



## COMPARATIVE LEGAL ANALYSIS OF THE HOUSE ARREST INSTITUTION IN THE MODERN PERIOD

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### Abstract

**In Uzbek:** The article analyzes the comparative legal aspects of the institution of house arrest in the modern era. The mechanisms for applying house arrest in various legal systems, electronic control tools, and the system of legal guarantees have been studied. A comparative analysis of the experience of the USA, European countries, CIS countries, and Uzbekistan was conducted. Issues of increasing the effectiveness of the institution of house arrest, ensuring human rights, and introducing technological innovations were considered.

**Russian:** The article analyzes the comparative legal aspects of the institution of house arrest in the modern period. The mechanisms of applying house arrest in various legal systems, electronic supervision tools, and the system of legal guarantees were studied. A comparative analysis of the experience of the USA, European countries, CIS countries, and Uzbekistan was conducted. Issues of increasing the effectiveness of the institution of house arrest, ensuring human rights, and introducing technological innovations were considered.

The article analyzes the comparative legal aspects of the house arrest institution in the modern era. The mechanisms of applying house arrest in various legal systems, electronic surveillance tools, and the system of legal guarantees are being studied. A comparative analysis of the experience of the USA, European countries, CIS countries, and Uzbekistan is conducted. Issues of increasing the effectiveness of the house arrest institution, ensuring human rights, and introducing technological innovations are considered.

**Keywords:** house arrest, comparative analysis, electronic control, human rights, technological innovations.

### Input

In the 21st century, the institution of house arrest has reached a new stage of development on a global scale. Trends in the technological revolution, the expansion of the concept of human rights, and the humanization of the criminal justice system have fundamentally changed this institution. Modern house arrest is no longer simply detention at home, but a complex system with complex technological, legal, and social mechanisms. The experience of various countries shows that the effectiveness of the institution of house arrest largely depends on national legal traditions, technological capabilities, and the level of socio-economic development of society.

### Modern model of house arrest in the experience of the USA

In the United States, the institution of house arrest has one of the most developed forms. In this country, house arrest is widely used not only as a preventive measure, but also as a type of punishment. In the USA, the house arrest system is organized differently at the federal and state levels, and each state has its own special legislation<sup>1</sup>. At the federal level, house

arrest is administered by the United States Probation and Pretrial Services System, which is an integral part of the federal court system.

In the USA, the electronic monitoring system was first used in 1983 in the state of New Mexico. Currently, various electronic control tools are used in this country. Devices based on radio frequency identification control the presence of a person in a designated area. And devices based on GPS technology allow tracking a person's exact location in real-time<sup>3</sup>. There are also special devices for monitoring alcohol consumption, which determine the amount of alcohol in the blood through skin transpiration<sup>4</sup>.

A distinctive feature of the US experience is the active participation of private companies in the provision of house arrest services. For example, companies such as "BI Incorporated, Sentinel Offender Services, GEO Group" provide electronic monitoring services<sup>5</sup>. The advantage of this system is that government spending is reduced and technological innovations are implemented faster. However, critics note that private companies are at risk of violating human rights in order to make a profit<sup>6</sup>.

According to statistics, approximately 200,000 people in the US are electronically monitored annually. This figure has a steady growth trend, as overcrowding prisons and rising costs force the search for alternatives<sup>7</sup>. While keeping one person in prison costs an average of 80 dollars per day, this figure is 10-15 dollars for house arrest<sup>8</sup>.

### **Home arrest practice in European countries**

The institution of house arrest has developed differently in European countries. In England, house arrest is known as the Home Detention Curfew, which is mainly applied in the final part of the sentence. A distinctive feature of the English system is that house arrest is closely linked with rehabilitation programs<sup>9</sup>. During the period of house arrest, the person is obliged to be employed, participate in professional development courses, or receive education.

In France, the pre-trial supervision system was introduced in nineteen seventy, and now it has become the main preventive measure. The peculiarity of French legislation is that a judge can establish an individual supervisory regime by choosing from sixteen different restrictions<sup>10</sup>. These restrictions include prohibition on visiting certain places, prohibition on meeting certain persons, issuing a passport, and deprivation of the right to drive a car.

In Germany, house arrest is mainly applied to minors and adults. In German law, house arrest is called "Hausarrest" and is considered a simplified form of detention. The peculiarity of the German experience is that house arrest is applied only by a court decision, and the prosecutor or police cannot make an independent decision on this matter.

