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Non-custodial Alternatives to Pre-trial Detention in Jordan 2025

Rama Smadi and Elna Søndergaard

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Authors

Rama Smadi and Elna Søndergaard

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LIST OF ABBREVIATIONS

CCP	Code of Criminal Procedure of 1961
CSO	Civil Society Organisation
DAPP	Danish – Arab Partnership Programme
ICCPR	International Covenant on Civil and Political Rights
MFA	Ministry of Foreign Affairs
MoJ	Ministry of Justice
UN	United Nations
UNCAT	United Nations Convention against Torture and Other Cruel, Inhuman and Degrading Treatment and Punishment

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EXECUTIVE SUMMARY

Following the positive amendments to the Code of Criminal Procedure in 2017 and 2022, the implementation of the Justice Sector Strategy (2022–2026) and the experience of reducing overcrowding in prisons during the pandemic, both judicial and prosecutorial authorities began integrating non-custodial measures as a component of the criminal procedure. With the new legislative framework and a changed mindset, thus the use of non-custodial alternatives increased significantly since 2022.

However, prosecutors and judges continue to treat alternatives to pre-trial detention with caution. Therefore, further legal reforms to ensure, inter alia, that imposing such alternatives becomes mandatory, new guidelines and clear mechanisms regarding the implementation and enforcement of alternatives to pre-trial detention continue to be essential to prevent unnecessary deprivation of liberty during pre-trial detention.

To sustain such developments, expanding judicial training and strengthening judicial understanding of alternatives will remain vital in ensuring the fundamental right of personal liberty.

CHAPTER 1: INTRODUCTION

In 2008, DIGNITY began its engagement in Jordan when the Ministry of Justice established the national anti-torture programme the Karama Programme ("karama" means dignity in Arabic) which aims at reforming the criminal justice system with a specific focus on the reduction of pre-trial detention.¹

Thus the 2017 reforms to the Jordanian Code of Criminal Procedure² (CCP), which since 1961 has regulated pre-trial detention in Jordan, mark significant progress toward reducing reliance on pre-trial detention and promoting non-custodial alternatives such as travel ban, electronic monitoring, and house arrest. DIGNITY identified within the Karama Programme³ the need to assess how these alternatives function in practice and whether they protect the right to personal liberty.

Beyond easing prison overcrowding and protecting human rights standards, alternatives to pre-trial detention have strong benefits for the individual and broader social value. They reduce stigma and protect family and livelihood - benefits that are especially important for youth and women, who often suffer disproportionate social and economic harm from pre-detention.

OBJECTIVES

This study aims at analysing recent data on the use of non-custodial alternatives to pre-trial detention and providing recommendations to further legal reforms to the CCP and new efforts to raise the awareness of prosecutors and judges to give effect to the right to liberty of person in practice. This way we intend to contribute to the discussions on how judicial authorities, legal aid providers, and civil society can jointly enhance the use of alternatives and ensure their conformity with human rights standards pursuant to the International Covenant on Civil and Political Rights (ICCPR) and the United Nations Convention against Torture and Other Cruel, Inhuman and Degrading Treatment and Punishment (UNCAT).

QUESTIONS

To be able to arrive at evidence-informed recommendations, the study asks the following three questions:

1. How have alternatives to pre-trial detention evolved under Jordanian law?
2. How were alternatives used in practice from 2022-2024?
3. What legislative and institutional obstacles affect their implementation?

1 See Elna Søndergaard and Jo-Anne Prud'homme, DIGNITY's State Dialogue Programme to Prevent Torture: Overview and Analysis of Implementation in Jordan and Tunisia 2008-2019, DIGNITY Publication # 39 and DIGNITY's website: Karama Programme - DIGNITY - Danish Institute Against Torture.

2 Published in Official Gazette No. 1539, 16 March 1961.

3 See further about the objectives of the Karama Programme: Karama Programme - DIGNITY - Danish Institute Against Torture.

By answering these questions, the study's primary contribution is to bridging the gap between law and practice in the application of alternatives to pre-trial detention. Secondly, it provides evidence that enables state and judicial authorities to enhance their compliance with human rights standards.

