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Evolution of the electronic monitoring in Poland

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ABSTRACT

Electronic monitoring is a new solution in Polish penal law. It should be noted that the electronic monitoring was initiated in the United States of America by psychologist Ralph Schwitzgebel in 1964. In Poland the system of electronic monitoring appeared in a later period of time. One of the basic legislator's purposes was to reduce overcrowding in prisons. This institution was used from the date of the entry into force of the Act of 7 September 2007 about serving a sentence of imprisonment outside prison in the system of electronic monitoring (Dz. U. 2007, No. 191, item. 1366), which was experimental. The next important legislative changes concerning the electronic monitoring have been introduced as a result of the amendment of 1 July 2015 and the amendment of 15 April 2016.

Keywords: electronic monitoring, overcrowding, penal law in Poland, evolution, home arrest

1. INTRODUCTION

The system of electronic monitoring is a progressive solution in the Polish penal law. When analyzing this issue, it should be noted that the first attempts to implement legal solutions has been taken during between the two World Wars. Originally it was not related to the use of technological means. Nowadays, using this institution requires not only technical but also legal solutions. Since the entry into force of the Act of 7 September 2007 about the

servicing a sentence of imprisonment outside prison, the severe evolution of this institution can be observed as a result of legislative changes.

However, it should be noted that the electronic monitoring was created in the United States of America.¹ The precursor of the electronic monitoring was a professor Ralph Schwitzgebel, a psychologist at the University of California, who initiated the use of this institution as a tool to control offenders. The object of his research interests, called „behavior electronics”, were changes in human behavior by the use of electronic technology in order to reinforce positive attitude and prevent another offence.² In the 1970s, Robert Schwitzgebel and Richard Bird commenced works on creating relevant communication system between the offender and the supervising person. This mechanism consisted of two-way transmission and reception of signals from the human physiological system. Unfortunately, the ideas of Schwitzgebel’s brothers came out to be too expensive and impractical.³

With reference to the genesis of the electronic monitoring, the activity of District Court Judge in New Mexico – Jack Love, should be also mentioned. He used to analyse situations of car accident offenders and white collar offenders, sentenced to imprisonment. He observed that overcrowding along with many acts of violence and rapes on prisoners is a serious problem in prisons. This is an additional ailment and has a destructive effect on this category of offenders.⁴ Jack Love decided an electronic bracelet would be an appropriate solution to this problem. His inspiration was a comic about super hero - Spiderman, who used such a bracelet to specify his location. In order to implement this idea, Jack Love asked for help an entrepreneur Michael Gross. As a result, the judge sentenced the offender to the electronic monitoring for the first time in 1983.⁵

2. LEGISLATIVE WORKS ON AN IMPLEMENTATION OF THE ELECTRONIC MONITORING IN POLAND

The electronic monitoring is a novum in Polish penal law. It can be applied as a result of technological progress. However, it should be pointed out that during the period between

¹ W. D. Burrell, R. S. Gable, From B. F. Skinner to Spiderman to Martha Stewart: The Past, Present and Future of Electronic Monitoring of Offenders, *Journal of Offender Rehabilitation* vol. 46 Numbers 3/4 (2008), p. 101.

² S. M. Barton-Bellessa, *Encyclopedia of Community Corrections*, 2012, p. 138; M. Nellis, Implant technology and the electronic monitoring of offenders: old and new questions about compliance, control and legitimacy [w:] A. Crawford & A. Hucklesby, *Legitimacy and Compliance in Criminal Justice*, New York 2013, p. 168.

³ S. Mainprize, *Elective Affinities in the Engineering of Social Control: The Evolution of Electronic Monitoring*, *Electronic Journal of Sociology* (1996), http://www.sociology.org/content/vol002.002/mainprize_d.html; P. Moczydłowski, *Przestępca na uwięzi. Elektroniczny monitoring sprawców przestępstw*, Warszawa 2006, p. 23-24.

