

Under Watch: Challenges and Prospects of Electronic Monitoring in the Context of Criminal Justice

Recommendations for States and International Organisations on Improving Electronic Monitoring Practice

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Introduction: Key Research Findings

Electronic monitoring of sentenced persons has become one of the fastest-growing criminal justice measures in European countries (Nikartas, 2025). It is assumed that this measure can reduce reoffending and prison populations and save public funds. However, the academic literature emphasises that, in practice, electronic monitoring more often supplements non-custodial sanctions and is used as a means of controlling them rather than as an alternative to imprisonment (Düinkel, 2018; Nikartas, 2020). Electronic monitoring may restrict sentenced persons' social relationships and social integration and contribute to feelings of shame, labelling and stigmatisation (Durnescu, 2011; Kilgour, 2020; Richter et al., 2021; Branaman et al., 2026), raising questions about the fairness and proportionality of this measure and its relationship with resocialisation objectives. In Lithuania, the use of intensive supervision increased from 79 persons in 2019 to 2,727 persons in 2024, while the total number of electronically monitored persons reached 3,476 in 2024. In 2025, this number

decreased somewhat, with electronic monitoring applied to 2,753 sentenced persons. This expansion of electronic monitoring resulted from changes in the legal framework that broadened the possibilities for applying intensive supervision.

To analyse this practice, the research project *Under Watch: Challenges and Prospects of Electronic Monitoring in the Context of Criminal Justice* was carried out (funded by the Research Council of Lithuania, Agreement No. S-MIP-24-20). The study combined an analysis of international human rights standards and the case law of the European Court of Human Rights (ECtHR) with qualitative empirical data. Between August and December 2025, 49 semi-structured interviews were conducted with participants in the penal system: 31 sentenced persons who had been subject to electronic monitoring, 10 judges and 8 probation officers.

The qualitative study revealed varied experiences among sentenced persons and highlighted what may be described as a contrast in institutional experience. Persons released on parole from prison generally viewed electronic monitoring positively – as an opportunity to continue serving their sentence in the community, return to their families and resume ordinary life. By contrast, first-time offenders with no experience of imprisonment experienced the imposition of this measure more negatively, particularly where electronic monitoring was perceived not as a genuine alternative to imprisonment but as an additional measure making the sentence more severe. For sentenced persons without previous imprisonment experience, the measure may therefore constitute an additional restriction that causes tension, shame and social isolation.

The empirical data showed that wearing an ankle monitor causes not only practical inconveniences in everyday life but also significant experiences of stigma and shame. Participants described constant efforts to conceal the ankle monitor under clothing, unwanted attention from others in public places, avoidance of social contact and difficulties in finding employment. In some cases, sentenced persons are required to wear two ankle monitors – one used by the probation service and another by the police for the purposes of intensive supervision imposed as a pre-trial measure.

These experiences were analysed through the perspective of European human rights standards. In light of international standards and ECtHR case law, electronic monitoring cannot be regarded merely as a neutral technological tool. An ankle monitor attached to a person's leg may be visible to others and,

in public spaces, may function as a symbol marking the person as an offender. A parallel can be drawn here with ECtHR cases concerning the use of cages and handcuffs in public court hearings (*Svinarenko and Slyadnev v. Russia; Gorodnitchev v. Russia; Hénaf v. France*): the Court has found that the compulsory and public use of physical restraints, where it is not sufficiently justified by individual circumstances and a real risk posed by the person, may in certain circumstances violate Article 3 of the European Convention on Human Rights (ECHR).

In participants' experiences, the ankle monitor emerged as a symbolic "digital cage": in public spaces, sentenced persons encounter suspicious looks and additional attention from security staff, experience shame and, in some cases, avoid going out in public. Electronic monitoring is intended to control a person's movements and whereabouts. Its application to persons whose risk of reoffending is not related to movement, presence in particular places, or risks posed to other persons (for example, in some cases of drink-driving or financial offences) therefore raises questions about the necessity and proportionality of the measure. In the researchers' assessment, electronic monitoring that is imposed for a long period, is publicly visible and is insufficiently individualised, may, in certain cases, approach the threshold of a violation of human dignity.

