Alternative measures to detention in the European Court of Human Rights' case-law

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The article delves into the issue of alternative measures to detention as regards the case-law of the European Court of Human Rights (ECtHR). While the European Convention on Human Rights does not explicitly provide for a right to alternative measures to detention, the Court has addressed the question in its recent case-law. The main concepts through which the ECtHR has examined this matter are the theory of positive obligations and the adoption of the so-called "pilot judgments". The Article demonstrates that the issue of alternative measures to detention has been approached by the ECtHR in the light of anticipated fields such as Articles 3 and 5 of the Convention. At the same time, it is being examined through less anticipated clauses, such as Article 2 of the Convention, a provision which enshrines the right to life.

I. Introduction

The issue of alternative measures to detention is essentially linked to the adoption of initiatives by the competent authorities intended to enable the serving of imposed sentences in ways that do not necessarily entail deprivation of liberty. In this sense, the alternative measures to detention are not limited to the punitive dimension of custodial sentences but also aim to facilitate the social reintegration of prisoners and the decongestion of prisons. Therefore, they constitute ways of dealing with the burning problem -on a pan-European level- of overcrowding in places of detention[1], while helping to reduce their operating costs, an element which is not insignificant, especially in times of economic crisis.

This article looks at alternative measures to detention in relation to the case-law of the European Court of Human Rights (ECtHR). It should be noted from the outset that the European Convention on Human Rights (ECHR) does not offer a particularly suitable field for examining issues related to alternative measures to detention. This is due to the particular nature of the ECHR as a text which establishes a restrictive list of individual rights. In other words, it requires in principle member states to abstain from the disproportionate restriction of such rights. The compliance or non-compliance with these obligations is ascertained by the ECtHR through the examination of individual applications[2], by virtue of which the Stras-

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[1] Regarding the phenomenon of prison overcrowding, see *inter alia* the report by the Committee on Legal Affairs and Human Rights of the Parliamentary Assembly of the Council of Europe, "Promoting alternatives to imprisonments", pp. 6-7 (document available at http://www.assembly.coe.int/Communication/ajdoc02_2013.pdf, accessed on 18.1.2014).

[2] As Article 34 of the ECHR reads, "The Court may receive applications from any person, non-governmental organisation or group of individuals claiming to be the victim of a violation by one of the High Contracting Parties

bourg Court establishes whether the restrictive measure that affected the applicant's status also resulted in the violation of one or more of the provisions set forth in the ECHR. For their part, alternative measures to detention refer to the more general issue of selecting the correctional policy implemented by state authorities. Therefore, given that the ECtHR does not generally rule on the compatibility of legislative choices or administrative practices with the ECHR, but confines itself to the examination of legal issues that arise from the particular circumstances of each case, its control would, in principle, not be expected to expand to policies concerning alternative measures to detention by the respondent states. However, in its relatively recent case-law, the Strasbourg Court has addressed the issue of alternative measures to detention in the light of more than one provision. This article will first consider the way in which the ECtHR has approached the issue of alternative measures to detention in its case-law (A), and subsequently present the provisions of the Convention which constitute the basic fields of development of the relevant jurisprudence (B).

II. "Positive obligations" and "pilot judgments": the keys to examining alternative measures to detention by the ECtHR

These two notions do not refer to the same object. Positive obligations are a jurisprudential construction, which refers to the extent of the obligations incumbent upon the member states in respect of the rights safeguarded by the ECHR. Pilot judgments, on the other hand, are not a jurisprudential concept; the term describes a specific category of ECtHR judgments, which are distinguished primarily by the breadth of scope of their *res judicata*. However, both concepts share the characteristic of being the main vehicles through which the ECtHR has addressed the issue of alternative measures to detention in its recent case-law.

1. The theory of positive obligations

According to the theory of positive obligations, the effective protection of individual rights guaranteed by the ECHR does not consist solely in their non-disproportionate restriction by the contracting states to the Convention but also requires the adoption of positive measures for their effective protection[3]. The term "positive obligations" arises in contrast to "negative obligations" with which state authorities are traditionally entrusted. As noted, negative obligations require from the respondent state to refrain from undue restrictions of the rights guaranteed by

of the rights set forth in the Convention or the Protocols thereto. The High Contracting Parties undertake not to hinder in any way the effective exercise of this right." It should also be noted that, according to Article 33, the ECtHR is also competent to examine inter-state applications.

