back-door* version of electronic monitoring, prisoners who entered prisons could obtain permission for serving part of their sentence under electronic monitoring provided that the whole penalty (the sum of penalties) did not exceed one year and the time remaining until the end of the sentence did not exceed six months.

For some categories of offenders the possibility of serving short-term prison sentences under electronic monitoring was excluded by the law; recidivists sentenced for intentional offences who previously had been punished by imprisonment could not obtain such permission. Those offenders who fulfilled formal conditions could be granted permission to serve their sentences under electronic monitoring only if they also met substantive preconditions. The latter included that serving the prison sentence under electronic monitoring was deemed sufficient to achieve the aims of punishment and that there were no specific safety concerns or other specific circumstances supporting the need to place the offender in a prison.

C. Reforms aiming at the extension of application of electronic monitoring

According to the explanatory memorandum to the government draft of an Act on Electronic Monitoring, statistical analysis conducted in preparation of the act indicated that within a few years after the entry into force of the proposed act electronic monitoring could apply to about 15-20,000 offenders per year.[18] Shortly after the introduction of electronic monitoring such estimates turned out to be overly optimistic. It was not a surprise when taking into account the formal and substantive preconditions of obtaining permission to serve prison sentences under electronic monitoring laid down in the initial version of the 2007 Act.

The 1997 Criminal Code allows the sentencing court to suspend the enforcement of a prison sentence not exceeding two years if in the opinion of the court the prognosis concerning the future behaviour of the offender is positive. For many years, suspended prison sentences have been the most frequent penalties. Offenders who lacked a positive prognosis and for this reason were sentenced to unsuspended short-term imprisonment mostly did not fulfil the restrictive conditions for obtaining permission to serve their penalties outside prison under electronic monitoring. In practice, electronic

17 The penalty of liberty limitation is to some extent similar to the community sentence known in Western Europe; it involves allowing the offender to remain in the community while imposing on him the obligation to perform unpaid work for public purposes from 20 to 40 hours monthly. The maximum duration of the penalty of liberty limitation is one year and, exceptionally, two years. In some cases, the obligation to perform unpaid work for public purposes can be replaced with a deduction from the remuneration received by an employed offender for his job.

18 *Uzasadnienie do rządowego projektu ustawy o wykonywaniu kary pozbawienia wolności poza zakładem karnym w systemie dozoru elektronicznego(druk nr 1237)*, 34.

monitoring to a large extent became an option for offenders who did not comply with terms of previously imposed non-custodial penalties. The possibility of serving short-prison sentences under electronic monitoring was available for offenders initially sentenced to suspended imprisonment who violated conditions in the probationary period as well as for offenders sentenced to a fine or the penalty of liberty limitation who finally received substitute prison sentences. However, it was problematic whether aims of punishment in terms of both general and individual prevention would be achieved by permitting offenders to serve their substitute and revoked prison sentences under electronic monitoring.

In addition to the restrictive legal conditions for obtaining permission to serve prison sentences under electronic monitoring established in the initial version of the 2007 Act, there were also other factors contributing to the limited use of electronic monitoring in practice. One of them was connected to the obligation of the monitored offender to cover part of the costs of his electronic monitoring.[19] Another factor resulted from the fact that offenders serving their prison sentences under electronic monitoring were deprived of the possibility to be granted earlier conditional release. Despite numerous information campaigns in prisons and courts which aimed to encourage offenders to apply for permission to serve their prison sentences (or remaining part of sentences) under electronic monitoring, some of them preferred staying in prisons until being granted early conditional release.

In order to expand the population under electronic monitoring the 2007 Act after its entry into force was amended several times. As a result of an amendment passed in 2010,[20] prison sentences (the sum of sentences) up to 12 months could be served under electronic monitoring instead of up to six months as it was specified initially. Additionally, repeat offenders could also apply for permission to serve their prison sentences under electronic monitoring (with the exception of multi-recidivists). At the same time, the obligation for electronically monitored offenders to cover part of the costs of their monitoring was repealed. What was more, the legislature abandoned the consent of an offender as a formal precondition for serving prison sentences under electronic monitoring. As a result, it became possible for a probation officer or a governor of a prison to apply at the penitentiary court for its permission that an offender who did not consent to it should serve his prison sentence under electronic monitoring. The doubtful rationality of the latter change indicates a high determination of the legislator to seek ways to enlarge the number of electronically monitored offenders.

19 Offenders without sufficient means could apply for an exemption from costs (Art. 45 of the initial wording of the 2007 Act on Electronic Monitoring).

20 *Ustawa z dnia 21 maja 2010 r. o zmianie ustawy o wykonywaniu kary pozbawienia wolności poza zakładem karnym w systemie dozoru elektronicznego*, Official Legal Bulletin 2010, pos. 647.