The study revealed a broader problem concerning the individualisation of electronic monitoring. Widely and routinely applied technological control may gradually become a standard probation measure without sufficient consideration of the specific risk it is intended to manage or of whether its application to a particular person is necessary. Participants' experiences suggest that such "conveyor-belt" application of electronic monitoring may weaken the perceived legitimacy of the measure, reduce the motivation of sentenced persons and hinder resocialisation objectives. The expansion of electronic monitoring should also not overshadow the importance of human interaction in probation work: technological control can assist probation officers in carrying out supervision, but it cannot replace individual work with sentenced persons, motivating them and providing assistance in addressing social problems.

The study also revealed the limitations of technological control. Electronic monitoring may help detect certain breaches of imposed obligations and, in some cases, allow a quicker response, but it does not, in itself, prevent offending or harm to others. Interviews with probation officers showed that a large

proportion of system alerts are not related to a direct threat to a person's health or life, while the effectiveness of electronic monitoring also depends on the subsequent response of institutions or officers to the information transmitted by the system. Electronic monitoring should therefore not automatically be equated with the actual provision of safety. Its appropriateness depends on whether the particular person's risk can, in fact, be managed by controlling their location, movement, or contact with particular persons.

The study also revealed the intersection between electronic monitoring and the objective of resocialisation. Although electronic monitoring may be used to enable a person to remain in the community and avoid imprisonment, participants' experiences also revealed its potentially desocialising effects. Fear that the device may be noticed in public or unexpectedly produce an alert in the workplace may create additional barriers to obtaining and retaining employment, encourage social isolation and make it more difficult to maintain social and family relationships.

Another significant aspect revealed by the study concerns physical discomfort, pain and psychological strain caused by the devices. Participants reported that bulky equipment rubs the skin around the ankle, puts pressure on tendons, causes swelling and, in some cases, wounds, particularly among those engaged in physical work. Some participants also reported other health problems that they associated with wearing the ankle monitor. In addition to physical discomfort and pain, sentenced persons described stress caused by technical malfunctions, repeated false alarms, vibrations at night, and the need to charge the equipment frequently. Such experiences may disturb sleep and rest and cause anxiety about possible unjustified recording of breaches.

The protection of vulnerable persons is particularly important in the study's findings. Council of Europe Committee of Ministers Recommendation CM/Rec(2014)4 to member States on electronic monitoring emphasises the need to take account of the individual circumstances of the monitored person, while ECtHR case law recognises the need to give proper consideration to a person's health, disability and other forms of physical vulnerability when applying measures restricting liberty (*Price v. the United Kingdom*; *Farbtuhs v. Latvia*). Legal and practical safeguards are particularly important for persons who are seriously ill, have mobility impairments or are of very advanced age, for whom an intensive monitoring regime may cause disproportionate hardship. The application of the measure to minors raises risks of stigmatisation

and social labelling. The study also revealed a need for gender-sensitive design of electronic monitoring equipment. Standardised equipment may affect different wearers in different ways. Women participating in the study described aesthetic discomfort and restrictions on clothing choices, including the need to conceal the device under long trousers and to avoid dresses or certain types of professional clothing, which may intensify feelings of shame.

Based on the research findings discussed above, the following recommendations are proposed.

Recommendations for States

1. Individualise the use of electronic monitoring and link it to specific risks posed by the person

National legislation should establish clear criteria for the individualisation of electronic monitoring, linking its use to the risk of reoffending and/or serious harm, particularly where such risk relates to the person's presence in specific places, movement, or risk posed to other persons.

Electronic monitoring should not be imposed solely on the basis of an abstract need for greater control or security without assessing whether the identified risks can actually be managed by monitoring the person's location or movements.

