# PRE-TRIAL DETENTION AND ALTERNATIVES TO DETENTION

*- what European lawyers need to know*

12 June 2026
09:00 - 11:00 CET
Zoom

Co-funded by the EU

# PRE-TRIAL DETENTION AND ALTERNATIVES TO DETENTION

*- what European lawyers need to know*

Julia Kozma and Anastasiia Saliuk

**Monitoring Pre-Trial Detention in Europe**

12 June 2026, 09:00 - 11:00 CET, Zoom

Co-funded by the EU

# National Preventive Mechanisms (NPMs)

NPMs are independent bodies established under the **Optional Protocol to the UN Convention Against Torture (OPCAT)**. Their mandate is to prevent torture and ill-treatment in all places of deprivations of liberty. Most EU and Council of Europe Member States have ratified OPCAT and established their NPM.

## OPCAT Mandate

Established under OPCAT, NPMs independently monitor detention facilities to prevent torture and ill-treatment effectively.

## Examples/formats

Many states, like France with its CGLPL, and various national Ombudsman institutions, have active NPMs.

## Core Objective

Focus on systematic, preventative monitoring of conditions, not individual complaints, to identify root causes and risk of violations even before they occur.

About the European NPM Forum

# Building Capacity, Harmonising Monitoring

Established in **2016**, the European NPM Forum facilitates regular exchange to develop NPMs' capacity and methodology for carrying out their mandates **effectively and independently**.
Its core objective: contribute to harmonising detention standards across all places of deprivation of liberty in the CoE region — through independent monitoring and combined action at national, regional, and international level.

Key published materials: Guide for NPMs on monitoring pre-trial detention and material conditions of detention; Guidelines on NPM reporting.

Speaker Introduction

# Julia Kozma — Lead Author

### UN SPT Member

Member of the UN Subcommittee on Prevention of Torture (OPCAT)

### Former CPT Member

Former member of the Council of Europe's Committee for the Prevention of Torture

### Independent Expert

Experienced human rights monitor and co-author of the NPM Guide on pre-trial detention

# Commission Recommendation (EU) 2023/681

Adopted **8 December 2022** — on procedural rights of suspects and accused persons subject to pre-trial detention and on material detention conditions.

### Background

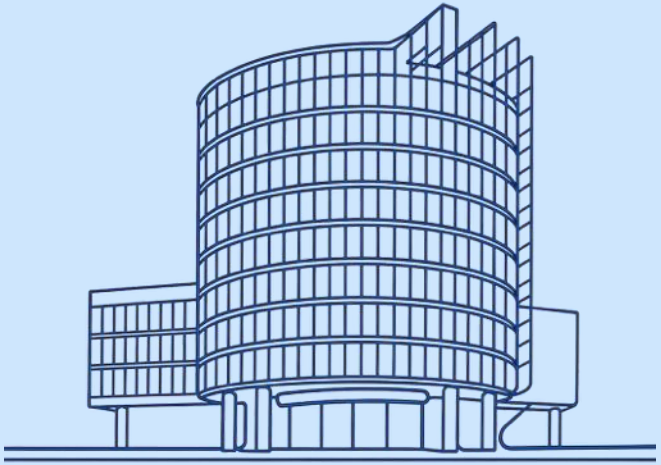
Fragmented EU standards on pre-trial detention create inconsistencies across Member States

### State of Play

Implementation varies widely; NPMs are positioned to assess the implementation

### Judicial Cooperation

Directly linked to European Arrest Warrant mechanisms and mutual recognition of decisions



# The NPM Guide — Main Elements

The Guide provides **practical, standards-based guidance** for NPMs to monitor and report on implementation of the Commission Recommendation, drawing on international and regional standards and best NPM practices.
Individual NPMs are encouraged to adapt strategies to their **national legislation, institutional framework, and country-specific context**.

Developed by **Julia Kozma**, **Anton Van Kalmthout**, and **Victor Zaharia** — with contributions from NPMs of France, Italy, Poland, Slovenia, and the Inspector of Prisons of Ireland.

