

++SAVE THE DATE: 9 November 2017++ SAVE THE DATE: 9 November 2017++

DILEMMAS OF PRE-TRIAL SUPERVISION

DETOUR – Towards Pre-Trial Detention as Ultima Ratio Final Conference

Location: Bundesministerium für Justiz, Museumstraße 7, 1070 Wien

Date and time: 9th of November 2017, 10.00 am till about 5.00 pm

Across Europe, the pre-trial process poses dilemmas for judges, prosecutors, defense lawyers, probation services, and the police. The pre-trial process also poses fundamental dilemmas for national legal systems and the European Union as a whole.

At this conference, research carried out in seven European Union Member States (Austria, Germany, the Netherlands, Belgium, Romania, Lithuania and Ireland) will be presented - it poses fundamental, urgent and practical questions about the use of pre-trial supervision.

This conference is aimed at: judges, prosecutors, lawyers, probation services, academics, non-governmental organizations and policymakers.

Topics will include:

- Pre-trial offender supervision and the question of the presumption of innocence
- Advantages and problems of the involvement of probation or social services in pre-trial supervision;
- The challenges faced by defense lawyers in decision-making on pre-trial supervision;
- The credibility of alternatives to pre-trial detention (including the possibilities and challenges posed by electronic monitoring and the use of financial bail);
- The practical implications of the European Supervision Order.

There will also be an opportunity for networking with colleagues from across the European Union (Conference language is English).

- **More information** on the conference and on organizational matters will be sent out soon!
- Information on the conference is also available via veronika.reidinger@irks.at and - for Belgian participants-, via eric.maes@just.fgov.be (NL) and alexia.jonckheere@just.fgov.be (FR)
- **Registration is already possible:** Please send the filled in registration form (see next page) to veronika.reidinger@irks.at, the latest by 23rd of October 2017. Participation in the conference is free of any fee, we however have to stress that the number of participants is limited!



Registration

for

DILEMMAS OF PRE-TRIAL SUPERVISION

DETOUR – Towards Pre-Trial Detention as Ultima Ratio

Final Conference, 9th of November 2017

At the Austrian Ministry of Justice,

Museumstraße 7, 1070 Wien

Mr/Mrs

Name:

Organization:

Participates in the conference.

Signature:

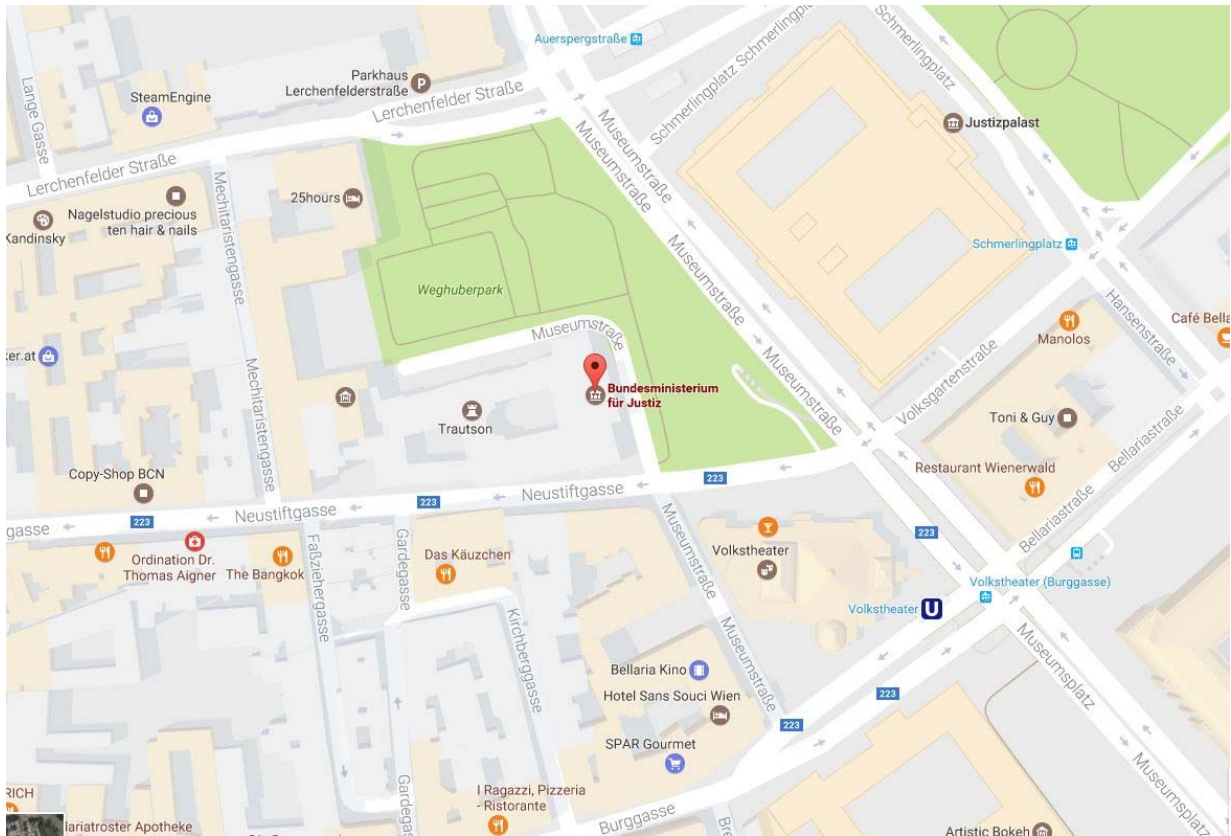
Please send the signed registration via mail to veronika.reidinger@irks.at

In case of an unexpected inability to attend we kindly ask to inform the organizers of the conference as soon as possible!



