

**Question for written answer E-000538/2020
to the Council**
Rule 138
Guido Reil (ID)

Subject: Custodial sentences

The Justice and Home Affairs Council recommends that, in the long term, Member States replace custodial sentences with alternative measures such as suspended sentences, community service, financial sanctions and electronic surveillance. Deprivation of liberty should also be minimised in the pre-trial phase. The Council sees this as a solution to overcrowding in prisons in Europe ¹ .

However, the mere discussion of this issue gives criminals to understand that they will be allowed to retain their freedom, no matter how serious their crimes. Deprivation of liberty is not only a sensible penalty, but also serves to protect victims and society.

1. On what legal basis does the Council base these recommendations and how does it justify them in the light of the principle of subsidiarity?
2. What exactly are the offences covered by these recommendations?
3. How does the Council justify these recommendations with regard to the protection of victims and society?

¹ Council conclusions on alternative measures to detention: the use of non-custodial sanctions and measures in the field of criminal justice, OJ C 422, 16.12.2019, p. 9.