[3] About "positive obligations", see among many others A. Mowbray, *The Development of positive obligations under the European Convention on Human Rights by the European Court of Human Rights,* Hart Publishing, 2004, and J. Rogers, "Applying the doctrine of positive obligations in the European Convention on Human Rights to domestic substantive criminal law proceedings", *Criminal Law Review,* 2003, pp. 690-708.

the Convention. Thus, for example, the beating of A. by police officers would result, as a rule, in the violation of Article 3 of the ECHR[4], as the said officers would have breached the obligation placed upon them by the above-mentioned provision to abstain from any unjustified infringement of the victim's physical integrity. However, assuming that, during a rally, A. falls victim to violence by third parties who participate in a counter demonstration, which results in his death, if police officers observed the incident, but remained passive and did not intervene, it would be possible to establish the liability of the respondent State in terms of Article 2 of the Convention[5], on the grounds that the police officers did not respond to the positive obligation to protect the victim's life[6].

The positive obligations gradually made their appearance in the ECtHR's case-law about thirty years ago, initially originating from Article 8 of the ECHR, which guarantees *inter alia* the right to respect for private and family life[7]. Article 8 served as a channel through which the theory of positive obligations was gradually diffused into the scope of other provisions of the Convention, to the extent that today almost all clauses vesting substantive or procedural rights of the Convention include obligations both to abstain from action and to adopt positive measures[8].

This element is particularly important in respect of alternative measures to detention in ECtHR case-law. This is because the "positive obligations" shift the prism through which member states' obligations regarding the rights guaranteed by the Convention are interpreted. The obligation not to restrict disproportionately transforms into a duty to undertake a specific initiative. In the context of detention conditions, this means that the member state, besides its obligation not to submit the applicant to appalling detention conditions, may occasionally be called on to take positive measures to form a framework for humane detention conditions, for example as regards ensuring the prisoners' health[9]. Following the same logic, the possibility that the applicant be subjected to alternative measures to detention can also be examined by the ECtHR.

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[4] This article provides for the prohibition of torture and of inhuman or degrading treatment or punishment.

[5] This provision guarantees the right to life.

[6] See P. Voyatzis, « Les effets des arrêts de la Cour européenne des droits de l'homme dans le temps juridique : les cas du revirement de jurisprudence et de la violation potentielle », *In* D. Spielmann, M. Tsirli, P. Voyatzis (edit.), *La Convention européenne des droits de l'homme, un instrument vivant- Mélanges en l'honneur de C. L. Rozakis,* Bruylant, 2011, p. 736.

[7] See ECtHR, *Marckx v. Belgium*, 13.6.1979, § 31, *Rees v. the United Kingdom*, 17.10.1986, §§ 35-37, *Abdulaziz, Cabales and Balkandali v. the United Kingdom,* 28.5.1985, § 67.

[8] Thus, forexample, as concerns articles 3, 4 and 10 oftheECHR, *Assenov and Others v. Bulgaria*, 28.10.1998, *Siliadin v. France*, 26.7.2005,and *Özgür Gündemv. Turkey*, 16.3.2000, are respectively typical ECtHR judgments. In the recent case-law, *Mosendz v. Ukraine, 17.1.2013* (inadequate judicial investigation into the responsibility of military authorities regarding suicide of a soldier) and *Mehmet ŞenturkandBekir Şenturkv. Turkey, 9.4.2013* (refusal to perform surgery on a pregnant woman on the ground of her inability to pay for the medical expenses) are noteworthy cases in the context of Article 2. As concerns Article 3, *Eremiav. Moldova, 28.5.2013 (*protection by state authorities of a victim of domestic violence) and *D.F v. Latvia, 29.10.2013* (exercise of violence against the applicant by fellow prisoners and failure of the prison authorities to protect him) are further interesting cases.

[9] See, among many others, ECtHR, *Xiros v. Greece*, 9.9.2010, §§ 72-76.

2. The pilot judgments

The second element that allowed the ECtHR to deal with the issue of alternatives to serving sentences was the gradual adoption, from the mid-nineties onwards, of the so-called "pilot judgments"[10]. These judgments are distinguished by their broad subject matter as well as by the general obligations to comply with their operative part that the respondent member state shoulders. Specifically, common ECtHR judgments finding violations of the Convention concern individual cases, and thus the measures to be taken by the respondent member state are predominantly limited to the applicant's case. Therefore, the member state is required to pay the just satisfaction awarded to the applicant and, if necessary, take appropriate measures, usually at the level of administrative practice, so that the situation in question is not perpetuated to his detriment[11].