⁴ P. Moczydłowski, *Przestępca na uwięzi. Elektroniczny monitoring sprawców przestępstw*, Warszawa 2006, p. 23-24; M. M. Feeley, *Entrepreneurs of Punishment: How Private Contractors Made and Are Remaking the Modern Criminal Justice System – An Account of Convict Transportation and Electronic Monitoring*, *The Journal Criminology, Criminal Justice, Law & Society* vol. 17 (2016) p. 12.

⁵ G. A. Caputo, *Intermediate Sanctions in Corrections*, Texas 2004, p. 96, 98; R. G. Fox, Dr Schwitzgebel’s machine revisited: electronic monitoring of offenders, *Australian & New Zealand Journal of Criminology* vol. 20 (1987) p. 131; M. Carney, *Correction through Omniscience: Electronic Monitoring and the Escalation of Crime Control*, *Washington University Journal of Law & Policy* vol. 40 (2012) p. 285-286; R. S. Gable, Left to their own devices: should manufacturers of offender monitoring equipment be liable for design defect?, *Journal of Law, Technology & Policy* (2009), p. 335-336.

the two World Wars, there was a legal solution similar to the electronic monitoring – a home arrest.

One of the legal acts was the Regulation of the President of the Republic of Poland of 7 February 1928 about the home arrest (Dz. U. 1928, No. 26, item. 228). According to Article 1, the court could adjudicate that a person who has been sentenced to arrest (not longer than seven days), shall execute it at his home. The sentenced person was obliged to stay at home and to not expect visitors without the permission of the authority (Article 4). The home arrest could also have been applied in other cases specified in Article 2 (arrest instead of fine) and in Article 9 (preventive measures).⁶ Next changes were introduced by the Regulation of the President of the Republic of Poland of 11 July 1932 - the provisions introducing the penal code and the law of misconduct (Dz. U. 1932, No. 60, item. 573). Legal provisions have been upheld, except for Article 1, 4 and 9. Moreover, it was indicated that the home arrest could be used only in the case for convictions, not more than 7 days.⁷ It should be emphasized that the conditions for the execution of the home arrest were defined by a separate legal act – the Regulation of the Minister of Justice of 10 March 1928 about the home arrest (Dz. U. 1928, No. 27, item. 256), which regulated cases and procedure of granting permission to visit, or supervision over execution of the home arrest.⁸ In addition, under the Decree of the President of the Republic of Poland of 19 November 1938 (Dz. U. 1938, No. 90, item. 612), the abovementioned Regulation of 7 February 1928 came into force to the recovered territories of Cieszyn Silesia.⁹ As noted by J. Jasiński, in the period after Second World War there is no information or any legal act that would repeal the Regulation of 7 February 1928.¹⁰

Furthermore, the home arrest was also regulated in the Military Penal Code of 22 March 1928 (Dz. U. 1928, No 36, item. 328). According to Article 12 the home arrest was one of the types of military arrest. It was applied to the officers, and in the tightened form – to the younger officers. The home arrest, like other types of military arrest, lasted up to 6 weeks. During the arrest, the officer had to stay at his home or cabin and could not expect visitors. In case of a tightened arrest, the officer was placed in a separate room (Article 139).¹¹

Legislative works on the implementation of the electronic monitoring in Polish penal law began in the course of the term of the fourth office of Sejm. On 2 February 2005, deputies drafted a bill amending the Executive Penal Code and other legal acts.¹² The basic assumption of this bill was to extend existing list of systems of execution of imprisonment by adding a new one. The new system referred to the short-term imprisonment and allowed to stay outside the prison. However, at the same time, the offender had to be supervised.¹³ In the course of a session, members of commission discussed about: an episodic nature of this legal act, a

⁶ Rozporządzenie Prezydenta Rzeczypospolitej z dnia 7 lutego 1928 r. o areszcie domowym (Dz. U. 1928, Nr 26, poz. 228).

⁷ Rozporządzenie Prezydenta Rzeczypospolitej z dnia 11 lipca 1932 r. – Przepisy wprowadzające kodeks karny i prawo o wykroczeniach (Dz. U. 1928, Nr 60, poz. 573).