2. Ensure that risk assessments used to justify electronic monitoring rely on legitimate grounds

Where electronic monitoring is imposed on the basis of an assessment of the person's risk of reoffending or causing serious harm, the factors used to assess that risk should themselves be subject to substantive scrutiny. The fact that a particular characteristic is statistically associated with reoffending does not, in itself, make it a legitimate basis for imposing or intensifying coercive supervision.

Socio-economic disadvantage, including poverty, unemployment, reliance on social assistance, housing instability or other circumstances substantially outside the person's control, should not in themselves constitute grounds for imposing or intensifying electronic monitoring. Such circumstances may indicate a need for social assistance or other forms of support, but should not be transformed into reasons for subjecting a person to more intensive technological control.

States should therefore distinguish between factors that may be relevant for identifying support needs and factors that may legitimately justify coercive restrictions. Risk assessment practices should be periodically reviewed to ensure that social disadvantage does not operate, directly or indirectly, as a basis for more intensive electronic monitoring.

3. Limit the use of electronic monitoring for first-time offenders convicted of less serious and non-violent offences

Electronic monitoring should generally not be imposed on first-time offenders convicted of less serious or moderately serious non-violent offences, unless its use is justified by an individually assessed risk of reoffending or serious harm. This would reduce the risk of electronic monitoring becoming an additional measure that makes the sentence more severe for persons who would not otherwise receive a custodial sentence.

4. Ensure periodic review and contestability of electronic monitoring and the underlying risk assessment

The necessity and proportionality of electronic monitoring should be reviewed periodically to assess whether the risks and circumstances on which its imposition was based continue to exist. Such a review should consider not only whether electronic monitoring remains necessary, but also whether the underlying assessment of the person's risk remains justified in light of changed circumstances, rehabilitation, compliance with supervision requirements and other relevant evidence (Zalnieriute & Dancy, 2027).

Persons subject to electronic monitoring should have a meaningful opportunity to challenge the risk assessment or classification on which the measure is based and to request its reassessment (Zalnieriute & Dancy, 2027). They should be informed, in an accessible manner, of the principal factors on which the assessment is based and be able to identify inaccurate or outdated information relevant to their classification.

Where the identified risk has decreased, the circumstances underlying the original assessment have changed, or electronic monitoring is no longer necessary, the measure should be relaxed or terminated. Risk classifications should not operate as permanent or effectively irreversible labels that continue to justify restrictive measures without meaningful reassessment (Zalnieriute & Dancy, 2027).

5. Assess the impact of electronic monitoring on human dignity and reduce the visibility of the device

In assessing the impact of electronic monitoring, consideration should be given not only to its control function but also to the device's visibility, its stigmatising effects, the duration of its use, and the individual circumstances of the person.

To protect human dignity and reduce stigmatisation, technological solutions that minimise the visibility of monitoring equipment in public should be encouraged. The design and use of electronic monitoring equipment should avoid unnecessarily exposing a person's status as being subject to criminal justice supervision.

6. Assess the person's health and other vulnerabilities

When deciding whether to impose electronic monitoring, the person's age, health, and physical and psychological vulnerabilities should be assessed. Particular caution should be exercised when applying electronic monitoring to persons who are seriously ill, have mobility impairments or are of very advanced age, where intensive control would disproportionately complicate their lives or cause additional physical or psychological difficulties that are not necessary to achieve the purposes of the sentence.

Procedures should be established to allow the electronic monitoring device to be promptly checked, replaced, or, where necessary for health reasons, removed if it causes significant physical pain, skin injuries or other health problems.

7. Limit the use of electronic monitoring for minors

Given minors' particular vulnerability to stigmatisation, social isolation and social labelling, electronic monitoring should generally not be applied to minors.

Exceptions should be possible only where the need for electronic monitoring is justified by an individually assessed high risk of reoffending or harm to others and where no less intrusive measures are available to manage that risk.