Venue:

Austrian Ministry of Justice, Museumstraße 7, 1070 Wien



DETOUR - Towards Pre-trial Detention as Ultima Ratio

Project period: 01 January 2016 – 31 December 2017

Funded by: Justice Programme of the European Commission

Why DETOUR?

In the 47 Member States of the Council of Europe more than 325.000 prisoners are held in pre-trial detention, more than 100.000 of them in the 28 Member States of the European Union. Pre-trial detention serves above all procedural purposes: to prevent a suspect from absconding, or from tampering with evidence. The justice systems must have a way of ensuring that those accused stand trial. Furthermore, detention may be a measure necessary because of a high risk that the suspect carries out (further) offenses of a severe nature. Often, however, detention seems just the easiest way of achieving this end. This is contrary to the principle that, with respect to the fundamental right to liberty and the presumption of innocence, deprivation of liberty must only be applied when less severe mechanisms are insufficient to exercise control over the suspect and to guarantee his or her presence at trial (as *ultima ratio*). Generally, the principle of subsidiarity must be applied in a way that the suspect or accused may await the trial process in conditions of unrestricted liberty or, where justified, under specified restrictions. In prisons, remand detainees often suffer from worse conditions than sentenced prisoners - the European Committee for the Prevention of Torture (CPT) has called this a pan-European problem. Another common problem is the often observed excessive length of pre-trial detention. It must also be noted that in many European jurisdictions there is a particularly high proportion of foreigners in pre-trial detention.

To uphold the fundamental right to freedom as well the presumption of innocence for the suspect by avoiding pre-trial detention also means to avoid harm for indirectly affected people like children or spouses and to avoid costs to affected persons and to society as a whole. The European Convention of Human Rights and initiatives by the European Union show that member states share common values in this regard at least to a certain degree. This is further expressed in recommendations by the Council of Europe in this field, for example on prisoners' rights. But even if there is a common set of values, differences in legal systems as well as the variance in pre-trial detention rates in the member states indicate that there are considerable discrepancies in how the *ultima ratio* principle is put into practice, which cannot be explained by differences with respect to the crime structure or to social conditions.

Without questioning the sovereignty of the member states in criminal matters, the increasing need for transnational cooperation and the increasing number of cross border cases ask for mutual understanding. Mutual understanding and trust, however, are built up best on the basis of knowledge about the systems, procedures and practice in other countries as well as on the basis of common standards. The DETOUR-project aims at both: The project is about exploring and analyzing pre-trial detention practice and especially ways of reducing the use of pre-trial detention in seven European jurisdictions (Austria, Germany, Romania, Belgium, Lithuania, Ireland and the Netherlands).

After thorough desktop research on the legal preconditions and the overall context of pre-trial detention in the participating countries,¹ the first step of the empirical work consists in collecting and analyzing qualitative data on the use of pre-trial detention and on alternatives by conducting observations and file

¹ Meanwhile available in first country reports: <http://www.irks.at/detour/publications.html>.



analyses. This data provides the basis for in-depth interviews with a strong focus on the stance of prosecutors and judges and how they assess the decision-making process in the pre-trial phase. We consider that the views, perceptions and experiences of the judiciary are crucial to avoid pre-trial detention. We will therefore put special emphasis on their assessment of legal provisions, and of the availability of alternatives, as well as of problems and obstacles relevant for the avoidance of pre-trial detention. To broaden the picture, we also include the perceptions and views of attorneys, as well as of representatives of (third sector or state) organizations offering their services to avoid pre-trial detention. Another focus will be on the high numbers of foreigners in pre-trial detention in many countries and on the increasing number of cross-border cases that need to be solved within the EU.

Considering the focus of the project on the actual practice the practitioners are on the one hand the persons most important for the collection of empirical information. On the other hand, they are also the central addressees of the outcomes and therefore of the **workshops and conferences** carried out within the framework of the project as well as of all other dissemination activities. **The workshops are both fora for the presentation of outcomes of the research and for discussions on the different national models of pre-trial detention and the diverse alternative measures observed and analyzed.**

Project Coordination - Verein für Rechts- und Kriminalsoziologie:

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Partners:

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- Utrecht University: Prof. Dr. Miranda Boone, Dr. Pauline Jacobs (The Netherlands)
- Association of Schools of Social Work in Romania/ University of Bucharest, Faculty of Sociology and Social Work: Prof. Dr. Ioan Durnescu, Dr. Gabriel Oancea (Romania)
- Law Institute of Lithuania: Dr. Skirmantas Bikelis, Virgilijus Pajaujis (Lithuania)
- Trinity College Dublin: Prof. Mary Rogan, David Perry (Ireland)

See more details and reports on our project website www.irks.at/detour