⁸ Rozporządzenie Ministra Sprawiedliwości z dnia 10 marca 1928 r. w sprawie aresztu domowego (Dz. U. 1928, Nr 27, poz. 256).

⁹ Dekret Prezydenta Rzeczypospolitej z dnia 19 Listopada 1938 r. o rozciągnięciu mocy obowiązującej niektórych aktów ustawodawczych na odzyskane ziemie Śląska Cieszyńskiego (Dz. U. 1938, Nr 90, poz. 612).

¹⁰ J. Jasiński, Areszt domowy (propozycja do rozważenia), [w:] S. Waltoś, Problemy kodyfikacji prawa karnego. Księga ku czci Profesora Mariana Ciesłaka, Kraków 1993, p. 194-195.

¹¹ Rozporządzenie Prezydenta Rzeczypospolitej z dnia 22 marca 1928 r. w sprawie kodeksu karnego wojskowego (Dz. U. 1928, Nr 36, poz. 328).

¹² M. Rusinek, Ustawa o dozorcze elektronicznym. Komentarz, Warszawa 2010, p. 10.

¹³ Druk sejmowy nr 3750/05.

problem of overcrowding in Polish prisons, costs of the electronic monitoring.¹⁴ Moreover, it should be emphasized that during the legislative works, opinions on this bill were also drafted. In the opinion of professor A. Baładynowicz, the electronic monitoring presented in the bill has been criticized as an unreasonable and aimless solution.¹⁵ On the other hand, professor Z. Siwik gave his full approval for this bill.¹⁶

Another bill referred to the concept presented in February 2005. On 30 November 2005 the new bill was submitted to the Sejm.¹⁷ In the government's opinion, introduction of the electronic monitoring to Polish penal law was evaluated as a right solution. Nevertheless, the government noted that some particular assumptions raise concerns. The government also pointed out that the Ministry of Justice drafted up a separate bill.¹⁸ As a result, the legislative works were discontinued and the bill was finally withdrawn.¹⁹ Further legislative works concerned two bills submitted to the Sejm: by the government on 6 December 2006 and by a group of deputies on 23 January 2007. The first bill envisaged passing a separate and episodic law²⁰, and the second - the amendment of Polish codes, such as: the Executive Penal Code, the Penal Code and the Code of misdemeanors.²¹ It should be emphasized that the choice of the second option would entail the need for difficult procedures. Therefore, it was decided to pass an Act about the serving a sentence of imprisonment outside prison in the system of electronic monitoring, which entered into force on 1 September 2009.²²

3. THE ELECTRONIC MONITORING AS A SYSTEM OF THE SERVING A SENTENCE OF IMPRISONMENT

The electronic monitoring was entirely regulated by the Act of 7 September 2007. This Act defined: conditions of application of the system of electronic monitoring, the conditions of serving a sentence of imprisonment and its supervision, as well as conditions for its abrogation. In addition, this Act introduced a glossary of basic statutory concepts, including legal definition of technical measures, like as: a transmitter worn on the leg or hand, an electronic recording equipment (stationary and portable), a monitoring center, and communication and monitoring system.²³

According to Article 6 § 1 point 1 of the above-mentioned Act, the electronic monitoring could only be applied to a person sentenced to imprisonment not exceeding one year. It should be noted that in original form of this Act, the legislator provided a possibility

¹⁴ <http://orka.sejm.gov.pl/Biuletyn.nsf/wgskrnrr/NKK-97>

¹⁵ Opinia do projektu Ustawy o zmianie ustawy – kodeks karny wykonawczy oraz niektórych innych ustaw (druk 3750), <http://orka.sejm.gov.pl/rexdomk4.nsf/Opwsdr?OpenForm&3750>.

¹⁶ Opinia o projekcie poselskim ustawy o zmianie ustawy – Kodeks karny wykonawczy oraz niektórych innych ustaw (druk sejmowy 3750), <http://orka.sejm.gov.pl/rexdomk4.nsf/Opwsdr?OpenForm&3750>.