Full text: Available here

## General Guidance

Grounded in existing CoE and UN standards

## Best Practices

Drawn from NPMs across Europe and the authors' experience

## EU–CoE Joint Project

Produced under the European NPM Forum framework

Guide — Online Version

# Part I: Monitoring Visits & Material Conditions

The **modular online version** of the Guide is available via the European NPM Forum webpage, enabling NPMs to navigate individual chapters and download relevant sections.

**Part I** focuses on **monitoring visits** and the assessment of **material conditions of detention** — including cell size, hygiene, access to natural light, healthcare, and regime activities.

Access the online Guide: Council of Europe website

# Part II: Procedural Rights — Key Areas

1

## How to gather Information on Procedural Safeguards

Focus on **cooperation with bar associations and lawyers** as one of key information sources for NPM monitoring

2

## Pre-Trial Detention as Last Resort

Scrutinising whether **alternatives to detention** — such as bail, electronic monitoring, or reporting obligations — have been duly considered

3

## Reasonable Suspicion & Grounds for Detention

Assessing the four grounds: risk of absconding, risk of re-offending, interference with justice, or threat to public order

# Part II: Procedural Rights — Key Areas

### 4. Reasoning of Detention Decisions

Examine whether courts consider: nature and seriousness of the alleged offence, likely penalty, the detainee's personal circumstances and community ties, and prior conduct in proceedings.

---

### 5. Periodic Review

Monitoring *how* (ex officio or on request), *when*, *how often*, and *by whom* — whether by an investigating judge, court, prosecutor, or upon the defendant's application.

# Part II: Procedural Rights — Key Areas

### 6. Right to a Hearing

Monitoring whether suspects and accused persons are effectively heard before and during pre-trial detention

### 7. Effective Remedies & Appeal

Assessing access to legal challenges against detention orders and adequacy of appeal mechanisms

### 8. Length of Detention

Applying the ECtHR concept of **"reasonable time"** and monitoring compliance with maximum duration rules

### 9. Deduction from Final Sentence

Ensuring time spent in pre-trial detention is properly deducted from any eventual custodial sentence

## 10. Vulnerable Groups

The Guide sets out **special rules** applying to detainees with heightened vulnerability, recognising that standard monitoring approaches must be adapted accordingly.

### Children

Specific procedural safeguards and detention as absolute last resort

### Women

Gender-specific needs and risks in pre-trial detention settings

### Foreign Nationals

Language barriers, consular notification, and immigration-related risks

## Monitoring Tools

**Indicative Question Set**
The Guide includes a structured set of indicative monitoring questions to assess procedural rights compliance during visits.

**Annex — Checklists**
Ready-to-use checklists support systematic data collection across all areas of the Guide, facilitating consistent NPM reporting.

# Opportunities for Cooperation: NPMs & Bar Associations

### Strategic Litigation

NPM findings can inform and support strategic litigation by lawyers and bar associations, creating systemic change through the courts — particularly via the ECtHR and domestic appellate processes.

### NPM & CPT Report Findings

NPM reports and CPT country reports and standards provide evidence-based information on systemic deficiencies — valuable tools for legal practitioners challenging unlawful or disproportionate pre-trial detention.

### Shared Objectives

Both NPMs and legal professionals share a commitment to upholding detainee rights. Structured cooperation amplifies impact at national and European level.

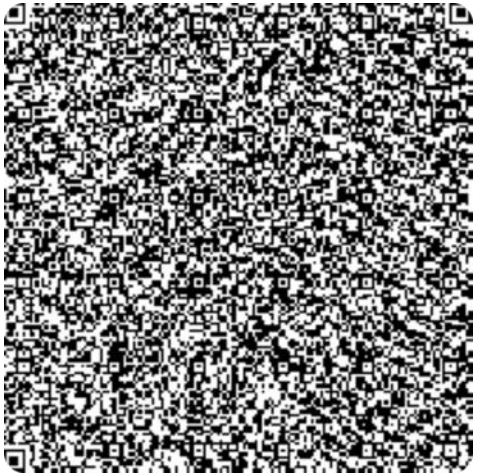
# Thank you!

We welcome your questions and reflections.