The analysis draws on a set of interrelated domains, including the role of non-custodial measures; socio-legal research on the psychological and economic effects of detention, with attention to vulnerable groups; and finally, we use anti-torture and human-rights frameworks as guiding principles.

METHODOLOGY

The study applies a descriptive-analytical approach, combining legal review and field-based observations from the Karama Programme. It integrates official data, judicial decisions, and interviews to map both policy intent and institutional realities. The analysis is based on key sources include:

- Official documents to monitor developments and institutional trends in this field, particularly Discussion Papers by the Royal Committee (The Royal Committee 2017); Manual on Pre-trial Detention Procedures (2020)⁴ by the Ministry of Justice; Judicial Sector Strategy 2017-2021 and 2022-2026, as well as annual reports (2020–2024) by the Judicial Council; Annual Report on the Status of Regular Courts, Administrative Courts and Public Prosecution, issued by the Prosecution Office (2021); and the National Center for Human Rights' annual reports (2022-2024). All this material is used as statistical and analytical references for studying quantitative indicators related to pre-trial detention and its alternatives.
- Judicial decisions related to the application of non-custodial alternatives to pre-trial detention to reveal prevailing judicial trends in interpreting and implementing legal provisions.
- Studies prepared within the Karama Programme, including the Pilot Study on Pre-trial Detention (2022) by Nour Iman, Manual for Lawyers regarding Alternatives to Detention (2018) by the Jordanian Bar Association⁵ and "In the Grip of Doubt – Detention without Conviction and an Unjustified Cost" by Tamkeen and DIGNITY (2025).
- Peer-reviewed articles, such as Amal Abuanzeh and Elna Søndergaard (2023).⁶

4 Ministry of Justice, Pre-Trial Detention Procedures Manual, 5th edition, Dignity Country Office Jordan Publications, 2020.

5 Public Freedoms and Human Rights Committee, Jordanian Bar Association, Lawyers' Guide to Pre-Trial Detention Procedures, 1st edition, Ministry of Justice, Dignity Country Office Jordan Publications, 2018.

6 Amal Abuanzeh and Elna Søndergaard, International Perspectives on Jordan's Legislation on Deprivation of Liberty Prior to Trial (Abuanzeh and Søndergaard 2023).

CHAPTER 2: LEGAL FRAMEWORK

This chapter will briefly explain the legal framework in terms of the CCP authorizing the public prosecutors to detain an accused person following the interrogation and the judges to extend the detention.

Due to the fundamental right to liberty and the core principle of the presumption of innocence until proven guilty, detention of an individual, who is awaiting trial and not found guilty, is allowed only in a restrictive manner when strictly necessary for the criminal justice process and as prescribed by law (ICCPR Article 9(1)).

The CCP was amended in 2017 in relation to the regulation of pre-trial detention and non-custodial measures, as discussed in Abuanzeh and Søndergaard (2023), and in 2022 related to the duration of the detention.⁷ Moreover, the MoJ issued instructions on the use of alternatives in general (2022)⁸ and specifically on the use of electronic monitoring (2025).⁹

PRE-TRIAL DETENTION

Pre-trial detention in the CCP refers to the restriction of the defendant's freedom by competent authorities through placing them at a place of detention for all/part of the period of detention stipulated by the law when there are enough grounds and evidence against the defendant as per the controls set forth by the law.¹⁰

Pursuant to Article 114 CCP, pre-trial detention is considered the exception and liberty is the main rule.¹¹ The Court of Cassation has confirmed this principle that freedom is the main rule, and detention remains the exception. This reflects international standards and DIGNITY's position that detention should remain a last resort.