With the next amendment to the 2007 Act in 2012, offenders serving prison sentences under electronic monitoring were given an opportunity to be released early.[21] The penitentiary court, while granting the offender early conditional release, at the same time repeals the previous decision on electronic monitoring. It should be added that in 2011 the legislator introduced the possibility of electronic monitoring of persons on whom the sentencing court imposed the penal measure consisting of a ban on entry to mass events.[22]

The numerous changes introduced to the 2007 Act in order to increase the number of offenders under electronic monitoring have brought only moderate results. The population of persons electronically monitored grew in the years 2009-2012 when the Act entered into force gradually in the area of more appellate courts. Since January 2012, the 2007 Act is applied in the whole territory of the country. The number of persons under electronic monitoring since that time has been stable, and in 2014, it even dropped (*Table 2*). In recent years, the system capable of monitoring 7,500 offenders on a given day has been used significantly below its capacity.

Table 2. Number of offenders under electronic monitoring, December 2009 to October 2014

Date	Number of offenders under electronic monitoring
31.12.2009	31
31.12.2010	423
31.12.2011	1,911
31.12.2012	4,782
31.12.2013	4,864
30.6.2014	4,818
31.10.2014	4,375

Source: National prison statistics available online: http://www.sw.gov.pl/Data/Files/001165p-prz/liczba-skazanych-w-sde-od-wrzesnia-2009-r.-dane-na-koniec-kazdego-miesiaca.pdf (access: 28.12.2014)

D. Results of electronic monitoring

In many European countries, electronic monitoring was implemented first within pilot projects which were accompanied by evaluation studies.[23] This was, however, not the

21 *Ustawa z dnia 25 maja 2012 r. o zmianie ustawy o wykonywaniu kary pozbawienia wolności poza zakładem karnym w systemie dozoru elektronicznego*, Official Legal Bulletin 2012, pos. 692.

22 *Ustawa z dnia 31 sierpnia 2011 r. o zmianie ustawy o bezpieczeństwie imprez masowych oraz niektórych innych*, Official Legal Bulletin 2011, pos. 1280.

23 *Stańdo-Kawecka* 2012, 31, 37 et seq.

case in Poland. The number of empirical studies on the implementation of electronic monitoring has been limited. Additionally, research conducted has been restricted territorially and focused mainly on procedural aspects of granting offenders permission to serve prison sentences under electronic monitoring.[24]

A broader study, however, was carried out by the Institute of Justice.[25] It contained an analysis of 739 randomly selected applications related to permissions for serving prison sentences under electronic monitoring which were dealt with by penitentiary courts in 2012. The research revealed that a vast majority of applications (84.6%) were brought to penitentiary courts by sentenced persons and only few by other actors: defence lawyers, probation officers or governors of prisons.[26] Almost half of the applications (365 out of 739) referred to permissions for serving prison sentences under electronic monitoring which were initially suspended by the sentencing court and then revoked. About 16% (116) of the applications concerned substitute prison sentences imposed on those who failed to pay a fine, to perform unpaid work instead of a fine or fulfil obligations attached to the penalty of liberty limitation. About one out of four applications (172) related to unsuspended prison sentences.[27] Over half of the applications (55%) related to persons who entered prison and the remaining (nearly 44%) to the *front-door* version of electronic monitoring.[28] In 316 cases (43%) penitentiary courts gave permission for serving prison sentences under electronic monitoring, but in most cases (57%) the decision was negative; the court refused to give such a permission, refused to deal with the application or decided to discontinue the proceedings. Prevailing reasons for negative decisions were the lack of local or technical conditions (lack of a stable place of residence or lack of network coverage), the amount of the penalty (sum of penalties) concerned exceeding 12 months, the penitentiary court's opinion that serving the prison sentence under electronic monitoring would not be sufficient for achieving the aims of punishment, and the degree of the offender's demoralization found by the penitentiary court as not allowing to give such permission.[29]

In September 2014, the Supreme Audit Office[30] published its report on electronic monitoring in Poland.[31] The audit sought to assess the effectiveness of electronic monitoring in relation to the social rehabilitation of monitored offenders and the reduction of the prison population. Additionally, the costs of electronic monitoring were

24 *Pietryka/Wiśniewska* 2012; *Mamak* 2014.
25 The Institute of Justice (*Instytut Wymiaru Sprawiedliwości*) is the scientific unit funded by the state that conducts empirical studies of the practice of courts and prosecution offices as well as monitors the trends of crime, criminal policy and the functioning of the country's justice system.
26 *Jankowski/Momot* 2014, 18.
27 *Jankowski/Momot* 2014, 21-22.
28 *Jankowski/Momot* 2014, 20.
29 *Jankowski/Momot* 2014, 37.
30 The Supreme Audit Office (*Najwyższa Izba Kontroli*) is the top independent state audit body whose mission is to safeguard public spending.
31 *Najwyższa Izba Kontroli* 2014.