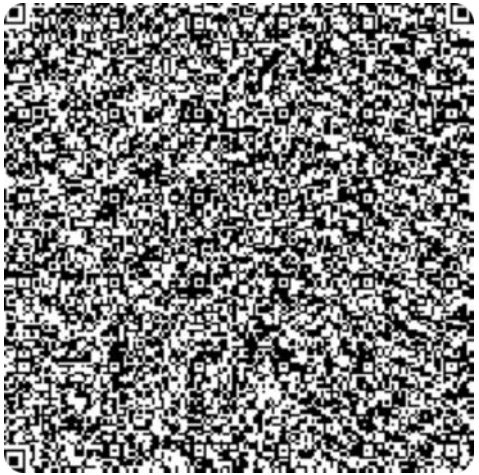
**NPM Guide (Full Text)**
Download here

**CPT Standards**
www.coe.int/en/web/cpt

NPM Guide — EN



NPM Guide — FR



# PRE-TRIAL DETENTION AND ALTERNATIVES TO DETENTION

*- what European lawyers need to know*

Amedeo Barletta

**The overuse of pre-trial detention - Causes and consequences in the EU**

12 June 2026, 09:00 - 11:00 CET, Zoom

Co-funded by the EU

# Core thesis

Pre-trial detention is central to EU criminal justice — yet remains under-regulated at EU level

KEY IDEA

## A system that can surrender persons across borders quickly and effectively must also guarantee that detention before conviction remains genuinely exceptional.

- **Pre-trial detention, as extrema ratio**—its normalisation undermines liberty and the presumption of innocence.
- **The CoE framework provides hard human-rights standards** mainly through Article 5 ECHR and ECtHR case law (Buzadji v. Moldova / Ilijkov v. Bulgaria / Mamedova v. Russia).
- **The EU framework remains fragmented** procedural-rights directives, EAW case law and non-binding Recommendation 2023/681.
- **The issue is both principled and functional** individual rights and the smooth operation of mutual recognition.

*“Liberty is the rule; pre-trial detention is the exception.”*

# *Legal architecture: two overlapping systems*

Council of Europe standards set the baseline: EU law determines how they interact with mutual recognition

## Council of Europe / ECHR

- Article 5 ECHR: legality, reasonable suspicion, judicial control, reasonable time, compensation.
- Article 3 ECHR: detention conditions and overcrowding.
- Recommendation Rec(2006)13: remand in custody only when strictly necessary and as a last resort.
- ECtHR case law: concrete and relevant reasons; periodic review; protection against arbitrariness.

## European Union

- Article 6 Charter: right to liberty and security.
- Article 48 Charter: presumption of innocence and defence rights.
- Article 82(2)(b) TFEU: minimum rules on rights of individuals in criminal procedure, linked to mutual recognition and cross-border cooperation.
- EAW + ESO: surrender machinery and alternatives to provisional detention.

# EU law: a fragmented but relevant framework

The EU has no comprehensive directive on pre-trial detention. but several instruments matter

### 1. Procedural-rights directives

Right to interpretation and translation;
right to information and access to case materials;
access to a lawyer; presumption of innocence;
legal aid.
They may strengthen the defence, but they do not directly regulate the grounds or length of detention.

### 2. Mutual recognition instruments

The European Arrest Warrant can lead to custody after surrender;
Framework Decision 2009/829/JHA on the European Supervision Order is designed to replace detention with cross-border supervision, but remains underused.

### 3. Soft law and case law

Commission Recommendation (EU) 2023/681 addresses
(a) procedural rights and
(b) material detention conditions.
(b) It is non-binding, but may influence CJEU interpretation and national practice.

**The gap: no binding EU minimum standards on reasonable suspicion, burden of proof, maximum length, periodic review or detention conditions for adults.**

# Causes of overuse: a cultural and legal/procedural gap

The problem is produced by legal culture, institutional incentives and weak alternatives

### Custodial culture

Detention becomes the default response to uncertainty, especially in serious or media-sensitive cases.

### Stereotyped risk assessment

Flight risk is inferred from seriousness of the charge, foreign nationality, weak residence ties or poverty.

### Prosecutorial influence and a judicial cooperation prosecution oriented

Judicial control may become formalistic when detention requests are effectively rubber-stamped.