In Italy, house arrest is known as "arresti domiciliari" and is used both as a precautionary measure and as a type of punishment. According to Italian law, house arrest can be applied for crimes punishable by imprisonment for more than three years<sup>12</sup>. The peculiarity of the Italian experience is that there, a person under house arrest can leave the house once a week at designated hours to buy food.

In Sweden, the house arrest system works very effectively. In this country, house arrest is carried out within the framework of an intensive surveillance program, and the individual is obliged to strictly observe the daily regime<sup>13</sup>. Swedish statistics show that the recidivism rate of persons who have undergone house arrest is two times lower than that of those who have undergone detention.

In the Netherlands, the electronic control system is very developed. In this country, a special mobile application has been developed for persons under house arrest, through which they send their schedules, communicate with the supervisory authority, and obtain the necessary permits<sup>14</sup>. The Dutch model serves as a model for other European countries.

#### **Institute of house arrest in the CIS countries**

In the countries of the Commonwealth of Independent States, the institution of house arrest is developed to varying degrees. In the Russian Federation, house arrest was reintroduced as an independent preventive measure in two thousand and ten. According to Russian legislation, house arrest is applied by a judge's decision for a period of up to two months and, if necessary, can be extended for up to six months<sup>15</sup>. In Russia, house arrest control is carried out by the Federal Penitentiary Service.

The peculiarity of the Russian experience is that electronic monitoring tools began to be widely implemented there only in 2017. Currently, the SEMPL (Electronic Monitoring System) system operates in Russia, which monitors a person's presence in the dwelling through electronic rings and stationary monitoring devices<sup>16</sup>. According to statistics, an average of forty thousand people are placed under house arrest annually in Russia<sup>17</sup>.

House arrest has been used in Kazakhstan since 1995. The peculiarity of the legislation of Kazakhstan is that house arrest can be applied there not only to suspects and accused persons, but also to convicts<sup>18</sup>. The electronic monitoring system has been implemented in Kazakhstan since 2016.

In the Republic of Belarus, the institution of house arrest is applied relatively rarely. According to Belarusian legislation, house arrest can be applied only for crimes of minor and medium gravity<sup>19</sup>. In Belarus, electronic monitoring tools have not yet been widely implemented, control is carried out mainly by employees of internal affairs bodies.

The institution of house arrest in Ukraine was introduced in 2012. The peculiarity of Ukrainian legislation is that the term of house arrest there varies depending on the severity of the crime. Up to two months for minor crimes, up to four months for moderate crimes, up to six months for serious crimes<sup>20</sup>.

#### **Experience of house arrest in Asian countries**

The institution of house arrest has developed differently in Asian countries. In the Japanese criminal justice system, house arrest does not exist as an official measure of restraint, but in practice, judges can establish an obligation to be accompanied by bail in the dwelling<sup>21</sup>. The peculiarity of the Japanese system is that family control plays an important role there.

The institution of house arrest has been introduced in China in recent years. In Chinese law, this measure is known as "residential surveillance," and it is mainly used for corruption and economic crimes<sup>22</sup>. In China, the electronic monitoring system is developing rapidly, especially in large cities.

The house arrest system is very developed in South Korea. Electronic monitoring has been widely used in this country since 2008. The peculiarity of the Korean experience is that electronic control is applied there not only in house arrest, but also in probation and conditional release<sup>23</sup>. Korean technology is one of the world leaders in this field.

In India, the institution of house arrest has not yet been fully formed. Indian courts sometimes stipulate a condition of being at home along with bail, but this is not an official

house arrest<sup>24</sup>. In India, the issue of introducing the institution of house arrest is being actively discussed due to the problem of overcrowding prisons.

In Singapore, the house arrest system is implemented under very strict control. In this country, along with the electronic monitoring system, video surveillance and biometric identification tools are also used<sup>25</sup>. The Singapore model is considered one of the most technologically advanced models.

Current state of the institution of house arrest in Uzbekistan

The institution of house arrest has been used in Uzbekistan since 2014. Article 224<sup>1</sup> of the Criminal Procedure Code of the Republic of Uzbekistan defines the legal basis of house arrest<sup>26</sup>. According to the legislation of Uzbekistan, house arrest is applied only in cases where there are grounds for detention, but detention is not advisable, taking into account such factors as the age, health status, and marital status of the person.