¹⁷ Druk sejmowy nr 338/05.

¹⁸ Stanowisko rządu do druku nr 338, <http://orka.sejm.gov.pl/Druki5ka.nsf/WWW-wszystkie/0338?OpenDocument>.

¹⁹ M. Rusinek, Ustawa o dozoru elektronicznym. Komentarz, Warszawa 2010, p. 10.

²⁰ Druk sejmowy nr 1237/06.

²¹ Druk sejmowy nr 1352/07.

²² M. Jankowski, S. Momot, Wykonywanie kary pozbawienia wolności w systemie dozoru elektronicznego (Sprawozdanie z badania aktowego), Warszawa 2014, p. 2.

²³ ustawa z dnia 7 września 2007 r. o wykonywaniu kary pozbawienia wolności poza zakładem karnym w systemie dozoru elektronicznego (Dz. U. 2007 Nr 191, poz. 1366).

of using the electronic monitoring for perpetrators who were serving short-term isolation penalties not exceeding six months. In addition, electronic monitoring could only be applied to a person, who have been sentenced to imprisonment for up to one year, if the time remaining to serve the rest of this penalty has not been longer than six months, and the current attitude of these people permitted it. The electronic monitoring has also been used to person who have been given a substitute imprisonment.²⁴

Moreover, the sentenced person must also fulfill the conditions of a material nature. Firstly, the convicted person should give consent to serving imprisonment in the system of electronic monitoring. It is worth noting, that not only convicted person can apply for the electronic monitoring but also an advocate, a prosecutor, a probation officer or a director of the prison. An application of the electronic monitoring which was filed by other persons than the convicted person required additional written justification and consent of the convicted person. In 2010 the legislator resigned from the requirement of this kind of consent.²⁵ It was also necessary to obtain the written consent of all adult persons who living with the convicted person. It should be emphasized that the withdrawal of consent to the electronic system by cohabitants sentenced after issuance of a ruling by the penitentiary court, was ineffective. Furthermore, the sentenced person must have had a permanent place of residence. Finally, using of the electronic monitoring has been conditioned by the absence of obstacles such as housing conditions and technical conditions.²⁶

It should be noted that competence of a penitentiary court, in district where punishment was or was to be enforced, was permission to serve a sentence of imprisonment in the system of electronic monitoring.²⁷ However, since 2010 in this case a penitentiary court, in whose district the conviction person stayed, was adjudicated. This court, before deciding whether to apply the punishment in the system of electronic monitoring, also decided whether the material and formal conditions. If the court has given consent to the system of electronic monitoring, the convicted person was obligated to report the readiness to install the recording equipment or the transmitter within a maximum of 24 hours from the time the ruling was delivered or served, or from the release from prison.²⁸

4. THE ELECTRONIC MONITORING IN THE LIGHT OF THE AMENDMENT OF 1 JULY 2015

Further significant changes were introduced by the Act of 20 February 2015 amending the Penal Code and some other laws, which entered into force on 1 July 2015. It should be emphasized that the above amendment replaced the act currently in force and gave a new

²⁴ ustawa z dnia 21 maja 2010 r. o zmianie ustawy o wykonywaniu kary pozbawienia wolności poza zakładem karnym w systemie dozoru elektronicznego (Dz. U. 2010 r. Nr 101, poz. 647).

²⁵ W. Kotowski, B. Kurzępa, *Dozór elektroniczny. Komentarz praktyczny*. Warszawa 2009; B. Stańdo-Kawecka, *Dozór elektroniczny w Polsce – uwagi w świetle rekomendacji Rady Europy – Przegląd Więziennictwa Polskiego nr 86 2015*, p. 19.

²⁶ M. Rusinek, *Ustawa o dozorcze elektronicznym. Komentarz*, Kraków 2010, p. 47-48, 84-85.

²⁷ M. Rusinek, *Krytycznie o przyjętym kształcie dozoru elektronicznego – Przegląd Więziennictwa Polskiego nr 60 2008*, p. 53-54.

