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Summary of the PhD dissertation

„Legal and criminological assessment of electronic monitoring”

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The subject of the PhD dissertation is the assessment of electronic supervision institution from the point of view of legal sciences and criminology. The purpose of looking at the functioning of electronic monitoring in terms of the above-mentioned sciences aims to thoroughly analyse electronic monitoring, paying attention to various aspects of its functioning.

The introduction of electronic monitoring into the system of Polish criminal law took place in 2007, and since September 2009 electronic monitoring has begun to be used in Poland to execute prison sentences. Before electronic monitoring was deployed in Poland, it had already been used worldwide for over twenty years, and scientific researches in this field were conducted for about two decades beforehand. Despite a decade of regulations on electronic monitoring in Poland, which was amended several times during that time, there was no in-depth analysis, based on the results of empirical research, of the functioning of electronic monitoring in the Polish legal literature. So far, it has not been examined, in particular whether the objectives that were set for electronic monitoring, when it was introduced into the Polish criminal law system, were achieved in practice. Neither it has been analysed whether this measure is effective, given the rate of return to prison of convicts who have previously served their sentences under electronic monitoring. The lack of such study has inspired me to consider this issue and to make it the subject of the PhD dissertation.

Therefore, the main research problem of this dissertation was included in the questions:

Have, the objectives set by the legislator when introducing electronic monitoring into the Polish criminal law system, been achieved during the period of about ten years of using it?

and

Do convicts who have served their sentences outside the prison in electronic monitoring commit crimes again less frequently and therefore less frequently return to prison than convicts who have served their sentences in prison isolation?

In order to comprehensively assess the functioning of electronic monitoring, apart from these two fundamental questions above-mentioned, I also formulate many additional research problems in this dissertation.

The analysis of the functioning of electronic monitoring was conducted on two levels: theoretical and empirical.

The part of the dissertation concerning the theoretical aspects of electronic monitoring presents the issues related to the establishment of electronic monitoring as a criminal measure, as well as issues related to its use in the broadly understood criminal proceedings in selected countries.

Then a legal-criminological analysis of electronic monitoring was carried out on the basis of the current legal regulations in Poland, taking into account, in particular, the provisions of the Criminal Executive Code (in force until 30 June 2015) and the Act on the execution of prison sentence outside prison in electronic monitoring. In developing this part of the dissertation, theoretical research methods such as: comparative historical, dogmatic, and also analysis and criticism of the literature (and the case law) methods were used.

The empirical part of the dissertation presents the results of my own research about the functioning of electronic monitoring, especially in the scope of the scale of return to prison of convicts who have previously served their sentences in electronic monitoring.

In developing this part of the dissertation, research methods appropriate for empirical research were used, which were discussed in detail in the chapter related to the methodology of author's research.

The dissertation consists of the introduction followed by nine chapters and final conclusions. The first chapter encompasses the issues related to the criminal-political origins of electronic monitoring. Thus, the circumstances related to the separation of EM as one of the forms of criminal reaction to a crime are presented.

In the second chapter, the concept of electronic monitoring is first and foremost clarified. Therefore, the definitions of the term, functioning in legal literature as well as in legal acts (both in Poland and in other countries) are presented. It also analyse the functions that electronic monitoring performs or can perform in the field of criminal policy (at various stages of criminal proceedings in the broadest sense), as well as the main objectives that were intended to be achieved by introducing the EM into the legal systems in the countries where it is used. The types of electronic monitoring and the rules of operation of technical devices used for electronic monitoring of law offenders are also presented. The most important ethical and legal controversies related to the use of electronic monitoring were analysed as well.

The third chapter is devoted to the extent of application of electronic monitoring in Poland. For this purpose, the most important statistical data related to the functioning of electronic monitoring in Poland, in the period from its introduction to the present day, was first presented, and then an analysis of the population of persons covered by electronic monitoring in Poland was made.

The fourth chapter contains a comparative analysis of the legal regulations on electronic monitoring in force in countries where the EM has an important role in the sphere of criminal policy. It presents solutions in force in the USA, Western Europe, Scandinavia and Australia. Among European countries, England and Wales, France, Belgium, the Netherlands, Germany, Sweden and Norway were selected to analyse the regulations of electronic monitoring.

Chapter fifth presents the circumstances related to the implementation of electronic monitoring in Polish criminal policy and its application in the period preceding the introduction of the regulations on electronic monitoring in the Executive Penal Code.

Chapter six is devoted to the analysis of the current Polish model of electronic monitoring, regulated by the Executive Penal Code.

The seventh chapter presents the current state of scientific research on the functioning of electronic monitoring. First of all, it discusses the results of scientific research, conducted abroad, on various aspects of the functioning of electronic monitoring. Next, the current state of scientific research on the functioning of electronic monitoring in Poland is presented.

Chapter eight discusses the methodology of scientific research conducted for the purposes of this dissertation.

Chapter nine is devoted to presenting the results of own research on the functioning of electronic monitoring in Poland. This chapter also contains a forecast of the functioning of electronic monitoring in Poland in the coming years.

The dissertation ends with the formulation of conclusions related to the functioning of electronic monitoring in Poland. Based on the analysis of various models of electronic monitoring functioning in other countries, as well as on the basis of the results of research on the current functioning of electronic monitoring in Poland, I formulate conclusions on how to improve the functioning of the EM. At the same time, I also point out the possibilities of introducing legislative changes to the functioning of electronic monitoring, which would make it possible to cover a wider group of convicts with electronic monitoring in the future.