

House Arrest as a Custodial Preventive Measure. Conceptual Clarifications, Legal Framework and Relevant Jurisprudence

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Abstract

House arrest constitutes one of the most significant custodial preventive measures, alongside pre-trial detention, being regulated under Romanian criminal procedure law as a less intrusive yet effective alternative, aligned with the needs of the criminal process. The present article aims to examine the legal framework governing this measure within the national legislation, with a focus on the applicable conditions, duration, jurisdiction, and procedural requirements, in light of the Code of Criminal Procedure (Law No. 135/2010) and Law No. 146/2021 on electronic monitoring.

Following an overview of the general conditions for ordering house arrest and the obligations that may be imposed on the defendant, the article highlights interpretative and practical challenges arising from the inconsistent application of the legal provisions—particularly regarding the notion of “domicile,” the required evidentiary standard, and the drafting of supplementary obligations. The issue of effective monitoring is also addressed, drawing attention to the lack of adequate technical equipment and human resources, as well as the absence of clear legal criteria for proportionate sanctions in cases of non-compliance. Law No. 146/2021 is examined as a complementary normative act, aimed at enabling electronic surveillance in cases of house arrest, as well as other measures (judicial supervision, protection orders, etc.), with an emphasis on its limitations in scope and the necessity for its gradual expansion.

The article is grounded in legal provisions, relevant case law of national courts, including the High Court of Cassation and Justice, as well as in the analysis of judicial practice conducted by the National Institute of Magistracy. The conclusions underline the need to improve the

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normative and institutional framework in order to ensure a coherent, effective, and rights-compliant application of the measure, with full respect for the fundamental rights of the individual.

Keywords: *House arrest; Preventive measures; Code of Criminal Procedure; Electronic monitoring; Law No. 146/2021.*

Introduction

In the Romanian criminal procedural system, preventive measures constitute procedural instruments of particular importance, aimed at ensuring the proper conduct of criminal proceedings, preventing the defendant from evading prosecution or trial, deterring the commission of new offences, or avoiding the influence of witnesses, experts, or other participants in the case. In this context, house arrest represents a relatively recent institution within the national legal framework, expressly enshrined in the current Code of Criminal Procedure through Law No. 135/2010, as an autonomous custodial preventive measure, distinct from pre-trial detention, yet conceptually adjacent to it.

House arrest has generated increased interest in legal doctrine, not only due to its juridical nature and its implications for the fundamental rights of the individual, but also because of the inherent difficulties in its application in practice, within a system that remains deficient in terms of monitoring infrastructure. Its legal regime is characterized by a functional duality: on the one hand, it operates as an alternative to pre-trial detention, entailing a lower degree of intrusion upon individual liberty, on the other hand, it nonetheless involves a significant restriction of the defendant's freedom of movement and self-determination, thus falling under the scope of constitutional and conventional requirements regarding the limitation of the exercise of fundamental rights and freedoms.

The present study aims to provide an in-depth doctrinal and jurisprudential analysis of house arrest, seeking to define the concept, examine the domestic normative framework, highlight the constitutional requirements and relevant judicial practice, with the objective of outlining a systemic and critical perspective on the functionality and effectiveness of this preventive measure within the context of contemporary criminal proceedings in Romania.

House Arrest within the System of Preventive Measures – Conceptual Positioning and Distinctions from Other Preventive Measures

Within the body of criminal procedural regulations, preventive measures constitute legal instruments through which procedural and substantive criminal law objectives are pursued, primarily ensuring the conduct of criminal proceedings in accordance with the law, preventing the suspect or defendant from absconding, deterring the commission of further offences, and protecting public order. House arrest, regulated by Articles 218–222 of the Code of Criminal Procedure, falls within the category of custodial preventive measures, alongside pre-trial detention, from which it differs in terms of the degree of restriction imposed on the right to liberty and the location in which such restriction is enforced – the defendant's domicile and not a facility specifically designated for detention.

