**INSTRUCTION ON THE RIGHTS AND OBLIGATIONS OF THE SENTENCED PERSON IN RELATION TO ELECTRONIC MONITORING, AND THE CONSEQUENCES OF BREACHING THOSE OBLIGATIONS**

**Rights of the sentenced person**1[[1]](#endnote-1) **in relation to electronic monitoring:**

1. The right to request that fixed-location monitoring be moved to a different location. Such a change is only possible if justified by special circumstances, and is carried out by the penitentiary Court (Article 43o § 1)2[[2]](#endnote-2).
2. The right to request a change in the time slot during the day and on particular days of the week, in which the sentenced person can leave the place of fixed-location monitoring. Such a change is only possible if justified by special circumstance, and is carried out by the penitentiary Court (Article 43o § 3), and when a quick change is necessary, it can be made by the Court probation officer (Article 43o § 4).
3. The right to leave, with the permission of the probation officer, the place of fixed-location monitoring for a period of less than 7 days at a time, if necessary, accompanied by an immediate family member or a person of trust. Such consent may only be given in circumstances particularly important to the sentenced person, justified by health, family, or personal reasons (Article 43p § 1). The consent may be revoked if, after it has been granted, information or circumstances have arisen which justify the risk that the sentenced person, during the period of the consent, may violate the legal order (Article 43p § 2). If such consent is revoked, a repeat consent may not be granted (Article 43p § 3).
4. The right to request that the penitentiary Court order a break in the enforcement of the sentence under the electronic monitoring system. The Court may only render such order if there are compelling health or personal reasons for doing so (Article 43q § 1). If the sentenced person does not use the break in accordance with the purpose for which it was ordered or grossly violates the legal order, the break may be revoked (Article 43q § 3).
5. The right to request the Court or to the probation officer for consent to uninstall the fixed-location recorder or remove the transmitter. Such consent may be given only in a case of urgency, if there is a threat to human life or health (Article 43r § 1).
6. The right to complain to the Court about the manner in which the monitoring entity inspects technical measures (Article 43v § 6).

**Obligations of the sentenced person:**

1. report to the monitoring entity, within the time limit and in a manner determined by the Court, the readiness to install technical measures (Article 43m § 1);
2. wear the transmitter without any interruptions (Article 43n § 1(1));
3. respect the legal order, which includes complying with the provisions governing the enforcement of penal measures, compensatory measures, and forfeiture (Article 43zaa § 1(2));
4. fulfil their obligations, including those in relation to electronic monitoring (Article 43zaa § 1(2));
5. take care of the technical devices they are entrusted with, including, in particular, protecting them against loss, destruction, damage or rendering them unusable, and ensure that they have consistent electricity supply (Article 43n § 1(2));
6. make the entrusted technical devices available to the monitoring entity for inspection, repair or replacement whenever requested to do so by that entity, which includes allowing employees of the entity to enter the premises where the sentenced person dwells or the property owned or managed by the sentenced person (Article 43n § 1(3));
7. provide the President of the Court or an authorised judge, the court probation officer, the monitoring entity, and the monitoring centre operator with explanations concerning the progress of the penalty and the performance of the obligations imposed, and appear as summoned by the judge and the probation officer (Article 43n § 1(4)).

**Sentenced person under fixed-location monitoring is furthermore required to:**

1. remain in a place designated by the Court for a designated period (Article 43n § 2(1));
2. answer calls incoming to the fixed-location recorder (Article 43n § 2(2));
3. allow a professional court probation officer to enter the residence or property where the recorder is installed (Article 43n § 2(3));
4. provide authorized persons (the President of the Court or an authorised judge, the court probation officer, the monitoring entity, and the monitoring centre operator), at their request, with explanations concerning the progress of the penalty and the performance of the obligations imposed, also in terms of using the fixed-location recorder (Article 43n § 2(4)).

**Consequences of breaching the obligations by the sentenced person:**

1. The penitentiary court revokes the consent for the sentenced person to serve the sentence of imprisonment under the electronic monitoring system if the sentenced person:

1. fails to comply with the time limit set for notifying the authorised monitoring entity of their readiness to install the technical devices, or fails to have the recorder or transmitter installed by the monitoring entity without delay (Article 43zaa § 1(1));
2. while serving a sentence of imprisonment under the electronic monitoring system, violates the legal order, in particular commits a criminal offence or a fiscal offence, or evades fulfilling obligations in relation to electronic monitoring or other obligations, penal measures, compensatory measures, or forfeiture imposed (Article 43zaa § 1(2));
3. does not use the break in the sentence in accordance with the purpose for which it was ordered, or grossly violates the legal order, as a result of which the break is revoked by the Court (Articles 43zaa § 1 (3), 43q § 3);
4. during the enforcement of the sentence of imprisonment under the electronic monitoring system is imprisoned in connection with the enforcement of pre-trial detention or enforcement of a sentence in another case (Article 43zaa § 1(4)).

**The revocation of a consent may be withdrawn in exceptional cases justified by special circumstances.**

1. The penitentiary court may revoke the consent for a sentenced person to serve the sentence of imprisonment under the electronic monitoring system if the sentenced person allowed by the court probation officer to leave the place of fixed-place monitoring does not return to that place within the prescribed period (Article 43zab).
2. If the consent for the sentenced person to serve the sentence of imprisonment under the electronic monitoring system is revoked,

the penitentiary court orders that the sentenced person is to be brought to the prison.

1. If the consent for the sentenced person to serve the sentence of imprisonment under the electronic monitoring system is revoked, a repeat consent to serve the sentence under this system is not allowed in the same case (Article 43zae).
2. Failure by the sentenced person to comply with the obligations relating to electronic monitoring and making it difficult to uninstall the technical devices for the monitoring entity, whereby the monitoring entity requests the assistance of the Police, charges the sentenced persons with the costs of this assistance (Article 43u § 3).
3. If a transmitter, fixed-location or portable recorder is destroyed, damaged or rendered unusable on purpose, the Court may order the sentenced person to pay the monitoring entity a compensation fee (Article 43s § 1). Such an act also constitutes an offence punishable by taking into custody, restricting freedom, or imposing a fine (Article 66a of the Act of 20 May 1971 – Code of Petty Offences (Dz.U.2015.1094, as amended)).
4. If a sentenced person prevents or makes it more difficult to monitor the obligation of the sentenced person in the electronic monitoring system whereby they are prohibited from entering a mass event by staying at their permanent residence, or the obligation to appear at an organizational unit of the Police or in another place during the mass event, they are subject to a fine, the penalty of restricted liberty, or imprisonment for up to 2 years (Article 244a § 2 of the Act of 6 June 1997 – Criminal Code (Dz.U.2016.1137)).
5. If the sentenced person fails to comply with the obligations imposed by law in relation to the protective measure imposed on them (also in the form of electronic monitoring of the place of residence), they are subject to a fine, the penalty of restricted liberty, or imprisonment for up to 2 years (Article 244b § 1 of the Act of 6 June 1997 – Criminal Code).

I acknowledge that I received the instructions:

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(date and signature)

1. 1. Whenever the instruction refers to a convicted person, it shall also mean an offender who has been convicted of

   a protective measure combined with electronic surveillance (Article 43a(2)(2)). [↑](#endnote-ref-1)
2. 1. If no other legal basis is indicated, the provisions in brackets refer to the relevant articles of the Act of 6 June 1997 – Criminal Enforcement Code (Dz.U.557, as amended).

   [↑](#endnote-ref-2)