²⁸ A. Jaskóła, *Dozór elektroniczny jako sposób zmniejszania przeludnienia w zakładach karnych. Ujęcie przed i po nowelizacji z dnia 1 lipca 2015 r.*, [w:] M. M. Szwejkowska, K. D. Ryś, *Współczesne wyzwania dla systemów penitencjarnych na świecie*, Olsztyn 2016, p. 243.

shape to institution of electronic monitoring. As a result, the electronic monitoring has become one of the forms of the penalty of restriction of liberty, one of the penalty measures and the type of detention order specified in chapter X of the Penal Code.²⁹ It should be also noted that this institution is regulated in a separate chapter of the Executive Penal Code - Chapter VIIa entitled "The system of electronic monitoring" and in the selected provisions of the Penal Code. On the other hand, the technical aspects of electronic monitoring are stipulated in other implementing regulations to this acts.³⁰

In the light of the amendment of 1 July 2015, the legislator indicates that the electronic monitoring is a surveillance of behaviour of the convicted person by technical means, but the system of electronic monitoring is defined as a whole of methods of handling and the technical means. In addition, the legislator distinguished several types of the electronic monitoring by checking: staying by the convicted person at the place indicated by the court (called "stationary electronic monitoring"); a current place of sentenced person's residence, regardless of where this person is (called "mobile electronic monitoring"); a preservation of a certain minimum distance from the person indicated by the court (called "contactless electronic monitoring").³¹ It should be pointed out that according to Article 43c § 1 of the Enforcement Penal Code, the first of the above-mentioned types of supervision could only be applied to the penalty of restriction of liberty, while other - relates both the penalty measures and the detention order.³² It should be also noted that the electronic monitoring concerns not all, but only particular penalty measures, including: a prohibition from entering certain localities, on contact with certain people, from approaching the certain people or on leaving a specified place without a court's consent, and an order the periodical leaving a premises rented with the victim or a prohibition from entry to a mass events.³³ The electronic monitoring can also be used as a detention order – an electronic monitoring of place of residence. The judgment of this kind of detention order is only admissible when it is necessary to prevent the offences by the perpetrator again, but other measures are not sufficient. In this case, the perpetrator is subjected to a continued surveillance and is obligated to wear a transmitter. This detention order is adjudicated for an unlimited period and is repealed when the continuation of that measure is no longer necessary.³⁴ The amendment of 1 July 2015 has relinquished the use of electronic monitoring as a system for enforcing imprisonment. However, the legislator provided for the possibility of using the electronic monitoring in relation to the penalty of restriction of liberty.³⁵

²⁹ S. Lelental, *Dozór elektroniczny w świetle rządowego projektu ustawy o zmianie ustawy – Kodeks karny oraz niektórych innych ustaw z 4 kwietnia 2014 r.*, Przegląd Więziennictwa Polskiego, Warszawa 2014, No. 83, p. 6.

³⁰ A. Jaskóła, *Dozór elektroniczny jako sposób zmniejszania przeludnienia w zakładach karnych. Ujęcie przed i po nowelizacji z dnia 1 lipca 2015 r.*, [w:] M. M. Szwejkowska, K. D. Ryś, *Współczesne wyzwania dla systemów penitencjarnych na świecie*, Olsztyn 2016, p. 242.

³¹ Ustawa z dnia 20 lutego 2015 r. o zmianie ustawy – Kodeks karny oraz niektórych innych ustaw (Dz. U. 2015, poz. 396).

³² Ustawa z dnia 20 lutego 2015 r. o zmianie ustawy – Kodeks karny oraz niektórych innych ustaw (Dz. U. 2015, poz. 396).

³³ T. Szymanowski, *Nowelizacja prawa karnego wykonawczego – przegląd ważniejszych zagadnień*, Palestra, 7-8/2015, p. 184.

³⁴ M. Królikowski, R. Zawłocki, *Kodeks karny. Część ogólna. Tom II. Komentarz. Art. 32-116*, Warszawa 2015, p. 573, 587.