The distinction between house arrest and other preventive measures requires careful legal analysis, as it cannot be assimilated either to detention – which is administrative in nature and of short duration – or to judicial supervision – which does not entail an actual deprivation of liberty, but merely the imposition of restrictive obligations or prohibitions (Terec-Vlad, 2024). As noted in the legal literature, house arrest involves an effective and continuous restriction of freedom of movement, ordered by the judge for rights and liberties under the conditions provided by law, and is subject to the same requirements of reasoning, proportionality, and legality that apply to pre-trial detention (Dobrinou, 2013).

Legal doctrine has consistently affirmed the custodial nature of this measure. In his systematic analysis of the legal regime governing preventive measures, Antoniu (2010) emphasizes that any severe restriction of freedom of movement must be classified as a custodial measure, and the application of such a measure requires solid justification, based on the necessity of achieving the objectives of the criminal proceedings, as well as on compliance with the principle of proportionality (Antoniou, 2010). In the context of house arrest, this principle entails the selection of a form of constraint that corresponds to the seriousness of the offence and the procedural profile of the defendant, without exceeding the limits of what is necessary.

House arrest must be understood, according to the interpretations of the aforementioned authors, as an institution with autonomous functionality within the system of preventive measures, not merely as a mitigated alternative to pre-trial detention. Dobrinou

(2013) highlights its character as a measure with its own field of application, which cannot be reduced to a compromise solution between liberty and detention (Dobrinoiu, 2013). In line with this view, Udroiou integrates this measure into a procedural framework in which the judge must determine, based on the specifics of the case, not only whether deprivation of liberty is necessary, but also which of the existing legal forms is appropriate to the objective pursued by the criminal proceedings (Udroiou, 2023).

This doctrinal approach is essential for the proper delimitation of house arrest from other preventive measures. For instance, while judicial supervision allows the defendant to engage in professional activities, to travel under certain conditions, or to leave the locality with the approval of judicial authorities, house arrest entails a general prohibition on leaving the domicile, even for routine activities. Any movement is subject to prior judicial authorization, and failure to comply with the imposed obligations may result in the replacement of the measure with a more severe one, including pre-trial detention. From this perspective, the conceptual and normative distinction is fundamental to ensuring the strict application of constitutional principles governing the restriction of fundamental rights.

Therefore, in assessing the place of house arrest within the system of preventive measures, due consideration must be given to its legal nature, procedural regime, and the effects it produces on individual liberty. As consistently affirmed by authoritative Romanian criminal doctrine, this institution cannot be regarded as a mere formal simplification of detention, but must be understood and applied as a measure with its own legal identity, intended to ensure a genuine balance between the needs of criminal proceedings and the protection of the individual's fundamental rights.

Although the majority of legal doctrine unequivocally affirms the custodial nature of house arrest, there are nonetheless positions that have expressed reservations or nuances regarding this conceptual classification. In the early years following the implementation of the new procedural regulation, some authors questioned whether house arrest constitutes an actual deprivation of liberty or rather a restrictive measure, invoking the absence of a carceral element and the fact that the defendant remains within their private environment, without being completely isolated from the social sphere. These opinions, although minority views, have highlighted the risk of a formal interpretation of the notion of deprivation of liberty, contrary to the substantive requirements established by the case law of the European Court of Human Rights.

A segment of the legal literature has also drawn attention to the conceptual ambiguity in relation to other measures, such as judicial supervision, particularly when it is accompanied by severe prohibitions, including a prohibition on leaving the domicile. In the absence of clear criteria for distinction, there is a risk of functional overlap, which may undermine both the clarity of the legal norm and the coherence of its practical application (Neagu, 2016).

These critiques, formulated within Romanian legal doctrine, indicate that although the theoretical position of house arrest within the system of preventive measures is, by and large, established, certain conceptual ambiguities persist, particularly when correlated with practical difficulties and the lack of adequate institutional resources for the effective implementation of the measure.

These aspects, however, pertain directly to the legal regime applicable to house arrest – the conditions for its imposition, its duration, the jurisdictional competence, and the judicial oversight – matters that will be addressed in the following section of the article, which will provide a detailed analysis of the current normative framework, its limitations, and its implications for the effectiveness of the measure.

