

Electronic control system as an alternative to custody

Abstract

In the framework of the criminal justice process, the scope of using technical means through electronic monitoring is worldwide very extended indeed, being applied in all stages of criminal proceedings. Although the most frequent manner while analysing the electronic control is the house arrest or release from imprisonment by conditional parole, electronic monitoring system finds its purpose also in pre-trial detention.

Arrest is intended to be an exceptional institute of criminal proceedings, only to be used as necessary and proportionate measure and in compliance with the presumption of innocence and the constitutional right to personal freedom. In accordance with this concept, it is necessary to consider all time in the duration of custody whether the reasons for pre-trial detention still last and whether it would not rather be replaced by some alternative.

The first electronic monitoring permanent program was launched in Czech republic in September 2018, so we have only a few experiences in this field so far. The aim of this paper is to identify some best practices to enhance the effectiveness of electronic monitoring as an alternative to custody in the Czech legal order and also to propose an amendments to the legislation of this institute. Therefore, the author tried to compare law and practices of electronic monitoring in the Czech Republic, Belgium and the jurisdiction of England and Wales focusing on electronic control as an alternative to custody. This thesis provides a critical examination of electronic monitoring, focussing on how legislator construed this penal measure, using considerations de lege ferenda. The overarching objective is to contribute toward a nuanced legal assessment of electronic monitoring as an alternative to pre-trial detention, while presenting directions for future alterations as well as more efficient performance of this subject.

Key words: electronic monitoring, substitution of custody, electronic control