

**Electronic Monitoring as an Alternative to Short-Term  
Incarceration: A Study in the Context of Law No. 18\_01  
Concerning the Regulation of Prisons and Social Reintegration  
of Detainees"**

الوضع تحت المراقبة الإلكترونية كبديل عن العقوبة السالبة للحرية قصيرة المدة  
دراسة في ظل القانون رقم 18\_01 المتضمن قانون تنظيم السجون و إعادة الإدماج  
الاجتماعي للمحبوسين

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**abstract:**

This study aims to explore the electronic monitoring system as a favored tool in the new criminal strategy adopted by the recent reforms in Algeria's justice sector. These reforms advocate for the restructuring of penalties by creating new alternatives to the execution of short-term custodial sentences. The study examines the concept, progressing to an analysis of its incorporation into law no. **18\_01**, through an exploration of its legal framework.

**Keywords:** The electronic bracelet, the electronic monitoring system, alternatives to short-term custodial sentences,

**ملخص:**

تهدف هذه الدراسة إلى بحث نظام الوضع تحت المراقبة الإلكترونية باعتباره أداة رئيسية ضمن الخطة الاستراتيجية الجنائية الحديثة التي أدخلتها الجزائر عبر إصلاحاتها الأخيرة في مجال العدالة. هذه الإصلاحات تهدف إلى إعادة هيكلة نظام العقوبات بإدخال بدائل لتفيد العقوبات السالبة للحرية قصيرة المدة. وقد تناولت هذه الدراسة بحث مفهومه مرورا الى دراسة تكريسه في القانون رقم 18\_01، من خلال بحث نظامه القانوني.

كلمات مفتاحية: السوار الإلكتروني، نظام الوضع تحت المراقبة الإلكترونية، بدائل العقوبة

السالبة للحرية قصيرة المدة

## Introduction

In light of the flaws associated with deprivation of liberty penalties and the emergence of prison issues, an urgent call has been made to avoid sentencing to such penalties as much as possible by criminal justice systems, and to replace them with alternatives that allow for the avoidance of the negative effects of these types of punishments. Multiple terms have emerged to express this desire by using alternatives to deprivation of liberty, prison alternatives, alternatives to institutionalization... Perhaps most importantly is what is known as electronic monitoring or placement under electronic surveillance.

Electronic monitoring is often considered an alternative to carrying out a sentence (imprisonment)<sup>1</sup>, or house arrest, a new system adopted by many countries including Algeria, making it the second African country after South Africa to do so. This was enacted under Law No. 18\_01, which amends Law No. 04\_05, concerning the organization of prisons and the social reintegration of detainees.<sup>2</sup>

This came about through a series of reforms introduced to the justice sector, in line with modern trends in penal legislation, especially in reducing and minimizing deprivation of liberty penalties and leveraging digital technology towards humane treatment of criminals while simultaneously aiding them in achieving the objectives of the punishment. Hence, the issue at the core of our research is as follows: What is the concept of electronic monitoring? And what are the conditions for its application under Law No18\_01? To address the aforementioned issue, we relied on the descriptive analytical method to cover various aspects of this new technology, dividing the study into two sections based on the concurrent technical design category. In the first section, we discussed the concept, while the second section was dedicated to examining the legal system.

## Section One: Concept of Electronic Monitoring

Electronic monitoring is considered one of the modern methods in the execution of punishments, aimed at providing an alternative to prison for some convicts. In this section, we will delve into its definition and then **how it works**.

### First Aspect: Definition of Electronic Monitoring

Electronic monitoring is viewed as a tool for managing deprivation of liberty penalties. It was introduced in France in the mid-1990s. The idea revolves around obligating convicts to stay in their homes, equipping them with electronic monitoring systems. The times for leaving and returning home are determined by the sentencing judge, who requires them to report through electronic monitoring department observers on one hand, and prison reintegration and probation advisors (CPIP) on the other. <sup>3</sup>

Scholarly definitions of this measure have varied. Some have defined it as "a remote monitoring system by which the presence or absence of a person from a judicially designated residence can be verified, allowing the sentenced individual to stay at home, though their movements are restricted and monitored by a device attached to their wrist or ankle." It has also been <sup>4</sup> described as "obligating the sentenced or pre-trial detainee to stay at their home or residence during specified hours, with the person under electronic surveillance being monitored."<sup>5</sup>

