

Mutual recognition of protection measures in civil matters

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The Committee on Legal Affairs and the Committee on Women's Rights and Gender Equality, acting jointly, adopted the report by Antonio LÓPEZ-ISTÚRIZ WHITE (EPP, ES) and Antonyia PARVANOV (ADLE, BG) on the proposal for a regulation of the European Parliament and of the Council on mutual recognition of protection measures in civil matters.

The two committees recommend that the position of the European Parliament adopted in first reading following the ordinary legislative procedure should amend the Commission proposal as follows:

Simple mechanism for the recognition of protection measures: Members consider it imperative to ensure that a person who has been granted protection in one Member State does not lose it when s/he moves to another Member State. Accordingly, they propose to establish rules for a simple and rapid mechanism for the recognition of protection measures ordered in a Member State in civil matters.

Scope: the Regulation will apply to cross-border cases in which the recognition of the protection measure in a Member State other than the Member State of origin is sought. It should apply to protection measures ordered in civil matters, and does not therefore cover protection measures adopted in criminal matters

Protection measures: these should provide protection to a person at his or her place of residence, place of work or at another place which he or she visits on a regular basis, such as the residence of close relatives or the school or educational establishment attended by his or her child.

Gender-based violence: the Regulation should apply to protection measures ordered with a view to protecting a person when there exist serious grounds for considering that that person's life, physical or psychological integrity, personal liberty, security or sexual integrity is at risk, for example so as to prevent any form of gender-based violence and violence in close relationships, such as physical violence, harassment, sexual aggression, stalking, intimidation or other forms of indirect coercion.

Issuing authority: the Regulation should apply means any judicial authority or any other authority having competence, provided that such other authority offers guarantees to the parties with regard to impartiality and provided that decisions may be made subject to review.

Recognition and enforcement: Members propose that protection measure ordered in a Member State shall be recognised in the other Member States without any special procedure being required and be enforceable without a declaration of enforceability being required. The procedure for the enforcement of protection measures shall be governed by the law of the Member State addressed. In accordance with the principle of mutual recognition, the recognition should correspond to the duration of the protection measure. However, in view of the diversity of protection measures available under the laws of the Member States as regards the duration of protection measures, the effects of recognition should by way of exception be limited to a period of 12 months from the issuing of the certificate.

Certificate: in order to ensure free circulation of protection measures within the European Union, the Regulation should establish a standard format for the certificate and provide a multilingual standard form for that purpose.

Upon request of the protected person, the issuing authority of the Member State of origin shall provide the protected person with a transliteration and/or a translation of the certificate by making use of the multilingual standard form.

Translation or transliteration should be provided in most cases without imposing any cost on the protected person by using the standard form in the relevant/required language.

Upon request of the protected person, the issuing authority of the Member State of origin shall assist the protected person in obtaining information on the authorities before which the protection measure is to be invoked or enforcement is to be sought in the Member State addressed.

Notification: Members specify that the issuing authority of the Member State of origin shall bring to the notice of the person causing the risk the certificate. In the notification of the certificate to the person causing the risk, due regard shall be paid to the interest of the protected person in not having his or her whereabouts or other contact details disclosed to the person causing the risk. Such details shall not be disclosed to the person causing the risk unless they are necessary for compliance with or the enforcement of the protection measure.

Content of the certificate: the amendments set out the information that must be contained in the certificate. This includes all information necessary for enforcement of the protection measure, including, where applicable, the type of the measure and the obligation imposed by it on the person causing the risk and specifying the function of the place and/or the perimeter which that person is prohibited from approaching or entering.

The certificate may be rectified or withdrawn under certain circumstances. If the protection measure is suspended or withdrawn in the Member State of origin, the competent authority of the Member State addressed shall suspend or withdraw the effects of the recognition and, where applicable, the enforcement of the protection measure.

Adjustment of the protection measure: the competent authority in the Member State addressed should be allowed to adjust the factual elements of the protection measure where such adjustment is necessary in order for the recognition of the protection measure to be effective in practical terms in the Member State addressed. In order to facilitate the adjustment of a protection measure, where necessary, it should be indicated in the certificate whether the address specified in the protection measure constitutes the place of residence, the place of work or a place that the protected person visits on a regular basis.

Refusal of recognition or enforcement: the Regulation should provide for a ground for refusal of recognition and/or enforcement of the protection measure on application by the person causing the risk in case of irreconcilability with a judgment given or recognised in the Member State addressed.

Considerations of public interest may, in exceptional circumstances, justify the courts of the Member States being allowed to refuse the recognition or enforcement of a protection measure.