The pilot judgments deal with a subject matter much wider in scope than that defined by the individual circumstances of the applicant. In connection with one or more individual applications, the ECtHR seeks to address through the pilot judgment a broader, systemic problem of the national legal order, which has normally constituted a source of repeated violations of the ECHR. In fact, by virtue of its pilot judgment, the Strasbourg Court not only identifies the relevant structural problem of the national legal order, but also imposes on the respondent state the obligation to take concrete legislative initiatives to resolve it. Relevant examples regarding the Greek legal order include the *Vassilios Athanasiou*[12], *Michelioudakis*[13] and *Glykantzi*[14]pilot judgments. The subject matter of these judgements is the structural problem of substantial delays to hearings in administrative, criminal and civil courts in Greece. Through these recent judgments, the ECtHR not only ascertained the relevant problem, but also required the Greek authorities to adopt effective remedies with a view to expediting proceedings and/or compensation of stakeholders[15].

The competence to issue pilot judgments is of particular importance as regards the ECtHR's examination of the application of alternative measures to detention. When the pilot judgment concerns issues pertaining to Article 3 of the Convention (which prohibits torture and inhuman or degrading treatment, as mentioned above), the ECtHR has the opportunity to consider and, where appropriate, to ascertain broader structural problems regarding detention conditions in the impugned legal

[10] See, among others, W. Sadurski, « Partnering with Strasbourg: constitutionalism of the European Court of Human Rights, the accession of Central and East European states to the Council of Europe, and the idea of pilot judgments », *European Human Rights Law Review,* 2009, vol. 3, pp. 397-453, P. Leach, "Beyond the bug river – a new dawn for redress before the European Court of Human Rights?", *European Human Rights Law Review,* 2005, vol. 2, pp. 148-164.

[11] See e. g. ECtHR, *Valyrakis v. Greece,* 11.10.2011, § 62. The Court awarded the applicant EUR 12,000 for non-pecuniary damage suffered as a result of the violation of his right to property and also invited the national authorities to take the necessary measures in order to find a solution to the problem of the indirect expropriation of his plot of land.

[12] ECtHR, *Vassilios Athanasiou and Others v. Greece*, 21.12.2010.

[13] ECtHR, *Michelioudakis v. Greece*, 3.4.2012.

[14] ECtHR, *Glykantzi v. Greece*, 30.10.2012.

[15] See e. g. *Vassilios Athanasiou, ibid*, § 57.

order, which are not confined solely to the personal circumstances of the applicant. In this context, the Strasbourg Court may elevate its control to a higher level and put forward solutions for the implementation of a more effective correctional policy by the respondent state. Alternative measures to detention can thus be considered as a means of resolving systemic problems, such as that of overcrowding in detention facilities.

III. The fields of development of jurisprudence concerning alternative measures to detention

ECtHR case-law on alternative measures to detention revolves around three key provisions: Articles 3, 5 and 2 of the ECHR, i. e. the provisions guaranteeing respectively the protection of physical and moral integrity, personal liberty and security, and the right to life. In respect of Articles 3 and 5, the issue of alternative measures to detention arises directly, given that their application is related to the applicant's conditions of detention and his liberty and security. On the contrary, the question of alternative measures to detention arises implicitly in relation to Article 2 of the ECHR, given that such question is not directly linked to the applicant *per se*. In these cases, the applicants are relatives of persons who died while being under semi-liberty or conditional release regimes. Therefore, the victim's death, in conjunction with the application of the doctrine of positive obligations under Article 2 of the Convention, allows the ECtHR to examine the complex issue of conditions for granting conditional release to dangerous prisoners in the context of the right to life. By means of Article 2 of the ECHR, the Strasbourg Court may thus consider the risks that the conditional release of prisoners convicted of serious criminal offenses is likely to entail for the general public.

1. Article 3

In the light of Article 3, the ECtHR has developed jurisprudence on two aspects of the issue of alternative measures. The first concerns whether the sentence to life imprisonment without possibility of commutation or early release constitutes treatment contravening Article 3 of the Convention. Early ECtHR case-law did not offer a clear answer to this question. Nevertheless, in 2008, the Grand Chamber adopted a clearer jurisprudential line in its judgment *Kafkaris v. Cyprus*[16], stressing that the provision of national law and the imposition of life imprisonment are not in themselves incompatible with Article 3 of the Convention. Importantly, however, the ECtHR also held that a conviction to life imprisonment without the *de jure* or *de facto* possibility to reduce or commute the sentence or conditionally release the prisoner may raise the question of violation of Article 3 of the Convention.