### Procedural delay

Lengthy investigations and adjournments turn a temporary measure into anticipatory punishment.

### Weak alternatives

Bail, supervision, reporting duties and electronic monitoring exist on paper but are unevenly trusted or funded. The substantial failure of the ESO FD

### Cross-border suspicion

Residence in another Member State may be treated as a disadvantage instead of a normal exercise of free movement.

# Council of Europe standards: Article 5 ECHR

Pre-trial detention is lawful only within a strict framework of necessity and judicial control

**Reasonable suspicion**
a genuine inquiry into basic facts

→

**Specific risk**
flight, interference, serious reoffending, public order only in narrow terms

→

**No adequate alternative**
detention as ultima ratio

→

**Judicial review**
prompt, periodic and meaningful

→

**Reasonable time**
the longer detention lasts, the stronger the reasons must be

## ECtHR logic

The Court does not merely defer to domestic labels. It examines the concrete context, the reasons relied on by national courts and the protection against arbitrariness.

## Practical consequence

Formulaic references to seriousness of the offence or abstract risk are insufficient. Review must be real, not a ritual repetition of the initial order.

# *Mutual trust under pressure: the EU issue*

Overuse of detention is not only a domestic issue: it affects EU judicial cooperation

## European Arrest Warrant

EAW practice presupposes lawful and proportionate detention in the issuing State; surrender may expose the person to pre-trial custody.

## Detention conditions

Aranyosi/Căldăraru line: surrender cannot proceed blindly where there is a real risk of inhuman or degrading treatment.

**MUTUAL TRUST**

## European Supervision Order

Framework Decision 2009/829/JHA could reduce detention of non-residents through supervision in the State of residence.

## Non-residents and flight risk

Foreign nationality or residence abroad should not automatically become proof of absconding.

**Functional point: weak detention standards undermine the smooth operation of mutual recognition.**

# EU competence and the reluctance of the legislator

Article 82 TFEU: minimum rules are possible, but politically and constitutionally contested

### The constitutional constraint

Article 82(2)(b) TFEU allows minimum rules on the rights of individuals in criminal procedure only to the extent necessary to facilitate mutual recognition and judicial cooperation in cross-border criminal matters.

### The political reality

Attempts to adopt binding common standards have faced resistance. The EU response has therefore remained piecemeal: directives on defence rights plus non-binding soft law on detention.

## Two possible rationales for EU action

### Functional rationale

Common rules are needed because divergent detention regimes obstruct EAW cooperation and mutual trust.

### Principled rationale

Common rules are needed because liberty, dignity and the presumption of innocence are EU constitutional values.The actual situation fosters differences beetwen EU Nationals

**A broader reading of Article 82 would support binding minimum standards on grounds, burden of proof, duration, review and conditions.**

# *Implications on (and for) fundamental rights*

Excessive pre-trial detention turns a procedural measure into a hidden punishment

### Presumption of innocence

The accused is formally innocent, but socially and procedurally treated as dangerous or already guilty.

### Equality of arms

Detention reduces access to lawyers, documents, family support, digital material and independent experts.

### Plea and procedural pressure

Liberty becomes the immediate objective; the accused may accept outcomes not because the case is strong but because custody is unbearable.

### Right to private and family life

Employment, housing, family relationships and reputation may be destroyed before any conviction.

### Health and dignity

Overcrowding, isolation, suicide risk and poor healthcare may engage Article 3 ECHR / Article 4 Charter.

### Non-discrimination

Poverty, homelessness and foreign nationality are often translated into risk indicators.

**The damage can be irreversible even where the person is ultimately acquitted.**

# Public policy consequences

Overuse is also a failure of criminal justice governance

- **Overcrowding:** Pre-trial detainees form a significant share of prison populations and contribute to systemic detention-condition problems.
- **Costs:** Custody absorbs public resources that may be better invested in supervision, probation and defence guarantees.
- **Effectiveness:** Detention does not automatically increase safety; unnecessary custody may weaken reintegration and increase criminogenic risks.
- **Accountability:** Weak reasoning and poor data collection make the system difficult to scrutinise and reform.