³⁵ A. Jaskóła, *Dozór elektroniczny jako sposób zmniejszania przeludnienia w zakładach karnych. Ujęcie przed i po nowelizacji z dnia 1 lipca 2015 r.*, [w:] M. M. Szwejkowska, K. D. Ryś, *Współczesne wyzwania dla systemów penitencjarnych na świecie*, Olsztyn 2016, p. 242.

A new provision was inserted in the Penal Code – Article 34 § 1a and § 1b, which specified that the penalty of restriction of liberty also includes the obligation to staying at the place of residence or other designated place, using the system of electronic monitoring. In this variant, the penalty of restriction of liberty could not exceed 12 months, 70 hours per week and 12 hours per day.³⁶ The convicted person could still be seen as a free person, the freedom was limited only to the extent which resulted from an established schedule.³⁷ The detailed schedule was determined in the enforcement proceedings, and the total punishment in this variant - in the conviction.³⁸ As in the previous legal act, the using of electronic monitoring was depended on the fulfilment of several conditions. First, the sentenced person must have had a place of residence or other place designated by the court. Simultaneously, the legislator required prior written consent of the adults who living with the convicted person. Nevertheless, this consent was not absolute - it could be revoked, but at the latest before the ruling to begin the electronic monitoring. The legislator also provided for the decision of that institution without the consent of the aforementioned persons, which regulated in Article 43h § 6 of the Executive Penal Code. According to this article, such a ruling was possible if it would not entail undue difficulties for a person who did not consent, and would violate privacy, which was a new legal solution.³⁹ It should be noted that, contrary to the original wording of the Act of 7 September 2007, the legislator resigned from the consent of the convicted person. Furthermore, the technical requirements were checked in the enforcement proceedings.⁴⁰

5. THE AMENDMENT OF 15 APRIL 2016 AND ITS IMPACT ON THE ELECTRONIC MONITORING

The changes introduced as a result of the amendment of 1 July 2015 existed only until 14 April 2016. In the meantime there was a change of power in Poland, because parliamentary elections were held.⁴¹ It should be noted that on 15 April 2016, the Act of 11 March 2016 amending the Penal Code and the Executive Penal Code entered into force, in which the legislator has combined existing legal solutions.⁴² The electronic monitoring has begun once again to refer to the imprisonment, but entered into the structure of the Executive Penal Code, and has become an integral part of the Polish penal system. The justification of this bill indicated that since the introduction of the Act of 7 September 2007, the system of electronic

³⁶ Ustawa z dnia 20 lutego 2015 r. o zmianie ustawy – Kodeks karny oraz niektórych innych ustaw (Dz. U. 2015, poz. 396).

³⁷ K. Mamak, D. Zając, Dozór elektroniczny w świetle nowelizacji prawa karnego, *Internetowy Przegląd Prawniczy*, TBSP UJ No. 1, 2015, p. 132.

³⁸ W. Wróbel, *Nowelizacja prawa karnego 2015. Komentarz*, Kraków 2015, p. 222.

³⁹ K. Dąbkiewicz, *Kodeks karny wykonawczy. Komentarz*, Warszawa 2015, p. 220-221.

⁴⁰ A. Jaskóła, Dozór elektroniczny jako sposób zmniejszania przeludnienia w zakładach karnych. Ujęcie przed i po nowelizacji z dnia 1 lipca 2015 r., [w:] M. M. Szejnkowska, K. D. Ryś, *Współczesne wyzwania dla systemów penitencjarnych na świecie*, Olsztyn 2016, p. 243

⁴¹ T. Szymanowski, *System dozoru elektronicznego w wykonywaniu kary pozbawienia wolności*, *Palestra* 6/2016, p. 14.

