

Summary of the advisory report 'Legislative proposal for alcohol monitor' by the Council for the Administration of Criminal Justice and Protection of Juveniles (RSJ)

On 23 April, the Advisory Division of the Council for the Administration of Criminal Justice and Protection of Juveniles (hereinafter referred to as the 'RSJ') issued an advisory report on the legislative proposal for the alcohol monitor to the Minister of Justice and Security. This bill provides for the compulsory use of the alcohol monitor, which continuously measures alcohol consumption through an ankle tag, as a means of monitoring whether a suspect or convicted person on whom an alcohol ban has been imposed complies with that ban. In principle, the RSJ is positive about the application of the alcohol monitor as a monitoring tool for an alcohol ban, but it is of the opinion that the bill requires clarification and/or further detailing on several points.

The alcohol monitor is a valuable addition

The criminal court can impose an alcohol ban as a special condition. Compliance with the ban is currently monitored by means of compulsory blood and urine tests. At present, the application of the alcohol monitor as a monitoring tool for an alcohol ban is only possible with the consent of the individual in question.

The RSJ believes that the alcohol monitor is a valuable addition to the existing options for the enforcement of an alcohol ban. The alcohol monitor can improve the monitoring of an alcohol ban and, compared to compulsory blood and urine tests, offers individuals more freedom of movement and imposes fewer restrictions on them. The RSJ considers the alcohol monitor a monitoring tool with a far-reaching impact and therefore welcomes the fact that the use of the alcohol monitor will be regulated by law.

In its advisory report, the RSJ emphasises the importance of using the alcohol monitor as part of a comprehensive package of counselling, interventions and talks. The RSJ therefore endorses the starting point referred to in the explanatory memorandum to the bill, according to which the alcohol monitor is imposed in combination with supervision and counselling by the Probation Service, and wholeheartedly agrees with the working method to be used in practice, in which the alcohol monitor is combined with professional counselling.

Comments on objectives and expected effects

Through the use of the alcohol monitor, the legislator aims not only to improve the monitoring of the alcohol ban, but also to make a contribution to reducing alcohol abuse and alcohol-related delinquent behaviour. In a criminal law context, the RSJ sees the alcohol monitor solely as a monitoring tool to check compliance with the special condition of the alcohol ban. For this reason, the RSJ recommends formulating the objectives of the bill more precisely so that they fit in with a technical monitoring tool such as the alcohol

Postbus 30137 2500 GC Den Haag www.rsj.nl monitor. The RSJ advises the legislator to make a clear distinction between the objectives of the alcohol ban as a special condition and the objectives of the alcohol monitor as a monitoring tool.

In addition, the RSJ recommends formulating the expected effects of the alcohol monitor in more cautious terms. Based on the many studies on electronic monitoring¹, no or hardly any lasting impact on behaviour (sustainable behavioural change) can be expected from the alcohol monitor. The RSJ expects that the effect of the alcohol monitor on alcohol consumption and alcohol-related recidivism will be more modest than what the legislator (going by the explanatory memorandum) anticipates. Therefore, the advice of the RSJ is to clearly distinguish between the effectiveness of the alcohol monitor as a monitoring tool and its effects on behaviour.

Clarify the target group

The explanatory memorandum to the bill does not make clear for which target group the alcohol monitor is intended and based on which criteria the alcohol monitor will be selected as a monitoring tool. The RSJ believes it should be clear for which target group the monitoring tool is intended and advises the Minister to clearly define the target group.

Legal safeguards

The RSJ believes that only the court should have the authority to impose a far-reaching monitoring tool such as the alcohol monitor. In practice, the court will in most cases impose the alcohol monitor on the advice of the Probation Service. It is important for the Probation Service to have sufficient scope and flexibility to scale the invasiveness/frequency of alcohol checks up or down: from the alcohol monitor to blood and/or urine tests (which can be more or less frequent) or vice versa. Therefore, the RSJ advocates including both monitoring tools in the judgment. Finally, the RSJ assumes that the period in which the alcohol monitor must be worn will not be any longer than necessary.

The full advisory report (in Dutch) can be consulted on the RSJ website.

¹ "Electronic monitoring" is a general term referring to forms of surveillance with which to monitor the location, movement and specific behaviour of persons in the framework of the criminal justice process. They usually comprise a device attached to a person and are monitored remotely. See: Recommendation CM/Rec (2014/4) of the Committee of Ministers to member States on electronic monitoring.