Additionally, it has been defined as one of the consensual alternatives to deprivation of liberty penalties, through which the person under surveillance is monitored using modern technologies by law enforcement outside of prison, in predetermined places and times. This entails subjecting them to a set of obligations and conditions, with non-compliance resulting in punishment with a deprivation of liberty penalty<sup>6</sup>

Indeed, while many legislations have recognized the system of electronic monitoring, they have not specifically addressed its definition, focusing instead on outlining its application conditions and procedures. However, the Algerian legislator defines it under Article 150 repeated of Law No. 18\_01 as a measure that allows convicts to serve either the entirety or a

portion of their sentence away from prison or correctional facility. This system includes the application of electronic monitoring, where the sentenced individuals are required to wear an electronic monitoring device, in the form of a bracelet, for the specified period. This bracelet is equipped with technology that enables the determination and monitoring of the person's location within a pre-defined residence area as determined by the sentencing judge's decision. From the foregoing, it can be said that electronic monitoring, or the electronic bracelet, is a means of executing the entirety or a part of a sentence that is granted to an individual sentenced to actual imprisonment. This allows the convict to serve their sentence outside of prison. To benefit from this measure, the individual must commit to staying in a specified location during pre-set hours. The monitoring is conducted through the bracelet the individual wears. The electronic bracelet aims to enhance reintegration by supporting and monitoring compliance with obligations set by the judge. For example, the individual may be allowed to engage in professional activities or pursue training.

### **Second Aspect: How Electronic Monitoring Works**

There are three methods by which the electronic bracelet operates.

**The first method:** Continuous broadcasting is commonly used in countries that implement the electronic bracelet monitoring system. The bracelet sends a precise signal every fifteen seconds to a receiver connected to a landline phone in the residence of the monitored person. These signals are automatically transmitted to an information system equipped with modern technologies capable of recording these signals and the information related to them. This device is kept by the authority responsible for monitoring and supervising individuals under this system. <sup>7</sup>.

**The second method:** This mechanism is based on the principle of storing the voice print of the individual under electronic surveillance in a central computer system at the monitoring center. The person being monitored is required to call the monitoring center by phone from their home or from the designated residence location at specific and consecutive times. At this point, the system

compares the voice of the person with the voice print previously stored in the system. If the incoming voice does not match the recorded voice print, the computer system at the monitoring center records this as a violation of the monitoring system conditions.<sup>8</sup>

**The third method:** Satellite monitoring.

### **Section Two: The Legal System for Electronic Monitoring**

Electronic monitoring is one of the main methods of executing legal punishments in many countries. This system aims to provide an effective alternative to traditional imprisonment, allowing convicts to spend part of or their entire sentence outside of prisons, subject to specific conditions and requirements that determine the extent of their freedom and movement by judicial authorities. In this section, we will discuss the conditions for its imposition, and the procedures for its implementation according to two aspects.

#### **First Aspect: Conditions for the Imposition of Electronic Monitoring System**

Referring to Articles 150 repeated 1 and subsequent of Law No. 18\_01, we find that the Algerian legislator has established a series of conditions to benefit from the electronic monitoring system, which can be categorized into two groups: conditions related to the sentenced individual, and conditions related to the punishment.

##### **Subsection One: Conditions Related to the Sentenced Individual**

- **Age:** The legislator did not specify a particular age for the individual at the time of committing the crime to apply electronic monitoring as an alternative measure to short-term deprivation of liberty punishments for anyone, whether male or female, adult or minor. This is explicitly inferred from the text of Article 150 repeated 2.
- **Consent:** The electronic monitoring system is not applied without obtaining consent from the sentenced individual, or their legal representative if they are a minor.
- **Respect for the dignity,** safety, and private life of the concerned individual when implementing electronic monitoring.

- **The individual must prove** a fixed residence or domicile.
- Wearing the electronic bracelet should not harm the health of the individual.

Furthermore, when applying electronic monitoring, the family situation of the concerned person is taken into account, as well as whether they are undergoing medical treatment, participating in a professional, educational, or training activity, or if they have provided reliable guarantees indicating their commitment to proper conduct.