Regulation of House Arrest under the Code of Criminal Procedure – Conditions, Duration, Jurisdiction, and Procedure

This restrictive preventive measure constitutes a less severe alternative to pre-trial detention, intended to ensure a balance between the protection of the individual's fundamental rights and the need for the proper conduct of criminal proceedings. Its applicability is conditioned by the existence of reasonable grounds to believe that the defendant has committed an offence and by the fulfilment of one of the grounds provided under Article 223 of the Code of Criminal Procedure, which are identical to those justifying pre-trial detention.

According to Article 221 paragraph (1) of the Code of Criminal Procedure, house arrest consists in the obligation imposed on the defendant, for a determined period, not to leave the premises where they reside without the permission of the judicial authority that ordered the measure or before which the case is pending, and to comply with the restrictions established by that authority. The place of residence may be replaced with another identifiable and accessible location subject to supervision. Functional jurisdiction for ordering the measure is divided between the judge for rights and liberties during the criminal

investigation phase, the preliminary chamber judge during the corresponding stage, and the trial court during the adjudication of the merits or in appellate proceedings (Toader et al., 2014).

The initial duration of house arrest during the criminal investigation phase is a maximum of 30 days, pursuant to Article 222 paragraph (1) of the Code of Criminal Procedure. The measure may be extended successively, by periods of up to 30 days, if the initial grounds persist or new grounds arise, under the conditions set out in Article 222 paragraphs (2) to (4). The total duration of deprivation of liberty under this form may not exceed 180 days during the investigation phase, according to paragraph (9). In the preliminary chamber procedure and during trial, the measure may likewise be ordered for a maximum of 30 days, pursuant to paragraph (12), and the provisions of Article 239 of the Code of Criminal Procedure concerning periodic review and proportionality shall apply accordingly (Udroiu, 2023).

When ordering the measure, the court is obliged to expressly determine the obligations incumbent upon the defendant, such as: appearing before the judicial authority or the police; prohibition from communicating with certain witnesses or co-defendants; prohibition on the use of certain means of communication; and the obligation to allow the designated authority to verify compliance with the measure. Although in practice courts sometimes formulate these obligations in generic terms, legal doctrine has emphasized the necessity for such obligations to be tailored to the procedural profile of the defendant and the specific needs of the case (Udroiu, 2023).

The verification of the execution of the measure is entrusted to the police authorities, which prepare periodic reports and submit them to the competent court. The Code of Criminal Procedure does not expressly provide for the use of electronic monitoring devices. However, Law No. 146/2021 on electronic monitoring has introduced a distinct normative framework that permits their use, including in cases of house arrest. According to Article 1 paragraph (2) letter b) of this law, the Electronic Monitoring Information System (SIME) may be used for the purpose of electronically monitoring the execution of house arrest as provided for by the Code of Criminal Procedure. Furthermore, Articles 7 and 15 of the same law regulate the obligation to establish a national electronic surveillance system and the allocation of the resources necessary for its operation.

Nevertheless, electronic monitoring is not uniformly implemented at the national level. According to Government Decision No. 102/2022 on the approval of the stages for the operationalization

of the system, the application of electronic monitoring is being carried out gradually, with progressive expansion scheduled through the year 2026. At present, monitoring by means of electronic bracelets is available only in pilot counties, primarily in cases involving domestic violence. In the remaining counties, the execution of house arrest relies exclusively on physical checks, which requires significant human resources and results in unequal treatment of defendants depending on the location where the measure is enforced.

Thus, in light of the current legislative framework, a distinction must be made between the general provisions of the Code of Criminal Procedure and the special rules established by Law No. 146/2021. The Code regulates house arrest as a preventive measure without mandating the use of technical surveillance means, whereas Law No. 146/2021 introduces the possibility of electronic monitoring insofar as the necessary infrastructure is available. This normative overlap creates uncertainties in practice and underscores the need for legislative harmonization in order to ensure the coherent and effective application of the measure.

House Arrest and the Fundamental Rights of the Individual – Constitutional Aspects

The examination of house arrest from the perspective of the fundamental rights guaranteed by the Constitution of Romania and the European Convention on Human Rights requires a careful analysis of the compatibility of this measure with constitutional and conventional standards relating to individual liberty and the protection of private life. In particular, attention must be paid to the relationship between house arrest and Article 23 of the Constitution, which regulates individual liberty and custodial measures, as well as Articles 8 and 5 of the ECHR, which enshrine the right to respect for private and family life and the right to liberty and security.