**Prison overcrowding**

**Poor material conditions**

**Article 3 ECHR / Article 4 Charter risks**

**EAW surrender challenges**

**Key message: detention conditions are no longer merely internal prison matters; they have become a European cooperation issue.**

# *Reform agenda: presumption of innocence and proporitionality at the heart of the system*

A professional response must combine legal standards, institutional capacity and litigation strategy

**4. Litigation and judicial dialogue** — preliminary references to the CJEU; stronger use of Charter + Roadmap Directives + Recommendation 2023/681

**3. Operational alternatives** — ESO, reporting duties, travel document surrender, electronic monitoring, probation services, structured supervision

**2. Binding safeguards** — burden of proof on authorities; individualised reasoning; ex officio periodic review; maximum time limits

**1. Presumption of liberty** — detention only where specific risks cannot be managed by less intrusive measures

## EU + CoE convergence

The ECHR supplies the minimum human-rights grammar; EU law should translate it into operational guarantees for mutual recognition and cross-border supervision.

# *Preventive Hearing Before Pre-Trial Detention*

"A preventive hearing can strengthens the legitimacy, accuracy and proportionality of pre-trial detention decisions."

- Why preventive hearings matter
  - Better judicial decisions: the court hears both parties before restricting liberty.
  - Reduction of unnecessary detention through early consideration of alternatives.
  - Stronger defence rights, equality of arms and presumption of innocence.
  - More individualised and proportionate risk assessments.

Commission Recommendation (EU) 2023/681 encourages early defence participation, effective judicial scrutiny, proportionality and wider use of alternatives to detention.

*Reference to Art. 19 of the EAW FD and to the recent reform of PTD in Italy (2024)*

***A preventive hearing does not weaken criminal justice;***
***it strengthens the legitimacy, accuracy and proportionality of pre-trial detention decisions."***

# *Investing in prison estates is not the first solution*

Prison overcrowding is more a legal cultural issue than a facility problem

The European Court of Human Rights has, however, been more explicitly as regards the construction of new facilities shielding itself with the Recommendations of the Committee of Ministers of the Council of Europe.

It has stated that "*throwing increasing amounts of money at the prison estate will not offer a solution*" and that "*the creation of new places of detention cannot in itself provide a lasting solution to the problem of prison overcrowding and that this measure should be closely supported by others aimed at reducing the overall number of remand prisoners*"

***CoE Recommendation R (99) 22 on prison overcrowding and prison population inflation and Ananyev and others v. Russia, no. 42525/07, §197, ECHR 2012***

# Conclusion: the European way ahead

Can European criminal justice treat liberty as the starting point rather than the exception?

## The overuse of pre-trial detention is simultaneously:

### a human-rights problem

liberty, dignity, presumption of innocence, defence rights

### a public-policy failure

overcrowding, cost, health, family and social damage

### a mutual-trust problem

EAW practice, detention conditions and cross-border cooperation

## The reasons of a European Union Law intervention

**Individualised reasons, meaningful review, effective alternatives, reliable data, and - possibly-binding European minimum standards.**

# PRE-TRIAL DETENTION AND ALTERNATIVES TO DETENTION

*- what European lawyers need to know*

Nicola Canestrini

## The asymmetric logic of pre-trial detention in cross-border cases

12 June 2026, 09:00 - 11:00 CET, Zoom

Co-funded by the EU

# MUTUAL RECOGNITION CAN SERVE TWO FUNCTIONS

# TRUST IS THE ENGINE

# BLIND TRUST?

## BOSPHORUS EQUIVALENT PROTECTION, BUT REBUTTABLE ·

ARANYOSI AND CĂLDĂRARU AND HUMAN RIGHTS DEFENSE IN EAW

# EQUIVALENT PROTECTION ?

IN PRE-TRIAL DETENTION — OVERCROWDING, LENGTH, OVERUSE — THE ASSUMPTION IS A **FICTION**

# THE SWORD

SURRENDER — GOVERNED BY DEADLINES MEASURED IN DAYS (ART. 17 EAW)

# THE SHIELD

PROTECTION — GOVERNED BY RECOMMENDATIONS, GOODWILL, ASSURANCES

GENEROUS WITH
THE SWORD.MISERLY
WITH THE SHIELD.