This is implemented by reducing the possibility to use pre-trial detention to the most serious crimes and by requiring a specific reason for detention, for example where it is necessary to preserve evidence, prevent interference with witnesses, avoid flight or maintain public order.¹² Detention is therefore discretionary and dependent on evidentiary necessity. The Court of Cassation has concluded that the purpose of pre-trial detention is solely precautionary and must not exceed the legal limits.¹³

7 Moreover – and not in relation to pre-trial detention - the amended CCP granted the Public Prosecutor, inter alia, the authority to seize devices, equipment and similar items that evidence suggests were used in committing a crime. The amended law also empowered the court, during the proceedings before issuing a final judgment, to order the submission of any evidence that could help reveal the truth.

8 The System of Means and Mechanisms for Implementing Alternatives to Deprivation of Liberty Penalties No. 46, in the year 2022.

9 Instructions for the procedures for implementing electronic monitoring for the year 2025, issued pursuant to Articles (8), 13 and 14 of the System of Means and Mechanisms for Implementing Alternatives to Deprivation of Liberty Penalties No. 46, in the year 2022.

10 Ministry of Justice, Manual on Procedures Pre-trial Detention 2020, p. 13.

11 Namour, Muhammad (2024), Principles of Criminal Procedure, pp. 356-415.

12 Abuanzeh and Søndergaard, 2023.

13 Judgment No. 1784/2019.

Pursuant to the provision of Article 114 bis of the CCP, the Public Prosecutor is authorized to detain an accused person following interrogation. The initial period of detention may extend up to seven days if the potential penalty for the offense exceeds two years, and up to fifteen days in the case of felonies. This detention may be extended within legally prescribed limits, reaching up to one month for misdemeanours, up to three months for felonies carrying a fixed penalty, and up to six months for other felonies.

Extension of detention by the judge is not permitted in misdemeanours whereas the maximum of detention decided by the judge is 1 year in felonies carrying a fixed imprisonment and 18 months for other felonies (CCP Article 114(3)). In the latter category, there is no upper maximum before the final judgement is issued, provided obviously that the length of the possible punishment is not exceeded during the pre-trial detention, whereas in the former category such maximum for the investigation and trial stages exists and is set at one quarter of the maximum penalty (CCP Article 114(5)). During the trial phase, detention is permitted pursuant to CCP Article 134, as long as within the maximum periods for detention. In practice, it means that during trial phase, the detainee may be released in cases related to misdemeanours and felonies with fixed imprisonment whereas in the most serious felonies, detention can continue due to the lack of an upper limit.

To conclude, an impartial authority may issue a pre-trial detention order when:

- Supported by sufficient legal grounds.
- Based on a judicial decision.
- Limited to the legally defined period.
- Appealable before a competent judge; and
- Used only as a last resort, with full procedural safeguards.

NON-CUSTODIAL ALTERNATIVES TO PRE-TRIAL DETENTION

Alternatives to pre-trial detention are among the most important measures to eliminate the defects of a detention system, uphold the principle of the presumption of innocence while ensuring the presence of the person with criminal charges during the investigation and trial sessions.

The CCP authorized the use of non-custodial alternatives to detention prior to trial if: (1) the defendant is a first-time offender, and (2) if deemed sufficient to achieve the interests of detention (CCP Article 114 bis (c)).

The following alternatives are permitted:

- (1) electronic monitoring;
- (2) travel bans;
- (3) house arrest or residence within a geographical area for the period specified by the Public Prosecutor or the Court;
- (4) deposit a sum of money or provide a judicial guarantee;
- (5) prohibition of access to specific places.

Re 1) Electronic monitoring has been introduced as a modern substitute for pre-trial detention, and it entails that the accused is confined to a designated place under surveillance, typically via an electronic bracelet. Its use in Jordan follows comparative models from France, Morocco, and the United Arab Emirates aiming to reach a fair balance between control with personal liberty.

Re 2) Pursuant to Article 9 of the Jordanian Constitution, travel restrictions require clear legal justification and sufficient evidence that the accused might flee. When implemented through official notification to the border authorities, it serves as a non-custodial measure to pre-trial detention.

Re 3) During house arrest or restrictions on residence, the accused may be confined to his/her home or to a defined geographic area. This is subject to monitoring by law enforcement. Though “geographic area” lacks statutory precision, it is generally interpreted as the person’s habitual residence zone.

