


„FoKuS“ - For optimised Control and Security

Volker Horstmann, Criminal Judge, Rostock

FoKuS - Special Supervision for Sexual and Violent Offenders
in Mecklenburg - Western Pomerania

Mecklenburg
Vorpommern 

SAIPPUAKAUPPIAS

(World's longest one-word-palindrome)

(Soap Dealer)

FoKuS - Special Supervision for Sexual and Violent Offenders
in Mecklenburg - Western Pomerania


Mecklenburg
Vorpommern 

„FoKuS“ - For optimised Control and Security

Joint Administrative Act of the Ministry of Justice
and the Ministry for Internal Affairs, 2010/2012

Concept for supervising sexual and violent
offenders with high risk of recidivism in
Mecklenburg-Western Pomerania

FoKuS - Special Supervision for Sexual and Violent Offenders
in Mecklenburg - Western Pomerania

Mecklenburg
Vorpommern 

„FoKuS“ – connected concepts in all Federal Countries:

- K.U.R.S. (Lower Saxony, North Rhine-Westphalia)
- HEADS (Bavaria, Brandenburg, Bremen)
- KSKS (Schleswig-Holstein)
- VISIER (Rhineland-Palatinate)
- ARGUS (Hesse)
- SURE (Hamburg)
- ISIS (Saxony)

FoKuS - Special Supervision for Sexual and Violent Offenders
in Mecklenburg - Western Pomerania

Mecklenburg
Vorpommern 

„FoKuS“

Cooperation of

Justice

and

Police

- Central Supervising Authority
- Courts of Execution Penal Sent.
- Procuratorial
- Social Services (Probation-Office)
- Penal Institutions
- (Juvenile Detention Centers)
- (Forensic Ambulant Services)
- State Office of Criminal Investigation
- District Offices
- „FoKuS“- Officers
- Local Police Stations

FoKuS - Special Supervision for Sexual and Violent Offenders
in Mecklenburg - Western Pomerania

Mecklenburg
Vorpommern 

Target Group – Offenders under Supervision by Law (§§ 67d, 68f)

because of

- Sexual Crime
- Murder, Manslaughter
- Intentional crime causing death
- or one of these crimes in an (accusable)
intoxicated state of mind (alcohol or drugs)

*(**not involved**: causing grievous bodily harm or by dangerous means / aggravated robbery / taking hostages / abduction for the purpose of blackmail / additionally aggravated arson)*

- Special Case: Electronic Monitoring

FoKuS - Special Supervision for Sexual and Violent Offenders
in Mecklenburg - Western Pomerania

Mecklenburg
Vorpommern 

Target Group - Reason for Supervision

Main Case Group:

serving full sentence of imprisonment

(§ 68f StGB)

at least 2 years

sexual offenders at least 1 year

Target Group - Reason for Supervision

Completed Custodial Measure of Rehabilitation and
Incapacitation:

- **Detention for the purpose of incapacitation**, § 66 StGB
- **Mental hospital** order, § 63 StGB
- **Custodial addiction treatment** order, § 64 StGB

*Exception: the measure is suspended for an operational
probationary period (§ 67 d II StGB)*

Supervision – ambulant Measure of Rehabilitation and Incapacitation, §§ 68 ff

- in contrast to custodial measures (§§ 63, 66, 64)

Offenders with high risk of recidivism (bad criminal prognosis)

- after serving full sentence of more than 2 years (sex. Off. 1 year)
- after ending up custodial measures (often without success), (§§ 67d, 67b)

- in contrast to - conditional early release from prison (§ 57)

- suspended sentences of imprisonment (§

56)

Special case of supervision: suspended cust. measure (§ 67d II)

(good criminal prognosis)

Supervision – Duration (§ 68c)

- Regularly 5 years (can be shortened down to 2 years)
- Exceptionally indeterminate supervising possible, if

- offender does not comply with directive to undergo medical treatment of an invasive nature or treatment for addiction (or violates such direction)

- after suspension of mental hospital order offender lapses into state of §§ 20,21

- a qualified violent or sexual offender violates directions (§ 68b) or other facts concerning this offender give reason to believe that there may be danger to the general public by the commission of further serious crime

