ELECTRONIC MONITORING OF PERSONS SUBJECT TO PREVENTIVE MEASURES - AN EFFICIENT ALTERNATIVE TO PREVENTIVE ARREST[1]

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ABSTRACT: *The legislator provided for several preventive measures that can be taken, leaving the judge to opt for the one who is best responsible for the need for prevention, but taking into account the fact that the measure of pre-trial detention can only be taken when no other easier preventive measure meets the requirements of adequate prevention. With the entry into force of the Code of Criminal Procedure in 2014 in Romania, the preventive measure of house arrest, similar to preventive arrest, was regulated, both in terms of their inclusion in the category of preventive measures and in terms of their custodial nature, the identity of the causes and conditions under which the two measures may be ordered and of the similar manner of their arrangement and extension.*

However, national case law denotes a great reluctance of magistrates to apply this lighter deprivation of liberty, or to replace it even after months of pre-trial detention, considering her too gentle when it comes to serious accusations. However, the reluctance to apply alternative measures to pre-trial detention is largely due to distrust of the actual possibilities of the police to verify the fulfillment of the obligation not to leave the home by the person arrested at home.

Precisely to avoid these inconveniences, the Romanian legislator, inspired by the laws of other states, adopted the law on the use of electronic monitoring systems for persons under house arrest or judicial control. The possibility of continuous effective monitoring of the person arrested at home through the electronic monitoring system makes this preventive measure an effective alternative, the measure of pre-trial detention should only be taken in extreme cases, when no such monitoring would be sufficient.

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