Re 4) Pursuant to Article 121 of the CCP, the prosecutor (or court) may release an accused on bail to guarantee appearance. Failure to comply results in forfeiture of the bail or deposit.

Re 5) This measure prevents the accused from entering locations linked to the alleged offence and thereby will protect victims and support public order.

CHAPTER 3: NON-CUSTODIAL ALTERNATIVES TO PRE-TRIAL DETENTION

JUDICIAL REFORM

The COVID-19 pandemic had revealed serious weaknesses in Jordan's justice sector and exposed structural gaps in the legislative framework governing alternatives to detention.¹⁴ In response, the Judicial Council therefore initiated a process of institutional review and reform and in 2022 issued new guidelines for the use of non-custodial alternatives to pre-trial detention. Thus, the experience of the pandemic had become a turning point, highlighting the necessity of developing both the legal and technical capacities required for a resilient and rights-based justice system.

The year 2021 marked the final year of the 5-year strategy for the justice sector (2017–2021), which was formulated in response to the recommendations of the Royal Committee.¹⁵ The Judicial Council undertook a series of measures to ensure the expansion of community-based sanctions and their enforcement in relation to alternatives to sentencing (not pre-trial detention). Thus, the five-year period had witnessed significant expansion in the use of technology and modern technical tools, as well as the use of alternatives to custodial sentences. From 2019 - 2021, 719 community-based judgments were issued by courts.¹⁶

In 2022, the Judicial Council adopted a national agenda for judicial reform in the new 5-year strategy (2022–2026) to which the Public Prosecution aligned its institutional development framework. The strategy aims to develop and activate the role of the Public Prosecution and its objectives of upholding the rule of law and achieving justice, security, and social peace, and this in line with the recommendations of the Royal Committee. This alignment aims to ensure coherence across justice institutions, link prosecutorial performance targets with sector-wide priorities, and strengthen the coordination mechanisms necessary for achieving measurable progress.

The Judicial Council also underscored the importance of improving quality of criminal case management at all stages, developing the knowledge and skills of prosecutors, enhancing human rights safeguards, implementing alternatives to pre-trial detention, and strengthening cooperation with local and international partners. Thus, key priorities aimed at empowering the Public Prosecution and reinforcing judicial independence.

14 See further the Judicial Council's Annual Report 2020.

15 Royal Committee Sixth Discussion Paper (2021).

16 Prosecution Office (2021), Annual Report on the Status of Regular Courts, Administrative Judiciary and Public Prosecution or the Year 2021.

COMPOSITION OF NON-CUSTODIAL ALTERNATIVES

Table 1: Non-custodial Alternatives to Pre-trial Detention (2022-2024)

Year	Judicial decisions imposing alternatives o pre-trial detention	Change vs. previous year	Key institutional actors
2022	322	—	Amman Public Prosecutor's Office (141); West Amman Magistrate Court (70); Irbid Magistrate Court (26) and other public prosecutors or courts (85).
2023	2 279	+608 %	Amman Public Prosecutor's Office (1 507); West Amman Magistrate Court (163); South Amman Magistrate Court (73) and other public prosecutors or courts (536).
2024	2 176	-4.5 %	Amman Public Prosecutor's Office (1 369); West Amman Magistrate Court (166); Zarqa Magistrate Court (78) and other public prosecutors or courts (563).

Between 2022 and 2024, the total number of decisions increased from 322 to 2,176, representing a nearly sevenfold rise - approximately a 576 percent increase - over a two-year period.

Across the three years, public prosecutors and courts applied a diversified range of measures, including travel bans, electronic monitoring, house arrest and financial guarantees

Table 2: Types of Non-custodial Alternatives

Year	Travel ban	Electronic monitoring	House arrest	Financial guarantees	Prohibition of access to specific places
2022	251	62	5	1	3
2023	2064	146	5	52	12
2024	2115	43	7	9	2

The development in 2024 confirms that travel bans remained the dominant non-custodial measure (approximately 98 per cent of all measures) while electronic monitoring also became common.

