

# OBSTACLES AND SOLUTIONS FOR AN EFFECTIVE APPLICATION OF FD 2009/829

# PRE-TRIAD

- This presentation is facilitated by the Pre-Trial Project – co – funded by the European Commission
- Pre-Triad. Alternative pre-trial detention measures
- Started in 2019
- The PRE-TRIAD projects aims to promote judicial cooperation between European Union member States (EUMS), making policymakers and stakeholders aware of the challenges posed by pre-trial detention. In addition, it is imperative to lay the foundations for the establishment of common standards with respect to fundamental rights regarding the practical application of pre-trial detention (and its alternative measures), while promoting the implementation of Council Framework Decision 2009/829/JHA of 23 October 2009.
- More details: <https://www.pretrial-detention.org/>

# THE RESEARCH

- Aiming to identify the pre-trial practices across EU, with a special focus on the use of FD 2009/829
- 48 interviews with competent authorities and probation staff
- 3 in-depth interviews with competent authorities in Romania and Germany
- One interview with EC senior official
- Review of previous EU projects dealing with this FD
- One focus group with European academics (3) and researchers from FRA and Fair Trial International

# OBSTACLES



## Macrolevel – Principle

- The limited use of the alternatives in general
- Practice inertia focusing on detention
- Limited trust among MS
- Imaginary risks – risk of flight

## Procedure

- The complexity of the procedure:  
In two steps – 'successive obligations'  
At different levels
- Time consuming in a stage where decisions have to be fast

## National laws

- Confusing – not clear which one is the competent authority
- Introducing more criteria for refusal etc.

## Microlevel

- Not knowing the legal possibilities in ES
- Lack of response to the consultation requests
- Not aware of the FD
- Not enough training – not involving lawyers
- No common language – English?

# SOLUTIONS

EC

- Finish the 9<sup>th</sup> mutual evaluations with comprehensive package
- Minimum standards to limit PTD
- Amend the FD text to allow ES make some urgent decisions – better distribution of powers
- Handbooks & Good practices
- Statistics

National

- Joint training – get to know each other but also generate some mutual standards
- Make use of central authorities and EJM contact points
- Revise transposition laws
- Training for front line practitioners, clerks and lawyers
- Language courses
- Make resources available for translations and 'modern technologies' of communication
- Information fiche for all foreign offenders



Questions?

Thank you !!

Ioan Durnescu

# DISCLAIMER



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