

THE PRE-RIGHTS PROJECT: WHAT HAS BEEN ACHIEVED SO FAR?

The scope of the European Project “Pre-Rights” is to promote a **balanced and coherent implementation of preventive measures** with a view to reaching a higher level of juridical harmonisation among its Partner Countries. The project started on 1 October 2019 and has so far achieved significant results during the implementation of the activities carried out under the different work packages. The Consortium has focused on the following EU legislative tools: EU Directive 2014/41 on European Investigation Order (EIO); Framework Decision 2002/584/JHA on European Arrest Warrant (EAW); Framework Decision 2008/909/JHA on mutual recognition to judgments in criminal matters imposing custodial sentences or deprivation of liberty; Framework Decision 2008/947/JHA on mutual recognition to judgments and probation decisions with a view to the supervision of probation measures and alternatives sanctions (EPO); Framework Decision 2009/829/JHA on mutual recognition to decisions on supervision measures as an alternative to provisional detention (ESO).

The above-mentioned judicial cooperation instruments have been discussed for a more efficient application of the instruments themselves, but in particular in relation to migration, radicalisation and violent extremism leading to terrorism. The purposes were the following: assessing the impact and performing of existing pre- and post-trial preventive measures, and praeter delictum preventive measures; gathering information on their main characteristics, advantages, disadvantages and challenges; reporting recommendations and most relevant reflections, principally based on national practices, and their applications by practitioners at European level.

PRE-RIGHTS figures

Total project budget:

806.673,00 €

Project duration

01.10.2019

31.03.2022

8 Project Partners





Pre-trial and post-trial measures are not treated by the Judiciary in all Member States, as they should be, because they usually involve heavy limitations to the **rights of the defendant**. *Praeter delictum* measures, usually less invasive than pre-trial measures, are treated by Administrative Authorities (Law Enforcement Agencies), Intelligence Services, or by the Judiciary.

In this framework, special regard is reserved to terrorism-related offences and to the threat of inmate radicalisation. Useful remarks shall be dedicated to the suitable implementation of the fundamental instruments of judicial cooperation, namely the European Arrest Warrant, the European Investigation Order, the European Supervision Order, and the Mutual Recognition of Custodial Sentences, in the field of preventive measures.

As a first level approach to prevent the mentioned risks, there is a need for social and cultural prevention that could be complied through all levels of educational systems (school, sport and cultural institutions). The second level is represented by intelligence services. The third level is covered by pre-trial preventive measures, trial or/and post-trial preventive measures, of administrative and/or the judicial nature or of s.c. "hybrid" nature, inside or outside the penitentiary system. A combination of the various preventive measures would be very useful.

Special attention was reserved - in relation to each specific issue - to respecting the necessary **balance between priority respect for fundamental human rights and assurance for public and private security**; and to the need in achieving a clearer definition among security and judicial authorities in prevention policies.

As a matter of fact, the project highlighted that there were significant differences from country to country concerning preventive measures to be used, on the basis of each country's history and legal system. A deep communication and setting of common goals between police and civil society would be helpful.

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PRE-RIGHTS ACTIVITIES: FOCUS GROUPS AND LIVING LABS

Within PRE-RIGHTS, Lawyers, Judges, NGOs specialised in this field, representatives of the Police Academy and the University have so far had the opportunity to exchange views - during **dedicated Focus Groups and Judicial Living Labs (JLLs)**, having a national and transnational focus, depending on the cases. Focus Groups and JLLs represented valid occasions to gather inputs from first-line practitioners and to draw a detailed picture of the set of preventive measures and their application in different EU countries.



Namely, Focus Groups organised within PRE-RIGHTS in February were composed of representatives of Ministries, Judges and Courts, Prosecutors, practitioner-organisations, and law enforcement agencies, confronted with the implementation of the EU Directives and Framework Decisions to exchange and provide additional information on the challenges and obstacles arising during the implementation process. The experts had the opportunity to exchange experiences on agency legitimacy and power, preventive measures in prison and civil society prevention responsibility.

To get a broad spectrum of information, these focus group meetings were virtually held in selected partner countries. The outcomes will serve as a fundament for developing the juridical research. This was also an opportunity to gather a first impression on the survey designed to gather a deeper insight into practitioner's perspectives, regarding the enforcement of preventive measures in cases of radicalisation and violent extremism, leading to terrorism.

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From April to May 2021, PRE-RIGHTS partners organised, in the context of Work package 4, four Judicial Living Labs (JLLs) with the aim to address contradictions and constraints stemming from the existing preventive measures and related EU legislation on prevention.

The Judicial Living Labs were conceived as **co-creative laboratories** where multi-agencies and multidisciplinary experts had the chance to meet virtually and discuss specific cases for each country, in order to extract recommendations to improve the current legislation and practices. The JLLs are a unique opportunity to capitalise on the expertise of first line practitioners to map the problems and generate solutions and proposals.

The following topics emerged in the different countries: in Greece the main problem identified was the lack of prison staff representation while in Malta the issue was that there is no regime of preventive measures against radicalisation, monitoring and counselling predominantly being used and the EIO being the main instrument of cooperation on criminal matters. As for Romania, the major debate was cooperation between judicial police, prosecutors, and intelligence services. In Italy, the JLL focused on three different cases on preventive measures on radicalization and their repercussion on fundamental rights.

The outcomes of the JLLs have been captured in single-country reports and will contribute to the two final project publications, namely the “Practical Manual on Preventive Measures in Europe and Beyond: Promising Practices and Guidance” and the “Report on the scope of application of EOI/EAW in terrorism-related cases”.

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This publication was funded
by the European Union's
Justice Programme (2014-2020)