EVOLUTION OF PRACTICE

- 2017 – 2022 Institutional Launch:

The amended CCP formally expanded judicial discretion to include a broad range of non-custodial measures. During 2022, 322 rulings were issued, marking the first systematic integration of such measures into Jordan's legal practice.

- 2023 – Expansion and Normalisation:

A rapid increase to 2,279 decisions reflected the legislative amendments to Article 114 CCP and the influence of targeted training and capacity-building under the Karama Programme, as well as change of mindset towards alternatives to detention more broadly post-pandemic. Non-custodial alternatives to pre-trial detention became recognised, especially in Amman and Irbid courts.

- 2024 – Consolidation and Systemic Integration:

The number of cases applying alternatives to pre-trial detention stayed at nearly the same level as in 2023, although with a slight decrease of 4,5%.

INTERPRETATION

The growth from 322 to more than 2,000 annual decisions within two years represents a structural transformation in Jordan's judicial system rather than a short-term reform initiative. By 2023, alternatives to pre-trial detention had become a feature of judicial and prosecutorial practice, signalling the institutionalisation of new approaches within the justice sector.

By 2024, the justice system had reached a stage of operational maturity. Judicial authorities demonstrated increasing confidence in applying non-custodial measures, relying less on incarceration and more on calibrated forms of judicial control. This evolution reflects a broader understanding among prosecutors and judges of the value of alternatives in protecting the right to liberty.

The continued predominance of travel bans - accounting for approximately 98 per cent of all measures - illustrates the need for further investment in the technical and administrative infrastructure required to expand the use of electronic monitoring and other alternatives. Strengthening the technological and procedural base of these alternatives will be essential for ensuring their long-term sustainability and wider application across the country.

Overall, the data confirm that Jordan's legal reform has moved towards closer alignment with international human rights norms according to which detention should be used as the last resort. To sustain this momentum, continued diversification of alternatives, data-driven monitoring, and the expansion of judicial training - particularly through initiatives such as the Karama Programme - will be vital in embedding these practices as a permanent feature of a rights-based justice system.

JUDICIAL DECISIONS

- Zarqa First Instance Court, Judgement No. 2597/2023

The appellate court upheld the magistrate court's decision to release the accused from pre-trial detention in favor of electronic monitoring. The Public Prosecutor's appeal argued that the severity of the victim's injuries warranted detention to maintain public confidence and deterrence. The court found the appeal procedurally valid but concluded there were no substantive grounds to overturn the original ruling. It emphasized that electronic monitoring is a proportionate alternative, respecting the rights of the accused while ensuring public safety. This case illustrates the judiciary's use of pre-trial alternatives and confirms the courts' discretion to balance individual rights with public interest.

- Karak First Instance Court, Judgement No. 481/2024

The appellate court overturned the magistrate court's refusal to release the appellant on bail, noting that he had a fixed residence, non-violent charges, and chronic health conditions. The court emphasized that pre-trial alternatives, including bail, travel restrictions, and electronic monitoring, are legally appropriate and proportionate for misdemeanors with limited custodial sentences. It highlighted judicial discretion in balancing public interest with the rights and well-being of the accused. The ruling confirms that detention is not the default measure and underscores the courts' recognition of pre-trial alternatives as effective safeguards.

- Amman Criminal Reconciliation Court, Judgement No. 19040/2022

The court applied pre-trial alternatives to detention by replacing initial custody with house arrest, balancing procedural security with the rights of the accused. Certain assault charges were extinguished due to victim waivers, while some defendants were acquitted for insufficient evidence. The ruling demonstrates the court's use of proportional pre-trial measures, ensuring oversight and accountability without defaulting to detention, and reinforces the recognition of alternatives in managing non-violent and low-risk cases.

- Amman Court of First Instance, Judgement No. 153/2024

The appellate court upheld the lower court's decision to release the accused on bail with a travel ban, rejecting the Public Prosecutor's appeal for re-detention. The court emphasized that alternatives to detention, including bail, travel restrictions, and electronic monitoring, are legally recognized under Article 114 bis and should be applied when conditions allow. The ruling illustrates the judiciary's commitment to proportional pre-trial measures, reinforcing that detention is the exception and less intrusive alternatives are legitimate and effective in safeguarding both public interest and individual rights.