8. Ensure gender-sensitive equipment design that takes account of individual physical differences

When selecting electronic monitoring equipment, account should be taken of differences in body type and of anatomical and other differences between men and women relevant to wearing the equipment.

Public procurement and technical equipment standards should assess the device's ergonomics, weight and size, its impact on health and everyday activities, and the possibility of adapting the equipment to the individual. Where possible, different types or sizes of equipment should be available to accommodate individual physical characteristics and needs.

9. Align electronic monitoring conditions with resocialisation objectives

Electronic monitoring schedules and other conditions should be designed so that they interfere as little as possible with the person's efforts to achieve resocialisation objectives – working, seeking employment, studying, engaging in positive leisure activities, caring for children, other family members or dependants, and maintaining relationships with relatives and other close persons.

The use of electronic monitoring should be limited where it significantly interferes with obtaining employment, working shifts or night work, studying or participating in other activities important for social integration.

The expansion of electronic monitoring should also not replace individual probation work. Technological control may assist probation officers in carrying out supervision, but it cannot replace individual work with sentenced persons, motivating them and helping them address social problems.

Evidence of successful social reintegration, including stable employment, education, family responsibilities and sustained compliance, should also be taken into account in decisions to reduce or terminate electronic monitoring.

10. Assess the impact of electronic monitoring on family members and other persons living in the household

When electronic monitoring is imposed and implemented, its impact on family members' interests and household privacy should be assessed to avoid disproportionate effects on family members living with the monitored person and on their quality of life.

Clear procedures should be established for responding to unforeseen situations, such as the sudden illness of a family member or the need to provide urgent assistance to a child, so that necessary actions by the monitored person are not automatically treated as breaches of electronic monitoring conditions.

11. Exercise caution when imposing home curfews in domestic violence cases

The use of home curfews enforced through electronic monitoring should be carefully assessed and applied restrictively to persons convicted of domestic violence where such a regime would require them to remain in the same space as the victim.

During the study, probation officers noted that in situations of conflict or tension, the option to temporarily leave a shared space may be important for de-escalating the situation. A strict home curfew may limit this possibility, while an attempt to temporarily leave the residence may be recorded as a breach of the imposed conditions.

In such cases, individual household circumstances and the victim's safety should be taken into account when determining the conditions for electronic monitoring.

12. Align electronic monitoring conditions with the rules of social institutions and assess the overall intensity of restrictions imposed on the person

Electronic monitoring schedules should be coordinated with the internal rules of social institutions, shelters and other providers of services necessary for the person.

The study revealed situations in which, under the internal rules of a social institution, a person was required to leave their living quarters during the day but, due to electronic monitoring, could not leave the designated area. The interaction between rules imposed by different institutions may therefore result in very significant restrictions on a person's ability to move.

Accordingly, not only individual electronic monitoring conditions but also the cumulative effect of restrictions imposed by different institutions should be assessed. In light of the ECtHR's approach to assessing the actual intensity of restrictions, including in *Guzzardi v. Italy*, a particularly intensive combination of restrictions may, in certain circumstances, raise questions concerning the boundary between restriction of liberty and deprivation of liberty.

13. Establish clear rights and effective remedies for persons subject to electronic monitoring

National legislation should clearly define not only the obligations imposed on persons subject to electronic monitoring, but also their corresponding

rights and the limits of the powers exercised by supervisory authorities. Persons subject to electronic monitoring should receive clear and accessible information about the conditions imposed on them, the scope and operation of monitoring, the consequences of alleged breaches, and the circumstances in which monitoring conditions may be modified (Zalnieriute & Dancy, 2027).

Effective procedures should be available for challenging electronic monitoring conditions and decisions concerning their implementation, including decisions that significantly affect the person's work, family life, education, healthcare or other important aspects of everyday life. Complaint and review procedures should be accessible, timely and capable of providing an effective remedy where monitoring conditions or their implementation are unlawful, unnecessary or disproportionate (Zalnieriute & Dancy, 2027).