As consistently held by the Constitutional Court, any measure involving deprivation of liberty must comply with the principles of legality, proportionality, and subsidiarity, and must be accompanied by sufficient procedural safeguards to allow for effective judicial review of the grounds justifying its imposition. With respect to house arrest, the Court has emphasized, in a series of decisions, that the measure is constitutional insofar as it is ordered by a judicial authority and under strict conditions of legality, in accordance with Article 23 paragraphs (3) and (4) of the Constitution. In Decision No. 361/2015, the Court held that the imposition of house arrest complies with the right to liberty, as

it entails a proportional and temporary restriction, subject to periodic and reasoned judicial review.

Nevertheless, specific constitutional concerns have been raised regarding the unclear definition of the term “domicile” in the context of applying this measure. The Code of Criminal Procedure does not provide an express definition of domicile or residence within the meaning of Article 218, which has led in practice to inconsistent solutions regarding the applicability of house arrest in cases involving individuals without a stable domicile or residing in rented premises lacking formal legal documentation. Jurisprudence has highlighted the absence of a uniform interpretation of the requirement for a “determined space,” which may generate uncertainties concerning the effective execution of the measure and, consequently, affect the predictability of the act of justice. Such interpretative issues may undermine the principle of legality, as enshrined in Article 1 paragraph (5) of the Constitution and Article 7 of the European Convention on Human Rights.

Another constitutional aspect concerns the possibility of electronic monitoring of the measure. At present, the criminal procedural legislation does not expressly regulate the use of electronic surveillance devices for the execution of house arrest. In the context of the adoption of Law No. 146/2021 on electronic monitoring, the Constitutional Court was called upon to assess the compatibility of this mechanism with fundamental rights, particularly with Article 26 of the Constitution concerning private, family, and intimate life. In Decision No. 498/2021, the Court held that electronic monitoring is not, in itself, contrary to the Constitution, provided that it is regulated by a clear legal provision, is ordered by a judicial authority, and is necessary for the achievement of a legitimate aim in a democratic society.

In the same doctrinal line, national courts must rigorously assess whether house arrest, under the specific conditions of its execution, complies with the principle of proportionality in relation to the fundamental rights of the individual. This assessment concerns not only physical liberty, but also the right to effective family life, particularly in cases where the measure is imposed on individuals responsible for the care of children or family members with special needs. As emphasized in legal doctrine, the absence of a genuine evaluation of the social impact of the measure on private life may result in a formalistic application, lacking an appropriate balance between the public interest and the individual interest (Udroiu, 2023).

Furthermore, in conjunction with Article 5 paragraph 1 letter (e) of the European Convention on Human Rights, which regulates the

cases in which a person may be lawfully deprived of liberty, house arrest must be examined in terms of necessity and duration, to prevent its classification as a disproportionate measure. The European Court of Human Rights has repeatedly held - particularly in *Guzzardi v. Italy* and *Buzadji v. Republic of Moldova* - that a restrictive measure producing a substantial isolating effect may be equivalent to a deprivation of liberty, which requires adequate judicial safeguards and a rigorous justification for each extension.

In view of these requirements, the application of house arrest must consistently conform to constitutional and conventional standards regarding fundamental rights and freedoms. Any deviation from the principles of legality, clarity, and proportionality risks undermining the validity of the measure and may lead to procedural sanctions or findings of unconstitutionality. The issues identified in both doctrine and case law will be further addressed in the following section, with a focus on the practical implementation of the measure and the controversies arising from the lack of effective control and supervision mechanisms.

Case Law of the Romanian Courts - Relevant Criteria and Inconsistent Practices

The application of house arrest in the case law of Romanian courts has, over the past decade, generated a wide range of and sometimes contradictory solutions, despite the existence of an apparently clear normative framework. The divergences concern both the grounds for ordering or extending the measure, as well as the content of the obligations imposed on the defendant and the justification for replacing the measure with a more severe one. Thus, courts have interpreted differently the criteria for assessing the concrete danger to public order, the seriousness of the offence, and the risk of absconding from prosecution or influencing the evidence.