- Amman Court of First Instance, Judgement No. 4/2024

The appellate court upheld the magistrate court's decision to replace pre-trial detention with a travel ban for the accused, rejecting the Public Prosecutor's appeal. The court emphasized that detention is an exceptional measure under Article 114 of the CCP and that alternatives such as travel bans, electronic monitoring, house arrest, or bail are legally sanctioned under Article 114 bis for non-recurrent and misdemeanor cases. The ruling highlights the judiciary's commitment to balancing public interest and procedural security with individual rights, demonstrating the consistent application of proportional pre-trial measures and the rational use of detention only when legally justified.

- Amman Court of First Instance, Judgement No. 52/2024

The appellate court upheld the decision to replace pre-trial detention with a travel ban for the accused in a misdemeanor assault case, rejecting the Public Prosecutor's appeal. The court emphasized that detention is an exceptional measure under Article 114 and that alternatives such as travel bans, electronic monitoring, and bail are legally permissible under Article 114 bis when the accused has no prior record and presents low risk. The ruling highlights the judiciary's commitment to proportional pre-trial measures, balancing public interest with individual rights, and reinforcing the principle that liberty is the default while detention is the exception.

- Amman Court of First Instance, Judgement No. 5816/2023

The appellate court annulled the detention of the accused due to insufficient justification, particularly considering his severe health conditions. The court emphasized that detention is an exceptional measure under Article 114 of the CCP and that less restrictive alternatives, such as a travel ban or bail, should be applied when appropriate. The ruling highlights the judiciary's commitment to balancing public safety with the protection of individual rights and the proportional use of pre-trial measures.

CHAPTER 4: CONCLUSION AND RECOMMENDATIONS

CONCLUSION

Between 2022 and 2024, Jordan recorded a sevenfold increase in the use of non-custodial alternatives to detention and Jordan's justice sector demonstrated an expansion in the use of alternatives to pre-trial detention, reflecting a clear institutional shift toward detention.

After the legislative reforms and the experience of the pandemic, the number of rulings peaked in 2023 and stabilised in 2024, while applications of pre-trial detention alternatives rose sharply by 43.6%. The dominance of travel bans reflects the transitional nature of the reform phase, yet the gradual introduction of electronic monitoring and house arrest indicates growing judicial openness to technologically supported non-custodial control. Collectively, these developments confirm that alternatives to detention have evolved from pilot measures into an integral part of Jordan's penal practice.

This expansion was driven by two complementary objectives: first, to address overcrowding in correctional and rehabilitation centres, and second, to strengthen compliance with international human rights standards. The progression across the three-year period reveals a growing judicial confidence in balancing security considerations with proportionality and protection of the right to liberty.

Together, these developments reflect the consolidation of Jordan's post-pandemic reform drive, in which alternatives to detention have become central pillars of a more humane, balanced, and rights-based justice system.

While the legal framework has improved and the use of alternatives has increased significantly since 2022, prosecutors and courts still treat alternatives with caution. Strengthening judicial understanding of the right of personal liberty and further legal reforms to make alternatives to detention mandatory are therefore essential to prevent unnecessary deprivation of liberty.

RECOMMENDATIONS

In light of the findings, we would recommend that:

- To expand the legislative provisions related to non-custodial alternatives to pre-trial detention. This could be done by adding specific articles to the CCP (for example related to the mandatory use of alternatives) or by issuing further regulation and guidelines.
- To define in the judicial decisions the mechanism for the implementation and enforcement of such alternatives to pre-trial detention, such as the duration and the question how the period of the alternative is counted toward the sentence.
- To support efforts to raise awareness among judges and public prosecutors about these alternatives, their implementation mechanisms, and their effectiveness.

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LEGAL FRAMEWORK

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DIGNITY – Danish Institute Against Torture
Bryggervangen 55
2100 Copenhagen O
<https://www.dignity.dk>

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