The term "*de jure*" describes the existence of a legal procedure through which the interested person can achieve a reduction of the imposed sentence. By the term

[16] ECtHR, *Kafkaris v. Cyprus* [GC], 12.2.2008.

"*de facto*" the ECtHR refers to any other possibility, for example at the level of administrative practice, through which the prisoner may achieve in substance the commutation of his life sentence to one of shorter duration. Thus, in *Kafkaris*, the applicant had been sentenced to life imprisonment for premeditated murder and had served nineteen years of his sentence. The ECtHR held that the President of the Republic's power to order, on the recommendation of the Attorney-General, the offender's release constituted a sufficient guarantee of the possibility to commute a life imprisonment to a lighter penalty. Furthermore, in its subsequent judgment *Iorgov v. Bulgaria (n° 2)*[17], the ECtHR concluded that Article 3 had not been violated, despite the fact that the presidential pardon, the only statute in Bulgarian law under which a sentence to life imprisonment could be commuted to a lighter penalty, had never been granted.

It is worth noting that the most recent judgment on irreducible life imprisonment examined at Grand Chamber level by the ECtHR is *Vinter and Others v. the United Kingdom*[18], July 2013.The Grand Chamber concluded that Article 3 had been violated, after noting the lack of clarity of the British law as to the extent of the power conferred upon the Secretary of State to order the release of prisoners serving a life sentence. We observe that this part of the Court's case-law under Article 3 indirectly concerns alternative measures to detention, as the commutation of life sentence may be accompanied by their imposition.

The second field of jurisprudence on Article 3 linked -even more directly- to alternative measures includes the pilot judgments concerning structural problems in detention conditions. The number of pilot judgments related to Article 3 of the ECHR is limited. It could even be argued that, prior to 2013 and the judgment in *Torreggiani and Others v. Italy*[19], the ECtHR had not proceeded to the delivery of judgments presenting the typical characteristics of a pilot judgment as concerns the problem of overcrowding in correctional facilities. Thus, in *Orchowski v. Poland*[20], the Court had raised the problem of overcrowding in Polish prisons without formulating general measures that national authorities should take to remedy such problem. Furthermore, in the significant judgement of *Ananyev and Others v. Russia*[21], the Court described a systemic problem as regards detention conditions in Russian prisons, but restricted its control only to cases of persons in pre-trial detention.

In *Torreggiani*, the ECtHR ascertained the acute problem of overcrowding in Italian prisons and the need for the authorities to take positive measures to combat it[22]. *Inter alia*, the Court urged the Italian authorities to seek to reduce the total

[17] ECtHR,*Iorgov v. Bulgaria (no 2)*, 2.9.2010.
[18] ECtHR, *Vinter and Others v. the United Kingdom* [GC], 9.7.2013.
[19] ECtHR, *Torreggiani and Others v. Italy*, 8.1.2013.
[20] ECtHR, *Orchowski v. Poland*, 22.10.2009.
[21] ECtHR, *Ananyev and Others v. Russia*, 10.1.2012.
[22] In respect of the Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment's (CPT's) addressing the issue of prison overcrowding, see J. Murdoch, "The impact of the Council of Europe's 'Torture Committee' and the evolution of standard-setting in relation to places of detention", *European Human Rights Law Review,* 2006, vol. 2,pp. 174-175.

number of prisoners since it was not possible to secure decent detention conditions for the current prison population. According to the ECtHR, reducing the number of prisoners could be achieved in two ways: by applying alternative sentences that do not necessarily entail deprivation of liberty, and through the limited imposition of pre-trial detention. The Court referred in particular to the Recommendations of the Committee of Ministers of the Council of Europe, which call on member states to urge the judicial authority to impose alternative measures to detention as extensively as possible[23].

2. Article 5

The third paragraph of this provision sets forth the conditions for imposing pre-trial detention, stating that the defendant should be brought to trial within a reasonable time. According to the ECtHR case-law, the specificities of each case are taken into account in assessing the reasonableness of the detention period. Furthermore, the particular reasons in favour of extending the detention should always be weighed against the right to liberty of the detainee. According to the established ECtHR case-law, these reasons should be suitable and sufficient to supplant the right to liberty.