### **Subsection Two: Conditions Related to the Punishment**

The Algerian legislator stipulated in Article 150 repeated 1 that the punishment under electronic monitoring applies in the case of a conviction with a deprivation of liberty punishment not exceeding three years, provided that the judgment is final, or in case the remaining punishment does not exceed this duration.

This condition is logical to avoid the disadvantages of short-term deprivation of liberty punishments, especially the mixing of prisoners, which can lead to the acquisition of experiences from some dangerous criminals and the transmission of criminal behavior to less dangerous convicts. Thus, instead of the prison becoming a place for discipline and reform, it turns into an institution for producing criminals with higher criminal qualifications and experiences that some of them did not possess before.

It is noted from the previous article that the scope of applying the electronic bracelet as an alternative to short-term imprisonment punishments includes misdemeanors and infractions, as inferred from the inclusion of the phrase "in case of a conviction with a punishment not exceeding three years..." It can also be applied to felonies with less than three years remaining in their punishment, based on:

- A decision from the sentencing judge, taking into account the opinion of the public prosecution for the sentenced individual, and the opinion of the punishment execution committee for prisoners.

- The sentenced individual or their lawyer can submit a request to benefit from electronic monitoring to the sentencing judge, who in turn issues his decision within no more than ten days, and this decision is final and not subject to appeal. In case of refusal, the sentenced individual has the right to submit a new request after six months from the date of the initial rejection.

### **Second Aspect: Handling the Procedures for Executing the Punishment under the Electronic Monitoring System**

This aspect is addressed by examining the authority responsible for deciding the execution of the punishment under the electronic monitoring system in light of Law No. 18\_01, as well as studying the cases in which this measure can be revoked.

#### **Subsection One: The Authority Responsible for Deciding the Execution of the Punishment under the Electronic Monitoring System**

The task of deciding the execution of the punishment under the electronic monitoring system is assigned to the sentencing judge, either autonomously or upon request from the convicted individual personally or through their lawyer. This is done after obtaining the opinion of the public prosecution, and in the case of detainees, the opinion of the punishment execution committee is also considered, as stipulated by Article 150 repeated 1.

The follow-up and monitoring of the execution of electronic monitoring are conducted under the supervision of the sentencing judge. This follow-up is carried out through the external services of the prison administration, responsible for the social reintegration of detainees, through field visits and telephone communication.<sup>9</sup>

In the event of any violation of the conditions of electronic monitoring, the external services of the prison administration immediately inform the sentencing judge of the details and provide him with periodic reports on the progress of the electronic monitoring process<sup>10</sup>

The sentencing judge has the right to impose one or more of the following measures on individuals under electronic monitoring: the obligation to engage

in professional work, or to pursue education or vocational training, to avoid visiting certain locations, to refrain from meeting with certain individuals, including crime partners or main perpetrators.

Furthermore, gathering with some individuals, especially victims and minors, is prohibited, and adherence to health, social, educational, or psychological care standards that are deemed necessary for their effective reintegration into society is required.<sup>11</sup>

The electronic bracelet is placed on the individual within the penal institution, and the necessary information system for its implementation is set up by qualified staff belonging to the Ministry of Justice.<sup>12</sup>

An individual who evades electronic monitoring, especially by removing or disabling the electronic monitoring device, is subject to the penalties prescribed for the crime of escape, as stipulated in Article 150 repeated 14.

### **Subsection Two: Cancellation of Electronic Monitoring**

The sentencing judge has the authority to terminate the electronic monitoring system after hearing the concerned person, in specific cases outlined in Article 150 repeated 10. These cases include: non-compliance with the imposed conditions without acceptable reasons, being convicted of a new charge, or upon request from the person concerned themselves.

In addition to the sentencing judge, the Algerian legislator has granted the power to the penalty adaptation committee to cancel electronic monitoring upon a request from the public prosecutor, if it becomes apparent that continuing in this status poses a risk to security and public order. In such cases, the penalty adaptation committee makes its decision on the request through a non-appealable resolution, within no more than ten days from the date it is notified of the request.