In numerous cases, trial courts have considered that the mere seriousness of the offence imputed to the defendant is sufficient to order or maintain pre-trial detention, without conducting an effective analysis of the possibility of applying a less intrusive measure, such as house arrest. By contrast, other courts have given priority to the principle of proportionality and have replaced pre-trial detention with house arrest when they found the absence of a concrete danger or the unjustified character of continued detention (Udroiu, 2023).

A relevant example is provided by a decision of the Bucharest Court of Appeal, which held that house arrest could achieve the objectives of the preventive measure in the case of a defendant under

investigation for economic offences, with no prior criminal record, a stable domicile, and who had cooperated with the investigation. In contrast, practice also reveals cases in which – for offences involving a heightened social danger, such as those against bodily integrity – pre-trial detention was automatically preferred, without examining whether complete isolation within the domicile would have been sufficient to neutralize the procedural risk.

Significant difficulties are also evident in the case law concerning the successive extension of the measure. In certain cases, courts have justified the extension in a formalistic manner, reiterating general phrases regarding the “concrete danger,” without conducting an effective analysis of whether the initial circumstances had changed or persisted. Such an approach has been criticized in recent legal doctrine as incompatible with the requirements set out in Article 5 paragraph 1 letter (c) of the European Convention on Human Rights and Article 23 of the Constitution of Romania (Toader et al., 2014; Udroi, 2023).

The High Court of Cassation and Justice has ruled on essential aspects concerning the application of house arrest in the context of adjudicating appeals against decisions ordering, extending, or replacing this preventive measure. In its case law, the supreme court has consistently emphasized the obligation of lower courts to provide rigorous and individualized reasoning regarding the necessity and proportionality of the measure, in relation to the specific circumstances of the case and the personal situation of the defendant. It has repeatedly underlined that the restriction of individual liberty cannot be justified by standardized formulas or by the abstract invocation of the statutory grounds, but must be supported by concrete, current, and relevant arguments.

Although no appeal in the interest of the law has been initiated thus far to directly address the legal regime of house arrest, the consistent case law of the High Court contributes to the consolidation of interpretative standards necessary to ensure a uniform and constitutionally and conventionally compliant application of custodial or liberty-restrictive measures (Udroi, 2023).

The National Institute of Magistracy (INM) has consistently addressed the issue of the application of preventive measures, including house arrest, within its continuing professional training programs for judges and prosecutors. This concern has been reflected in the organization of seminars, thematic training sessions, and in-depth jurisprudential analyses aimed at identifying the difficulties in

applying the rules of criminal procedure and contributing to the unification of judicial practice.

Within these analyses, significant discrepancies have been identified in the interpretation of key concepts, such as that of “domicile” within the meaning of Article 218 of the Code of Criminal Procedure. For example, according to some courts, the notion of “domicile” should be understood in a flexible manner, also encompassing actual residences frequently used by the defendant, even if not officially registered in administrative records. In this respect, it has been considered admissible for the defendant to serve the measure in properties belonging to family members, a life partner, or even in informally rented accommodations, provided that such locations can be identified and verified by the police authorities.

On the other hand, a number of courts have adopted a restrictive interpretation, making the imposition of the measure conditional upon the existence of an officially registered domicile or residence, in accordance with the provisions of Law No. 119/1996 on civil status documents, Government Emergency Ordinance No. 97/2005 on the registration, domicile, residence and identity documents, and the Methodological Norms of 10 March 2021 for the uniform application of the provisions of Government Emergency Ordinance No. 97/2005 on the registration, domicile, residence and identity documents of Romanian citizens, as well as for establishing the form and content of identity documents, proof of residence, and the household register. The argument invoked was the impossibility of ensuring effective control over the execution of the measure in the absence of clear and verifiable data concerning the exact place of enforcement. Such solutions have been justified by the need to guarantee the effectiveness of supervision and to prevent the defendant from evading judicial control (National Institute of Magistracy, 2019).

The National Institute of Magistracy has also drawn attention to differences in judicial practice regarding the evidentiary threshold required for ordering the measure. While some courts require the existence of well-grounded indications and a detailed justification concerning the adequacy and sufficiency of house arrest, others impose the measure as an intermediate alternative between judicial supervision and pre-trial detention, without an individualized reasoning as to its necessity. Another divergence identified concerns the criteria to be considered for replacing the measure – particularly in cases involving a breach of the imposed obligations – and the degree of tolerance shown toward minor or unintentional violations.