In this light, one of the elements that the ECtHR examines is whether the national court has sought to impose alternative measures to detention to ensure the applicant's presence at the hearing. Thus, in *Idalov v. Russia*[24], the Grand Chamber held that Article 5 § 3 had been violated, after finding that the competent authorities had repeatedly extended the applicant's pre-trial detention without considering the potential imposition of alternative measures. Furthermore, they had consistently failed to take into consideration the applicant's arguments that he had a permanent place of residence in Moscow where he was living with his family, and that he had never absconded from justice.

In another recent and interesting case, *Bolech v. Switzerland*[25], the ECtHR examined, under Article 5 of the Convention, the legality of the two-year detention of the applicant, against whom charges of serious offenses were pending. The applicant argued that the Swiss authorities did not examine the possibility of his electronic surveillance through an electronic bracelet, rather than pre-trial detention. The ECtHR reiterated that, in principle, the competent authorities should always consider the possibility of replacing pre-trial detention with alternative measures. However, in this case, the solution of the electronic bracelet could not be implemented, because, firstly, its application was still in a pilot phase in Switzerland-in particular, in only seven Swiss cantons. Secondly, in 2009, the Federal Supreme Court had prohibited the use of electronic means for tracking people through geo-localisation. Therefore, in this case the use of an electronic bracelet could not prevent the

[23] ECtHR, *Torreggiani and Others,* ibid, §§ 94-95. The Court referred in particular to the Recommendations Rec (99)22 and Rec(2006)13 of the Committee of Ministers of the Council of Europe.
[24] ECtHR, *Idalov v. Russia* [GC], 22.5.2012.
[25] ECtHR, *Bolechv. Switzerland,* 29.10.2013.

applicant's potential escape abroad. On these grounds, the ECtHR held that Article 5 had not been violated.

3. Article 2

Case-law on Article 2 is perhaps the most eloquent jurisprudential example of how the theory of positive obligations has contributed to the examination of alternative measures to detention. Traditionally, the relevant case-law perceived the right to life as a negative right. That is, the state was required to refrain from arbitrarily depriving people under its jurisdiction of life. Since the late nineties, however, starting with its judgments on *L.C. B.* and *Osman v. the United Kingdom*[26], the ECtHR began to accept that, in exceptional cases, Article 2 may require states to take positive measures to protect persons whose life is threatened by actions of other individuals. According to its case-law, not every threat to someone's life gives rise to the obligation of the police to take positive measures to protect that person. The threat must be real, specific and direct. If the police assumed too much responsibility, the effectiveness of its efforts to combat criminality could be undermined.

In this context, the ECtHR has held that, in exceptional cases, state authorities may be held responsible, under Article 2 of the Convention, for failing to prevent crimes against life perpetrated by persons who are serving sentences for serious and violent crimes (such as those directed against physical integrity of others), and who have been granted conditional release. At principles level, the Court has underlined since 2002 the importance of implementing correctional policies aimed at the social reintegration of prisoners, even those serving sentences for violent crimes (*Mastromatteo v. Italy*[27]). For this reason, the ECtHR has hitherto never condemned a member state for malfunctions of the legislative framework concerning conditional release. On the contrary, it has found a violation of Article 2 in specific cases where the latter was granted. The basic rule for establishing the liability of the respondent state is the following: the competent authorities must have omitted to take action that would be reasonably expected from them in order to prevent real and imminent danger to the life of individuals arising from acts of persons who were granted conditional release.

The ECtHR has delivered two landmark judgments in this context: *Maiorano and Others v. Italy* [28]and *Choreftakis and Choreftaki v. Greece*[29]. In both cases, the applicants were relatives of persons who were murdered by individuals who had been granted conditional release. In the Italian case, the Court held that Article 2 had been violated, whereas in the Greek case it came to the opposite conclusion. In *Maiorano*, the perpetrator, A. I., had previously been convicted of very serious offenses (homicide, rape, kidnapping) and sentenced to life imprisonment. After serving twenty

[26] ECtHR, *L.C. B. v. the United Kingdom,* 9.6.1998, and *Osman v. the United Kingdom*, 28.10.1998.
[27] ECtHR, *Mastromatteo v. Italy* [GC], 24.10.2002.
[28] ΕΔΔΑ, *Maioranoand Others v. Italy*, 15.12.2009.
[29] ΕΔΔΑ,*Choreftakis and Choreftaki v. Greece,* 17.1.2012.

years of his sentence, he was placed under a semi-liberty regime, with the obligation to perform community service, while severe restrictions were imposed on him as to the public places he could visit and people he could meet. However, in a relatively short period of time, A. I. relapsed into crime and committed yet another heinous murder.

