

# Application of the principle of mutual recognition to decisions on supervision measures as an alternative to provisional detention. Framework Decision

2006/0158(CNS) - 05/11/2007

The Committee on Civil Liberties, Justice and Home Affairs adopted a report drawn up by Ioannis **VARVITSIOTIS** (EPP-ED, EL) and made some amendments to the proposal for a Council framework decision on the European supervision order in pre-trial procedures between Member States of the European Union.

The main amendments are as follows:

- the wording regarding the European supervision order is changed slightly to clarify the definition of the residence. It is now described as a judicial decision issued by a competent authority of a Member State in respect of a non-resident suspect for the purpose of the return of that person to the Member State of his current lawful and ordinary residence, or to any other Member State, in cases where the suspect so requests and the Member State concerned has granted its consent..;

- Article 3 on the Obligation to execute the European Supervision Order is deleted, since it overlapped with Article 9;

- a new Article clarifies that the costs incurred in the execution of a European supervision order in the territory of the executing Member State shall be borne by that Member State.

All other costs shall be borne by the issuing Member State;

- obstructing the course of justice or engaging in criminal activity shall (rather than “may”) constitute a breach of the European supervision order;

- the suspect is obliged to inform the executing authority of any change of his place of residence in the executing State;

- the Committee deleted the provision obliging the suspect to surrender his passport(s) or other identification papers to the executing authority;

- the suspect will be obliged to avoid contact with specified persons or objects;

- the suspect may undergo specified medical treatment subject to the suspect's consent.

- he may be subject to electronic monitoring;

- a new clause states that each Member State shall notify the General Secretariat of the Council, when transposing the Framework Decision, of the obligations, apart from those laid down in paragraphs 1 and 2, that it is prepared to supervise. The General

Secretariat of the Council shall make the information received available to all Member States and to the Commission;

- at the request of the suspect, the European supervision order shall be transmitted to any other Member State whose competent authority consents to such transmission. The basic principle of this proposal is that the suspect should be given opportunity to return to his/her country of ordinary residence. However, in situations where the suspect has closer links with any other Member State (i.e. of his nationality), the Framework Decision should provide for an opportunity to go to that country;

- the issuing authority shall inform the suspect of any postponement of the recognition and execution of the European supervision order;

- video links may be used accordance with the procedure provided for in Article 10 of the Convention of 29 May 2000;

- if the issuing authority decides that the suspect must be arrested and transferred to

the issuing State, it shall issue a European arrest warrant in accordance with the provisions of Council Framework Decision 2002/584/JHA of 13 June 2002;

- the Committee deleted Article 20 (time limits for transfer) and Article 21(transit) stating that they shall be regulated by the provisions of the Council Framework Decision on the European Arrest Warrant;

Lastly, a new Chapter was inserted on data protection. The Committee stated that the Framework Decision on the protection of personal data processed in the framework of police and judicial cooperation in criminal matters is not yet adopted. To avoid lacunae and to ensure appropriate protection of data transmitted it is necessary to include a Chapter on Data protection in this Framework Decision. An article was inserted on the rights of the data subject.