All these aspects highlight the essential role of continuous professional training and inter-court dialogue in ensuring a coherent judicial practice that complies with the requirements of the rule of law. The National Institute of Magistracy continues to play an active role in this regard, contributing to the development of a uniform and predictable body of case law on preventive measures.

Significant criticism has also been expressed concerning the lack of uniformity in the reasoning of court decisions rejecting requests to impose or replace the measure. In some instances, courts fail to clearly indicate the rationale underlying the finding that house arrest is insufficient, and the decisions contain stereotypical formulations lacking any individualization. This practice has been criticized in legal doctrine as being contrary to the principle of legality in criminal proceedings and to the right to a reasoned judgment, as enshrined in Article 6 of the European Convention on Human Rights and recognized in the case law of the European Court of Human Rights.

Differences have also been observed in the interpretation of the defendant's degree of cooperation as a relevant factor for assessing procedural risk. While some courts have treated this aspect as a decisive argument in favour of applying house arrest, others have disregarded it entirely, basing their decision solely on the abstract seriousness of the offence or the prevailing climate of public opinion. This lack of consistency highlights a clear need for strengthening judicial practice and increasing the predictability of court rulings.

Moreover, part of the legal literature has criticised the absence of generally accepted guiding criteria regarding the compatibility of the measure with various personal circumstances – for example, in the case of defendants without a stable domicile, residing in temporary accommodations, or engaged in professional activities that require physical presence outside the home. These situations are treated divergently, and court decisions do not always take into account the principle of individualisation of the measure and its actual impact on the defendant's personal and social life (Toader et al., 2014; Udriou, 2023).

Practical Issues in the Application of House Arrest – Monitoring, Breach of Obligations, Replacement of the Measure

The practical implementation of the preventive measure of house arrest generates numerous difficulties, both in terms of supervising the defendant and verifying compliance with the

obligations imposed by the court. These difficulties are reflected in the legal literature, in judicial practice, and in the observations of institutions directly involved in the enforcement of this measure.

One of the most significant obstacles is the widespread lack of electronic monitoring devices. Although Law No. 146/2021 on electronic monitoring regulates the possibility of using electronic bracelets in the execution of house arrest, the Electronic Monitoring Information System (SIME) is being operationalized gradually, pursuant to Government Decision No. 102/2022. At present, its implementation is limited to certain counties, while in the rest of the national territory, monitoring is carried out exclusively through traditional means of physical surveillance.

This responsibility lies with the territorial units of the Romanian Police, designated by the court's order. These are the authorities that, in practice, enforce the house arrest measure. The methods used include unannounced home visits, telephone calls, or, in some cases, gathering information from neighbours or other individuals in the defendant's vicinity. The effectiveness of these methods is limited, and the frequency of checks is directly proportional to the available human and logistical resources – resources which are often insufficient.

Another issue identified in the application of house arrest concerns the vague or non-individualised formulation of the obligations accompanying the measure. Although the law requires the court to expressly determine the specific obligations, in practice they are often drafted in general terms, without specifying their duration, the prohibited means of communication, or the applicable context. For instance, phrases such as “not to communicate with the witnesses” or “not to leave the domicile” are not always accompanied by clarifications regarding the identity of the witnesses, permitted exceptions (such as medical emergencies), or the method of supervision. This lack of precision creates interpretative difficulties for both the defendant and the authorities responsible for enforcing the measure.

The breach of obligations imposed under house arrest entails, pursuant to Article 222 of the Code of Criminal Procedure, the possibility of revoking the measure and replacing it with pre-trial detention. However, in the absence of detailed criteria concerning the seriousness or recurrence of violations, courts assess inconsistently what constitutes a sufficiently serious breach. Jurisprudence includes examples where mere omissions to answer police calls were deemed sufficient grounds for revocation, while in other cases, unauthorised departure from the domicile was sanctioned only with a warning. Such

discrepancies undermine the predictability of the measure and may affect the principle of equal treatment between defendants in comparable situations (Mateuț, 2017).