The ECtHR concluded that Article 2 had been breached after finding serious omissions on the part of the judicial authorities in granting the perpetrator semi-liberty status. The Court noted that A. I.'s criminal behaviour both before the imposition and during the serving of his original sentence had not been adequately taken into account. Moreover, the prosecutor had not correctly assessed concrete information on A. I.'s activities while he was in semi-liberty, which indicated that he was likely to commit a crime in the near future. The ECtHR held that these pieces of evidence should have been submitted to the competent judicial council in order for it to revoke the semi-liberty status.

In *Choreftakis and Choreftaki*, the perpetrator of the murder of the applicants' son committed his crime a few days after his conditional release, which was granted after he had served three fifths of the sentence imposed on him. The ECtHR concluded by a majority that Article 2 had not been violated, emphasizing that it was not possible to condemn the legislative provision of conditional release in this case. It held that the issues concerning imposition of alternative measures to serving sentences fall within the discretion of member states. In view of the diversity of ways in which member states implement the measure of conditional release, the fact that in Greece this measure is granted almost automatically upon completion of serving three fifths of the sentence was not considered problematic in relation to Article 2 of the ECHR. Furthermore, the ECtHR held that the competent judicial bodies acted in accordance with the law, basing their judgment on the report which had been submitted by the prison director on the conduct of the offender. On these grounds, the Court held that there was no clear causal link between the conditional release of the perpetrator and the assassination of the applicants' son[30].

The dissenting opinion of Judges *Sicilianos*, *Steiner* and *Lazarova-Trajkovska* is interesting, and in our opinion correct. According to their opinion, the notion of the prisoner's "conduct", as set forth in Article 106 of the Greek Criminal Code is quite vague, because the law does not provide specific criteria based on which the administrative and judicial authorities could assess the offender's dangerousness when granting conditional release. Furthermore, the minority judges deem that Article 69 § 4 of the Greek Penitentiary Code is equally problematic, since it provides that disciplinary penalties which have been imposed on the prisoner can be removed from his personal disciplinary record in a short period of time. According to the dissenting Judges, the time frame of six to twenty-four months provided for the removal of imposed disciplinary penalties "gravely restricts the scope of control of the competent court when considering the [prisoner's]'good conduct"'[31].

[30] *Choreftakis and Choreftaki,ibid*, §§ 50-61.
[31] See dissenting opinion of Judges *Sicilianos*, *Steiner* and *Lazarova Trajkovska*, § 5.

IV. Concluding remark

This analysis demonstrated that the issue of alternative measures to detention takes different forms in the ECtHR case-law. Articles 3 and 5 of the ECHR constitute an anticipated field for the development of jurisprudence as regards alternative measures to detention, given that they set forth thematically related guarantees concerning the status of persons who have been deprived of their liberty. However, the evolutionary interpretation of the Convention, in particular through the theory of positive obligations, has allowed the ECtHR to approach the issue of alternative measures to detention via less anticipated clauses, such as Article 2 and the right to life.

In the near future, the ECtHR case-law might be called upon to address the issue of alternative measures on the basis of other provisions, such as Article 8 of the Convention, which guarantees, *inter alia*, the protection of the right to privacy. As noted above, the measure of electronic surveillance of detainees and convicted persons[32] has so far been examined by the ECtHR under Article 5 of the Convention. Given that this measure might also raise issues pertaining to the protection of personal data, it is not excluded that in the future it might be addressed by the Strasbourg Court in the light of Article 8 of the Convention.

In conclusion, it should be underlined that the ECtHR case-law supports the imposition and implementation of alternative measures to detention. Thus, as noted above, particularly in the analysis of case-law on Article 2, the ECtHR exercises care when examining cases concerning conditional release, such that its conclusions on the circumstances of each case do not undermine the overall value of this measure.

[32] It is worth noting that the release of convicts under the condition to be placed under house detention and electronic surveillance is now provided for in the Greek legal system as well by virtue of Law No. 4205/2013.