assessed. Generally, the introduction of electronic monitoring into the criminal justice system was evaluated positively. The Supreme Audit Office emphasized that electronic monitoring as an alternative way of enforcement of prison sentences ensures higher levels of both hardship (*dolegliwość*) and control than other community sanctions and measures, and at the same time it avoids the negative effects of imprisonment. It was also deemed important that serving prison sentences under electronic monitoring was almost twice cheaper than serving them in prisons.[32] Nevertheless, the audit revealed that the average cost of electronic monitoring per prisoner, although lower than the cost of incarceration, at the same time was significantly higher than presented to the public by the Ministry of Justice and the Central Administration of Prison Service.[33]

The Supreme Audit Office drew attention to the fact that despite numerous reforms aiming at increasing the number of offenders under electronic monitoring the monitored population was significantly smaller than the capacity of the system.[34] As a result, the reduction in prison population was lower than expected. The Office was also critical of the lack of evaluation research. As highlighted in the report, no information was available on the number of offenders returning to crimes after serving their sentences under electronic monitoring.[35]

E. Electronic monitoring in Poland in the light of current European standards

The 2014 Council of Europe recommendation on electronic monitoring[36] is intended to bring to the attention of member states' authorities that electronic monitoring cannot replace professional human intervention and support for suspects and offenders and should be treated as a useful addition to positive ways of dealing with them in the community by competent staff (rule 39). The recommendation also stressed that in order to seek longer-term desistance from crime electronic monitoring should be combined with other professional interventions and supportive measures aimed at the social reintegration of offenders (rule 8). Great emphasis is placed on the need for research and independent evaluation in order to help national authorities take informed decisions regarding the use of electronic monitoring within the criminal justice system (rule 40).

So far, the introduction and functioning of electronic monitoring in Poland has been missing these standards. In times of growing prison overcrowding, the introduction of electronic monitoring was treated by the government as a *panacea* for this problem. Optimistic views concerning the possible reduction of the prison population by means of serving prison sentences under electronic monitoring were presented despite the lack of a sound assessment of the number of offenders fulfilling the criteria for the ap-

32 *Najwyższa Izba Kontroli* 2014, 7.
33 *Najwyższa Izba Kontroli* 2014, 24.
34 *Najwyższa Izba Kontroli* 2014, 17.
35 *Najwyższa Izba Kontroli* 2014, 9.
36 Recommendation CM/Rec(2014)4 of the Committee of Ministers to Member States on electronic monitoring, available online: www.coe.int.

plication of this measure. At the same time, problems such as the professionalization of the probation service and the need for combining electronic monitoring with other professional interventions focused on offenders' needs were neglected in discussions on criminal policy. Unlike many other European countries, in Poland the introduction of electronic monitoring was not accompanied by evaluation research of high methodological standards and even data on the rate of re-offending after serving prison sentences under electronic monitoring are not available. The lack of such studies does not allow for an assessment whether and to what extent the introduction of electronic monitoring contributed to the reduction of the prison population and will contribute to it in the longer term. Nevertheless, the temporary reduction of the prison population by means of electronic monitoring turned out moderate while the average cost of monitoring per person, although almost twice lower than the cost of incarceration, was significant and higher than the cost of enforcement of other community sentences. Taking this into account it seems that better results could be achieved in other ways such as the professionalization of the probation and prison service, changes to the institution of conditional early release from prison and better access to rehabilitation programmes for offenders in prisons and under probation supervision.

F. Conclusions

Electronic monitoring, introduced into the criminal justice system in times of growing prison overcrowding, was treated by the Polish government as a *panacea* for this problem. In practice, however, initial expectations proved to be overly optimistic. In any case, the Polish authorities while deciding on the future of electronic monitoring should have taken into account the current European standards, including the principle of evidence based criminal policy. It seems, however, that it was not the case with the recent reform of criminal sanctions. In the 2015 Act amending the Criminal Code and the Code of the Execution of Sentences the legislator abandoned the earlier concept of electronic monitoring as an alternative way of serving prison sentences. Instead, electronic monitoring is applied as an element of both the penalty of liberty limitation and the penal measure[37] that consists in a restraining order. Additionally, electronic monitoring constitutes one of the post-penal preventive measures. Electronic monitoring in its new shape is used to increase the severity of the penalty of the limitation of liberty in order to make it a penal option more credible for practitioners and the public. At the same time, the legislator seems to move in the direction of 'mass supervision' by expanding both penal measures and post-penal preventive measures. Problems connected with the increase in the severity of community penalties and the expansion of preventive measures overshadow the need for discussions regarding the professionalization of the probation service, plans of correctional interventions for

37 In the Polish criminal law, penal measures (*środki karne*) may be imposed alongside penalties or in some cases as the only response to the offence committed. Generally, they are similar to additional penalties known in other countries.

prisoners serving their prison terms and the coordination of activities undertaken in this respect by different bodies.

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