Supervisory discretion in the implementation of electronic monitoring should be clearly defined and constrained by law. Independent review or oversight should be available to ensure that persons subject to electronic monitoring are not dependent solely on the discretion of the authorities responsible for their day-to-day supervision (Zalnieriute & Dancy, 2027).

14. Protect electronic monitoring data and limit its use for subsequent risk assessment and decision-making

National legislation should clearly regulate the collection, retention, access, sharing and subsequent use of data generated through electronic monitoring. Only data necessary for the specific purposes for which electronic monitoring was imposed should be collected and retained, and access to such data should be limited to authorised persons and institutions.

Particular caution should be exercised where data generated through electronic monitoring, including location data, system alerts, alleged breaches or patterns of compliance, are subsequently used in risk assessments or decisions concerning the continuation or intensification of supervision. Such data should not automatically be treated as evidence of increased risk without consideration of its accuracy, context and relevance, including the possibility of technical errors or circumstances beyond the monitored person's control.

Persons subject to electronic monitoring should be informed about what data are collected, how long they are retained, with whom they may be shared and for what purposes they may subsequently be used.

15. Avoid quantitative targets for the expansion of electronic monitoring

Governments and funding bodies should avoid setting quantitative targets based on the number or proportion of persons subject to electronic monitoring. Such indicators may create institutional incentives to expand its use irrespective of whether electronic monitoring is necessary and appropriate in individual cases.

The effectiveness of electronic monitoring policies should instead be assessed in relation to substantive objectives, including proportionality, resocialisation, social integration and, where appropriate, reoffending, rather than the scale of electronic monitoring use itself. Quantitative measures of electronic monitoring use should therefore not be treated as indicators of institutional performance or policy success in their own right (see McNeill, 2018; Nikartas, 2025).

Recommendations for International Organisations

16. Update Council of Europe recommendations in light of changes in electronic monitoring technologies and practice

Council of Europe Committee of Ministers Recommendation CM/Rec(2014)4 on electronic monitoring was adopted in 2014. Over more than a decade, electronic monitoring technologies and the possibilities for their use have developed considerably, while electronic monitoring has become an increasingly widely used form of penal control in many countries. At the same time, new human rights and penal policy issues, or issues requiring greater attention, have emerged in relation to the scale of its use, individualisation, long-term and intensive monitoring, the impact of technological control on everyday life, stigmatisation, the consequences of technical malfunctions and the risk of *net-widening*.

Consideration should therefore be given to reviewing and updating CM/Rec(2014)4, with greater attention paid to the individualisation of electronic monitoring and its relationship to specific risks posed by the person, periodic assessment of the necessity and proportionality of the measure, the stigmatising effects of visible equipment, physical and psychological discomfort, the protection of vulnerable persons, the impact on family members, resocialisation and social integration, and the risk of *net-widening*.

17. Expand independent human rights monitoring in the field of intensive community sanctions and measures

Electronic monitoring and other intensive community sanctions and measures may involve substantial restrictions on a person's liberty and everyday life. Depending on their nature, duration, intensity, and cumulative effect, such restrictions may, in certain circumstances, raise questions concerning the boundary between the restriction of liberty and the *de facto* deprivation of liberty. International human rights monitoring mechanisms, however, have traditionally focused primarily on physical places of detention. As a result, intensive sanctions and measures implemented in the community receive comparatively limited systematic scrutiny from a human rights perspective.

At the Council of Europe level, consideration should therefore be given to strengthening independent human rights monitoring of intensive community sanctions and measures, including electronic monitoring. This could include exploring possibilities for extending existing oversight frameworks or developing dedicated monitoring arrangements capable of collecting systematic information and assessing the human rights impact, proportionality and potential *net-widening* effects of intensive non-custodial sanctions and measures.

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