Moreover, the legislation does not provide a system for classifying violations, which would allow for a distinction between minor breaches – such as a delay of a few minutes after a time-limited authorisation – and serious breaches, such as an attempt to evade prosecution or the commission of a new offence. Legal doctrine has proposed the introduction of gradations or severity thresholds, in order to ensure that the judicial response remains proportionate and consistent (Neagu, 2020).

In the absence of adequate technical resources, clear standards for drafting obligations, and uniform practice regarding the sanctioning of breaches, the application of house arrest proves to be uneven and, at times, ineffective. In order to guarantee its genuine status as an alternative to pre-trial detention, a systemic approach is required, encompassing material resources, supplementary regulations, and professional training for all actors involved.

Conclusions

House arrest constitutes one of the most important alternative forms of restricting individual liberty within criminal proceedings, alongside pre-trial detention and judicial supervision. It responds to the requirements of the right to a fair trial and the principle of proportionality, offering courts the possibility to restrict a person's liberty only to the extent strictly necessary for the proper conduct of criminal proceedings, without resorting immediately to custodial detention. Consequently, the proper regulation, application, and monitoring of this measure are essential to ensuring a balance between the interests of criminal justice and the fundamental rights of the individual.

An analysis of the current legal framework reveals that the measure is primarily regulated by the provisions of the Code of Criminal Procedure, but also by special normative acts, such as Law No. 146/2021 on electronic monitoring. The Code lays down the general conditions for application, the maximum duration, the jurisdiction of the courts, and the obligations imposed on the defendant. In contrast, Law No. 146/2021 provides detailed technical regulation concerning the use of the electronic monitoring system, thereby complementing the general legal framework with instruments designed to enhance the effectiveness of compliance control.

However, the practical application of house arrest reveals major difficulties, both technical and interpretative. The lack of uniform equipment with electronic monitoring devices, as well as the lack of resources within police structures, significantly affects the effectiveness of the measure. In the absence of a unified system of automatic supervision, compliance with obligations such as not leaving the domicile or not contacting certain individuals becomes difficult to verify, raising concerns about the actual effectiveness of the measure and the authorities' capacity to ensure its enforcement.

Moreover, the analysis of judicial practice reveals a certain lack of coherence in the interpretation of key concepts and in the individualisation of the measure. For instance, the term "domicile" is interpreted differently depending on the court, which affects the applicability of the measure in contexts such as unofficial addresses, temporary residences, or undeclared locations. Furthermore, the evidentiary standard required for ordering or extending the measure varies between judicial panels, which may undermine the predictability of decisions and public confidence in the administration of justice.

In addition, the formulation of the obligations imposed on the defendant is sometimes deficient, lacking precision and adaptation to the specific circumstances of the person concerned. Without clarifications regarding the duration, content, and limits of these obligations, both the defendant and the enforcement authorities operate in a zone of uncertainty, which may result either in unintentional breaches of the measure or in a lack of appropriate response in case of non-compliance.

Another sensitive issue concerns the sanctioning of breaches of obligations. In the absence of clear criteria for assessing the seriousness of violations, courts often decide on the basis of a subjective evaluation, leading to inconsistent practice. The lack of legal instruments allowing for the classification of breaches according to their severity or social danger affects both the coherence of case law and the overall effectiveness of the measure.

In substance, the conclusions drawn from the analysis highlight a dual direction of necessary intervention. On the one hand, it is essential to complete and harmonise the normative framework, either through targeted amendments to the Code of Criminal Procedure or by adopting clear secondary legislation to regulate minimum standards for the application of the measure, including those related to electronic monitoring. On the other hand, the professionalisation of the measure's implementation is required through the continuous training of magistrates, police officers, and other actors involved, with the aim of

ensuring a coherent, proportionate, and effective application of house arrest.

Ultimately, house arrest should not be regarded as a mere compromise between liberty and detention, but as a modern preventive measure capable of effectively ensuring the conduct of criminal proceedings while respecting fundamental rights. This objective can be achieved only through rigorous regulation, uniform application, and effective oversight supported by adequate technological infrastructure. Only in this way can the measure operate as a genuine and viable alternative to pre-trial detention, contributing to the modernisation of the Romanian criminal justice system.

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