Supervision – Orders (§ 68b I Nr. 1-12)

1. *not to leave residence without permission,*
2. *not to frequent specified places*
3. *not to make or maintain contact with the victim or certain persons*
4. *not to engage in particular activities*
5. *not to possess particular objects*
6. *not to possess or drive motor-vehicles*
7. *to present oneself at particular times (to the supervising authority, to another public authority or) **to the probation officer;***
8. *to report promptly every change of residence or employment to the supervising authority*

Since 2007/2011:

10. *not to consume alcohol or other drugs and to undergo tests of a non-invasive nature*
11. *to present oneself at certain times to a doctor, a psychotherapist or the forensic ambulant service*
12. *to wear Electronic-Monitoring-equipment and keep it in service*

Supervising – Orders (§ 68b I Nr. 1-12)

§ 145a StGB

Violating the directions of a supervision order

Whosoever violates a particular direction as indicated in § 68b (1) during the operational period of a supervision order and thereby endangers the objective of the measure, shall be liable to imprisonment not exceeding three years or a fine.

The offence may only be prosecuted upon the request of the supervising authority (§ 68a).

If a person has been sentenced to a term of imprisonment of not less than two years, the court can make an incapacitation order in addition to the term of imprisonment (§ 66 I Nr. 3)

FoKuS Phase 1 – before release:

Penal Institution

- at least three month before the expected release:
 - Statement to the **prosecutorial** concerning question of supervision and proposed directions
 - Information of the responsible **probation officer** after release

Prosecutorial

- applies for the decision of the **Court of Execution** immediately
- sends a copy of the request to the **supervision authority**

Supervision Authority

- informs the **State Office of Criminal Investigation** with a copy of the request

State Office of Criminal Investigation

- informs the **police district office**
- informs the **supervision authority** about **police district office** in charge

FoKuS Phase 2 – the court's decision:

Court of Execution Penal Sentence

- Decision concerning supervision (duration, directions)
- sends a copy of the decision to the **supervision authority**

Supervision Authority

- sends copy of the court decision to the **State Office of Criminal Investigation**
- requests police monitoring (§ 463a StPO) by entering the case in INPOL
- informs the **police** about responsible **probation officer** and his reachability
- authorizes the **police** to directly contact the **probation officer** in case of violation of directions and recidivism

- sends a copy of the court decision to the responsible **probation officer**

State Office of Criminal Investigation

- starts police monitoring as soon as possible by entering the case in INPOL
- informs the regional **district office**
- informs the **supervision authority** after entering the case in INPOL

FoKuS Phase 3 – Supervision Procedure

Social Services (Probation Officers)

- supports the offender and reports to the **supervision authority** concerning social situation and directions (InStar- Category 1: intensive intervention, personal contact at least every two weeks)

Police Office (district office/-station)

- police offices assist the **supervision authority** and the responsible **probation officer** in monitoring the convicted person, particularly with regard to imposed instructions
- “**Warning to Endangerer**” immediately after release in coordination with **probation officer** (regularly without uniform)
- inform **supervision authority and probation officers** about violations of directions and new offences
- if investigative reasons do not allow such information the police inspectorate instead promptly informs the competent **prosecution** in charge of the investigative proceedings.

FoKuS Phase 3 – Supervision Procedure

All Parties involved in the concept

- inform each other when the convicted person **changes domicile or leaves the country** or offenders from other countries visit or move to M-WP
- in this case the **police inspectorate** informs the **State Office of Criminal Investigation** to update INPOL
- can ask for a **concerted case conference at any time**
- are required to cooperate closely and trustfully and to promptly transfer obtained information to other parties if this is necessary to achieve the objective of the concept.