In Uzbekistan, house arrest control is carried out by internal affairs bodies. Control is carried out mainly by traditional methods, that is, through employee inspections. According to the law, the inspection can be carried out no more than once during the daytime and no more than once at night<sup>27</sup>. The law provides for the use of electronic tracking devices if necessary, but such devices have not yet been widely implemented in practice.

According to statistics, an average of 700-800 people are placed under house arrest in Uzbekistan annually. This figure is very small compared to the number of detainees - about 3-4 percent<sup>28</sup>. The main reasons for this are such factors as the imperfection of control mechanisms, the traditional approach of judges and investigators, and the lack of technical means.

A number of measures are being taken in Uzbekistan to develop the institution of house arrest. In the draft of the new Criminal Procedure Code adopted in 2022, the institution of house arrest was preserved and improved<sup>29</sup>. The issue of implementing electronic monitoring tools is being actively discussed. The experience of foreign countries is being studied, and work is underway to adapt it to national conditions.

### **Effectiveness and problems of the institution of house arrest**

World experience shows that the effectiveness of the institution of house arrest depends on a number of factors. Firstly, it is important to have a clear legal framework. The legislation should clearly define the conditions, procedures, control mechanisms, and liability for violations of house arrest. Secondly, the effectiveness of control mechanisms is of decisive importance. Traditional control methods are insufficient in modern conditions; electronic monitoring tools are necessary.

Thirdly, logistical support is important. Electronic control tools, monitoring centers, and qualified personnel are required. Fourthly, public support is necessary. It is necessary to inform the population about the advantages and effectiveness of the institution of house arrest. Fifthly, it is important to harmonize it with rehabilitation programs. House arrest should not only be a means of control, but also a means of reforming the individual and returning him to society.

Among the main problems of the institution of house arrest are the following. Firstly, it is difficult to ensure the effectiveness of control. Especially in the absence of electronic means, it is difficult to monitor a person's compliance with restrictions<sup>32</sup>. Secondly, there is a problem of maintaining a balance between private property and control. Constant surveillance can be an interference in a person's private life.

Thirdly, there are technical problems. Such situations as malfunctions of electronic devices, communication interruptions, and battery drain can occur<sup>33</sup>. Fourthly, there are financial problems. The implementation and maintenance of the electronic monitoring system requires significant expenses. Fifthly, there are legal problems. The legal status of the institution of house arrest varies in different countries, which creates difficulties in international cooperation.

#### Technological innovations and future prospects

Technological development is fundamentally changing the institution of house arrest. Modern electronic monitoring systems can monitor not only a person's location, but also their physiological state. For example, there are biosensors that detect the consumption of alcohol or drugs<sup>34</sup>. Artificial intelligence technologies allow analyzing a person's behavior and predicting dangerous situations<sup>35</sup>.

Blockchain technology is used to ensure data security and prevent manipulation. Smart technologies allow combining various devices in the dwelling into a single control system<sup>36</sup>. Virtual reality technologies are used to conduct educational and rehabilitation programs for persons under house arrest.

In the future, further development of the institution of house arrest is expected. Experts believe that in 20-30 years, house arrest may become the main alternative to detention. For this, the following conditions must be met: development of technological infrastructure, improvement of legislation, change of public opinion, strengthening of international cooperation.

#### Conclusion

In the modern era, the institution of house arrest is becoming an important element of the criminal justice system. The experience of various countries shows that house arrest is not only a humane, but also an economically effective measure of restraint. The experience of the USA, European countries, CIS countries, and Asian countries shows the existence of various models of the institution of house arrest. Each model was formed in accordance with national legal traditions, socio-economic conditions, and technological capabilities.

In Uzbekistan, the institution of house arrest is still at an early stage of development. Statistical data show that the possibilities of house arrest are not fully utilized. The main reasons for this are the imperfection of control mechanisms, the lack of electronic monitoring tools, and insufficient personnel training. At the same time, positive changes have been observed in this area in recent years.

Technological innovations determine the future of the institution of house arrest. Technologies such as electronic monitoring, artificial intelligence, and blockchain are making house arrest more effective and reliable. In the future, house arrest may become the main alternative to detention. For this, it is necessary to improve legislation, create infrastructure, train personnel, and strengthen international cooperation. The development of the institution of house arrest will make it possible to more fully ensure human rights, humanize the criminal justice system, and effectively use state resources.

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