⁴² A. Jaskóła, Dozór elektroniczny jako sposób zmniejszania przeludnienia w zakładach karnych. Ujęcie przed i po nowelizacji z dnia 1 lipca 2015 r., [w:] M. M. Szejnkowska, K. D. Ryś, *Współczesne wyzwania dla systemów penitencjarnych na świecie*, Olsztyn 2016, p. 243.

monitoring has met all expectations.⁴³ After 1 July 2015, there has been significant reduction in the number of judgements regarding the electronic monitoring. In the second half of 2015 the number of judgements which resulted in the start of serving the penalty of restriction of liberty was only 28.⁴⁴

It should be emphasized that the ruling on the penalty measures and the detention order using the electronic monitoring was issued in the court proceedings, not in the enforcement proceedings. It was necessary to describe a specific procedure relating to the execution of imprisonment in electronic monitoring. Therefore, in the current Chapter VIIa of the Executive Penal Code, the legislator added subsection 2a, which consists conditions and procedures for applying this institution.⁴⁵ According to Article 43a of the Executive Penal Code, permission to serve imprisonment in this system is the competence of the penitentiary court and is necessary to fulfill cumulative conditions. The electronic monitoring in this variant could be adjudicate in relation to a person sentenced to imprisonment of up to one year (with the exception of the recidivist specified in Article 64 § 2 of the Penal Code), who has a place of permanent residence. Moreover, the judgement is sufficient to achieve the purpose of the punishment. Another condition is to obtain the consent of adults who live with the convicted. The legislator repealed Article 43h § 6-7 of the Executive Penal Code, which allowed to serve imprisonment in this system, despite the disagreement of the abovementioned persons. The last of the conditions is no technical obstacles.⁴⁶

Furthermore, some new articles such as Article 43na or Article 43nb were added to the Executive Penal Code. In Article 43na of the Executive Penal Code, the legislator provides the possibility of moving away from place of residence or other place designated by the court with an indication of the purpose for a period of time not exceeding 12 hours per day, and in Article 43nb - the possibility of imposing the obligations specified in Article 72 of the Penal Code.⁴⁷ Some of the changes are the result of the resignation from electronic monitoring as a one of the forms of the penalty of restriction of liberty.⁴⁸

6. CONCLUSIONS

Summarizing the above considerations, it should be noted that electronic monitoring is a good legal solution for convicted people, the state and society. The convicted persons have possibility of a smoother imprisonment, and the state has legal measures in order to reduce the overcrowding in prisons, and the society gains a better chance of resocialisation of the convicted person, who is trying not to break the law, because he or she wants to be punished less severely. All of these assumptions have been largely implemented by the Act of 7

⁴³ Uzasadnienie do rządowego projektu ustawy o zmianie ustawy – Kodeks karny oraz ustawy – Kodeks karny wykonawczy, druk nr 218.

⁴⁴ P. Nasiłowski, System dozoru elektronicznego w praktyce, Na wokandzie. Kwartalnik informacyjny Ministerstwa Sprawiedliwości 3(29)/2016, p. 7.

⁴⁵ Uzasadnienie do rządowego projektu ustawy o zmianie ustawy – Kodeks karny oraz ustawy – Kodeks karny wykonawczy, druk nr 218.

⁴⁶ Ustawa z dnia 6 czerwca 1997 r. – Kodeks karny wykonawczy (Dz. U. 1997, No. 90, poz. 557).

⁴⁷ Ustawa z dnia 6 czerwca 1997 r. – Kodeks karny wykonawczy (Dz. U. 1997, No. 90, poz. 557).

⁴⁸ Uzasadnienie do rządowego projektu ustawy o zmianie ustawy – Kodeks karny oraz ustawy – Kodeks karny wykonawczy, druk nr 218.

September 2007 about the serving a sentence of imprisonment outside prison in the system of electronic monitoring.

However, this Act ceased to apply as a result of the amendment of 1 July 2015. Until July 2015, the system of electronic monitoring was an important alternative to the imprisonment. The system of electronic monitoring as one of the form of the penalty of restriction of liberty was not so interesting. Therefore, the legislator decided not to use electronic monitoring in relation to the penalty of restriction of liberty, but in relation to imprisonment or penalty measures and detention order, which was reflected in amendment of 15 April 2016. In conclusion, we can ask a question, whether the amendment of 15 April 2016 has given the final shape of electronic monitoring, or should we expect further legislative changes.

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