If electronic monitoring is cancelled, the person concerned is required to serve the remainder of the sentence within the penal institution, taking into account the period spent under electronic monitoring, as decreed by Article 159 repeated 13.

### **Conclusion:**

In concluding the study of the situation under electronic monitoring, which falls within the framework of the state's direction towards reforming the justice sector, especially with the generalization of digitization that is likely to positively reflect on Algeria's penal policy as a mechanism for its rationalization through alternatives, This system reaffirms that prisons are not the ideal environment for reforming individuals, especially those sentenced to short-term penalties. This approach aligns with the contemporary vision of penalties aimed at reintegrating individuals into society and rehabilitating them through alternatives to imprisonment, by offering other options that avoid the loss of their freedom.

**The study has reached a number of important conclusions:**

1. This system specifically targets individuals sentenced to mitigated punishments not exceeding three years due to the commission of non-serious crimes, or prisoners with no more than three years remaining in their sentence who show a willingness to reform, enabling their release.
2. Reactivating the use of the electronic bracelet can alleviate the burden on penal institutions, which have been under significant pressure in recent years, whether in terms of material and human resources or the need to mobilize more prisons.
3. The Algerian legislator imposed a set of legal requirements that the sentenced individuals must follow when the electronic monitoring punishment is applied, in addition to providing guarantees for obtaining this punishment or during its use period. Among the most important conditions are ensuring not to remove or abandon the electronic bracelet, as well as not attempting to hide their location by any means.

**Recommendations that can be included:**

1. Benefiting from the experiences of countries that have applied this system, such as France.
2. Encouraging the production of the electronic bracelet in Algeria with Algerian technologies and competencies, to control this technology and apply it as required.

## Margins:

<sup>1</sup> DAN KAMINSKI . LA SURVEILLANCE ÉLECTRONIQUE DES JUSTICIABLES : LÉGITIMITÉ PUBLIQUE ET LIVRAISON PRIVÉE ? sÉditions Pédone (n° 35). 2013/1\_P 3

<sup>2</sup> Law No**18\_01**, dated January 30, 2018, amends Law No. 04\_05, dated February 6, 2005, which includes the law on the organization of prisons and the social reintegration of detainees. This amendment was published in the Official Gazette No. 5, dated January 30, 2018.

<sup>3</sup> **Camille Allaria** , Surveillance électronique et contrôle de la délinquance Le cas de la surveillance électronique des prisonniers . Mouvements . (n° 79), 2014 . P 110

D. Şafā' awtāny, al-waḍ' taḥta al-murāqabah al-iliktrūniyah. Majallat Jāmi'at Dimashq lil-'Ulūm al-<sup>4</sup> iqtisādīyah wa-al-qānūniyah – al-mujallad-25 al-'adad al-Awwal, 2009, p 129

<sup>5</sup> **Dan Kaminski** . La surveillance électronique des justiciables : légitimité publique et livraison privée ?. Archives de politique criminelle n° 35 ; 2013. P 105

<sup>6</sup> Rāmī Mutawallī Qādī, Niẓām al-murāqabah al-iliktrūniyah fī al-qānūn al-Faransī al-muqāran, Majallat al-sharī'ah wa al-qānūn, Kulliyat al-qānūn Jāmi'at al-Imārāt, al-'adad 63 Yūliyū 2015, p 269

<sup>7</sup> D. Şafā' awtāny, op, cit, p 143

<sup>8</sup> Su'ād khlwṭ, 'Abd al-Majīd lkhḍāry, al-waḍ' taḥta al-murāqabah al-iliktrūniyah K'lyh Mustahḍathah lltfryd al-'iqābī fī al-tashrī' al-Jazā'irī, Majallat al-Buḥūth wa-al-Dirāsāt, al-mujallad 15, al-'adad 2, Jāmi'at Lakhḍar al-Wādī, 2018, p 249.

<sup>9</sup> "See Article 150 repeated 8 of Law No. **18\_01**

<sup>10</sup> See Article 150 repeated 9 of Law No. **18\_01**

<sup>11</sup> . See Article 150 repeated 6 of Law No. **18\_01**.

<sup>12</sup> . See Article 150 repeated 7 of Law No. **18\_01**.