# >50%

OF THOSE HELD IN PRE-TRIAL DETENTION IN THE EU ARE FOREIGN NATIONALS

# ASSURANCES ALMOST NO ONE VERIFIES

ML · DOROBANTU · BIVOLARU AND MOLDOVAN V FRANCE (2021)

# VALUES ARE NOT RHETORIC

CJEU, COMMISSION V HUNGARY, C-769/22 (21 APRIL 2026) — ARTICLE 2 TEU AS A STAND-ALONE GROUND


# RISK OF IMPUNITY?

# MUTUAL TRUST OR MUTUAL CONVENIENCE

REAL MUTUAL TRUST REQUIRES MUTUAL PROTECTION

“HUMAN PROGRESS IS NEITHER AUTOMATIC NOR INEVITABLE…

EVERY STEP TOWARD THE GOAL OF JUSTICE REQUIRES SACRIFICE, SUFFERING, AND STRUGGLE; THE TIRELESS EXERTIONS AND PASSIONATE CONCERN OF DEDICATED INDIVIDUALS”

# PRE-TRIAL DETENTION AND ALTERNATIVES TO DETENTION

*- what European lawyers need to know*

Anna Oehmichen

## The need for further EU Action

12 June 2026, 09:00 - 11:00 CET, Zoom

Co-funded by the EU

# Outline

- Key issues (selection) and required EU action
  - Disproportionate use of EAWs
  - Diplomatic assurances
  - CJEU / ECtHR case law ignored by national courts
- Summary

# Disproportionate Use of EAWs

- Principle of Proportionality
  - EAW Handbook 2023 (p. 18 f):
    - *An EAW should always be proportional to its aim. The issuing judicial authorities must always review whether, in the light of the particular circumstances of each case – taking into account all incriminatory and exculpatory evidence,– it is proportionate to issue the EAW* (Joined Cases C-508/18 and C-82/ 19 PPU OG and PI (55) as well as in Case C-414/20 MM (56))[…]
    - *Furthermore, issuing judicial authorities should consider whether other judicial cooperation measures could be used instead of issuing an EAW. Other Union legal instruments on judicial cooperation in criminal matters provide for other measures that in many situations, are effective but less coercive* (e.g. EIO, ESO, tranfer of prisoners, transfer of probation decisions and alternative sanctions, enforcement of financial penalties)

# Disproportionate use of EAWs

Residence abroad or high sentence expectations as flight risks

# Disproportionate Use of EAWs

- Problem:
  - In case the offender has **residence abroad** (but within the EU) and has no roots in the requested state, a flight risk is generally assumed because of his lack of connections to the requested state.

  ⇔Art. 18, 21 TFEU: non-discrimination of EU citizens and free movement

  ⇒ e.g. German case law: flight risk may not be based solely on residence abroad.

# Disproportionate Use of EAWs

- Problem:
  - In case the alleged offences are serious, flight risk is generally assumed because the relatively **high expected sentence** in case of conviction is a strong incentive to escape

  ⇔Presumption of innocence, Art. 6(2) ECHR, Art. 48(1) FRCh

  ⇒ German case law also specified that flight risk may not be based solely on severety of expected sentence

# Disproportionate Use of EAWs

- Problem:
  - ⇒ Combination of both often used to justify PT detention, despite strong factors suggesting that person would not run away (stable family, work, social network in EU home country) and availability of alternative ways (e.g. EIO, ESO)
  - ⇒ Some alternatives, such as house arrest with electronic bracelet, not available in all countries
  - ⇒ **Disproportionate use of PT detention in EAW cases**

# Disproportionate Use of EAWs

## Need for EU action:

- Restrict use of EAW by only allowing it once EIO and/or ESO has proven unsuccessful (needs to be documented, e.g. in EAW form)
- In case EIO would jeopardise investigations, concrete reasons need to be given and documented in EAW form
- Otherwise strict inadmissibility of EAW
- Provide for alternative measures for pre-trial detention, e.g. electronic bracelets, at EU level

# Diplomatic assurances

No monitoring

# Diplomatic assurances

Problem:

- Assurances are often given in cases where extradition otherwise would not be possible
- Once the RP has been extradited, there is usually little to no follow up as to whether the assurance has been complied with or not
- The Ministry of justice and of Foreign Affairs have some information on situations in countries and whether states have complied with their given assurances or not, but this information is usually not publicly available and not part of the case file, so not accessible for lawyers and RP
- No statutory rules on what assurances need to contain, how specific they need to be, which countries can be trusted and which cannot, no deadlines, no duty to verify compliance, no independent monitor

⇒ Sometimes, requesting state does not answer or takes months to answer and throughout that time, RP is kept in extradition detention.