Special Case – Electronic Monitoring

Direction according to § 68 b I Nr. 12, III

Formal requirements:

- serving full sentence of imprisonment of at least 3 years or finished custodial measure
- because of serious crime according to § 66 III (*Detention for the purpose of incapacitation*)
- danger of new serious offences, particularly of a kind resulting in serious emotional trauma or physical injury to the victim
- EM necessary and appropriate (use of data, control directions § 68b Nr. 1,2) to prevent the offender from recidivism

Special Case – Electronic Monitoring

Due to the consequences of EM (for the offender and the parties of the concept) it is necessary to have a **comprehensive assessment** about

- **the personality of the convicted person and the danger that emanates from him/her**
- **and the possibilities and limits of EM in the concrete case**

For this purpose : Mandatory Case Conference

- suggested by the penal institutions 6 months before release
- prosecution invites all participants according to the concept

Special Case – Electronic Monitoring

Mandatory Case Conference – Fixed Participants with comprehensive knowledge about EM :

- *Prosecution*
- *Penal Institution*
- *Central Supervision Authority*
- *Responsible Probation Officer*
- *Police (regularly presidium and local “Fokus” – Officer)*
- *Psychologists of the penal institution*
- *Psychologists of the forensic ambulance service*

- *if necessary more participants*

Special Case – Electronic Monitoring

Mandatory Case Conference – Topic

- *Risk Assessment*

- *particular attention should be paid to the conduct of the convicted person while in custody, his/her personality, his/her past history and the circumstances of his/her criminal offence and his/her situation after release*

- *Possibilities and limits of EM in the actual case*

- *If suggested fixed commitments concerning EM:*
 - *Exclusive Zones, Contact-directions, Warning-Zones and -times*
 - *Reactions of GÜL, Police (prepared by Supervising Authority)*

Special Case – Electronic Monitoring

Monitoring Procedure

Supervision Authority responsible for implementation of EM

- *Preparation of data needs for GÜL/HZD (Central Monitoring Center in Hesse) concerning directions, the personal dangerousness of the offender and instructions in case of alarm for Police and GÜL, defined prohibited zones and warning-times*
- *ensures tighten of the equipment immediately with release from prison*
- *Purchase of equipment and cost regulation*
- *ensures service and exchange of equipment in case of technical problems*

Special Case – Electronic Monitoring

Regularly only collection and storage of data
for two months (§ 463a IV StPO) (No real-time - EM !)

Data use only

1. *to prove a violation of an instruction pursuant to § 68b I Nr. 1, 2, 12*
2. *to take supervisory measures that may follow from a violation of such instructions*
3. *to punish a violation of such instructions*
4. *to avert a significant present danger to the life, physical integrity, personal liberty or sexual self-determination of third parties*
5. *to prosecute a criminal offence of the kind mentioned in § 66 III*

Only in alarm-cases GÜL/HZD enable the Police immediately to follow / find the offender by real-time-monitoring

German Criminal Code (StGB)

(http://www.gesetze-im-internet.de/englisch_stgb/englisch_stgb)

- suspended sentence, § 56
- conditional early release, §§ 57 ff

- measures of rehabilitation and incapacitation
 - Overview, § 61
 - mental hospital order, § 63
 - custodial addiction treatment order, § 64
 - detention for the purpose of incapacitation, § 66
 - supervision order, §§ 67 ff, 68 ff (esp.: directions, § 68b, duration, 68c)

The German Code of Criminal Procedure (StPO)

(www.gesetze-im-internet.de/englisch_stpo/englisch_stpo)

- Powers and Jurisdiction of the Supervisory Agencies, § 463a
 - may request information from all public authorities, order of police monitoring, Electronic Monitoring – data: collection, storage and use


FoKuS - Special Supervision for Sexual and Violent Offenders
in Mecklenburg - Western Pomerania

Mecklenburg
Vorpommern 

*“Freedom is not the freedom to do
what you like, it is the responsibility
to do what you have to do.”*

Yehudi Menuhin

FoKuS - Special Supervision for Sexual and Violent Offenders
in Mecklenburg - Western Pomerania

Mecklenburg
Vorpommern 

Contact

Volker Horstmann | Richter am Amtsgericht
Amtsgericht Rostock
Zochstraße 13, 18055 Rostock
Fon: +49 – 381 / 4957-2109 (-3104)
Fax: +49 – 381 / 4957-9142

volker.horstmann@ag-rostock.mv-justiz.de

FoKuS - Special Supervision for Sexual and Violent Offenders
in Mecklenburg - Western Pomerania

Mecklenburg
Vorpommern 