⇒ sometimes countries give assurances that won‘t be kept, some courts trust „blindly“

# Diplomatic assurances

***ECtHR, Othman*** *(Abu Qatada) vs UK*, 17.1.2012, Nr. 8139/09, §189.:

2 step test:

(1) Assessment of the quality of assurances given

(2) Reliability of the assurance

# Diplomatic assurances

**Factors to assess reliability** (ECtHR, selection):

- whether the assurances are specific or are general and vague
- who has given the assurances and whether that person can bind the receiving State
- whether they have been given by a Contracting State
- **whether compliance with the assurances can be objectively verified through diplomatic or other monitoring mechanisms**

# Diplomatic assurances

## Need for EU Action:

- Regulate use of assurances, taking into account Othman criteria
- Require extradition courts to set deadlines for requested states to give assurances
- Regulate monitoring of compliance with assurances and install EU wide monitoring body that
  - monitors compliance with conditions and assurances
  - documents the results and
  - publishes them
- consequences of non-compliance? Non-compliance of assurances should be sanctioned, e.g. by banning extradition and MLA with these countries (principle of reciprocity)

# CJEU / ECtHR case law ignored by national courts

Lack of enforcement and enforceability of European case law


# CJEU and ECtHR case law often ignored in practice - CJEU

- Art. 267(3) TFEU requests last instance courts to refer the case for a preliminary ruling if EU law needs to be interpreted, but what if the national court does not do that?
- Example: CJEU decided in June 2025 that the principle of mutual trust requires the competent authority of another MS, to which a new extradition request from the same third country concerning the same person has been made, to give due consideration to the reasons underlying that refusal decision, within the framework of its own examination of the existence of a risk of infringement of the fundamental rights guaranteed by the Charter.

⇔Practical problem: client‘s extradition to Turkey had been already rejected in Germany because  of political persecution, client was re-arrested in Croatia based on same red notice


# CJEU and ECtHR case law often ignored in practice - ECtHR

- ECtHR case law only binding „inter partes“ (Art. 46 ECHR), but interpretative value (*res interpretata*) for all states
- often only translated in English and/or French

⇒ National courts often ignore case law

⇒ Consequences?

⇒ no enforcement mechanism at EU or CoE level

# CJEU/ECtHR case law ignored by national courts

- **Need for EU Action:**
  - Allow for all parties to submit referrals to the CJEU under Art. 267 TFEU (not only courts, but also defendants, victims and prosecutors), or
  - Provide for a remedy to the CJEU in case of violation of Art. 267(3) TFEU, e.g. request judicial decision from CJEU
  - With regards to ECtHR decisions: translate them in all EU languages

# Summary of EU Actions

**Disproportionate Use of EAWs**

- Restrict use of EAW by only allowing it once EIO and/or ESO has proven unsuccessful (needs to be documented)
- In case EIO would jeopardise investigations, concrete reasons need to be given and documented in EAW form
- Otherwise strict inadmissibility of EAW
- Provide for alternative measures for pre-trial detention, e.g. electronic bracelets, at EU level

**Diplomatic assurances**

- Regulate use of assurances, taking into account Othman criteria
- Regulate monitoring of compliance with assurances and install EU wide monitoring body that monitors, documents and publishes compliance
- Require extradition courts to set deadlines for giving assurances
- Provide for consequences of non-compliance

**CJEU / ECtHR case law ignored by national courts**

- Allow for all parties to submit referrals to the CJEU under Art. 267 TFEU, or
- Provide for a remedy to the CJEU in case of violation of Art. 267(3) TFEU
- translate ECtHR decisions in all EU languages