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*Committee on Legal Affairs
Committee on Women's Rights and Gender Equality*

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AMENDMENTS

59 - 89

Draft report

Antonio López-Istúriz White, Antonia Parvanova
(PE483.787v01-00)

on the proposal for a regulation of the European Parliament and of the Council
on mutual recognition of protection measures in civil matters

Proposal for a regulation
(COM(2011)0276 – C7-0128/2011 – 2011/0130(COD))(Joint committee
meetings – Rule 51 of the Rules of Procedure)

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United in diversity

EN

Amendment 59
Antigoni Papadopoulou

Proposal for a regulation
Recital 1

Text proposed by the Commission

(1) The European Union has set itself the objective of maintaining and developing an area of freedom, security and justice, facilitating access to justice, in particular through the principle of mutual recognition of judicial and extra-judicial decisions in civil matters. In order to establish progressively such an area, the Union should adopt, amongst other things, measures relating to judicial cooperation in civil matters, particularly when necessary for the proper functioning of the internal market.

Amendment

(1) The European Union has set itself the objective of maintaining and developing an area of freedom, security and justice, facilitating access to justice, in particular through the principle of mutual recognition of judicial and extra-judicial decisions in civil matters. In order to establish progressively such an area, the Union should adopt, amongst other things, measures relating to judicial cooperation in civil matters, particularly when necessary for the proper functioning of the internal market ***and for placing the needs of victims of all forms of violence at the centre of the Union's justice system.***

Or. en

Amendment 60
Antigoni Papadopoulou

Proposal for a regulation
Recital 2 a (new)

Text proposed by the Commission

Amendment

(2a) When implementing this Regulation, Member States are encouraged to take into account the rights and principles enshrined in the 1979 United Nations Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).

Or. en

Amendment 61
Antigoni Papadopoulou

Proposal for a regulation
Recital 3

Text proposed by the Commission

(3) Differences between national rules governing protection measures hamper the sound operation of the internal market. Provisions to ensure rapid and simple recognition and, where applicable, enforcement of protection measures from Member States bound by this Regulation are essential to ensure the protection afforded *is* maintained when a *person* travels or moves to another Member State.

Amendment

(3) Differences between national rules governing protection measures hamper the sound operation of the internal market. Provisions to ensure rapid and simple recognition and, where applicable, enforcement of protection measures from Member States bound by this Regulation are essential to ensure the protection, *assistance and support* afforded *are* maintained when a *victim of violence* travels or moves to another Member State.

Or. en

Amendment 62
Mikael Gustafsson

Proposal for a regulation
Recital 6 a (new)

Text proposed by the Commission

Amendment

(6a) The application of this Regulation, and the procedures put in place to ensure protection, should take into account the fact that a large number of national protection measures are taken in relation to violence against women and violence in close relationships, and that there thus needs to be a readiness at Member State level to apply the set of particular protection measures often used in these cases.

Or. en

Amendment 63
Luigi Berlinguer

Proposal for a regulation
Recital 12 a (new)

Text proposed by the Commission

Amendment

(12a) Bearing in mind the principle of mutual recognition on which this Regulation is based, all official communications relating to a protection measure should take place, as far as possible, directly between the competent authorities of the Member State of origin and of the Member State of recognition, and the protected person should be kept informed. In order to ensure effective and speedy cross-border protection against potential threats, the protection measures taken and the certificates issued should also be recorded in a Union-wide database guaranteeing, for national authorities, secure and swift access to the information required.

Or. en

Amendment 64
Luigi Berlinguer

Proposal for a regulation
Recital 12 b (new)

Text proposed by the Commission

Amendment

(12b) Given the different legal traditions of the Member States, the protection measure taken in the Member State of origin may not be known in the Member State of recognition. In such cases, the competent authority in the Member State of recognition should, as far as possible, adapt the protection measure to one

known and already provided for under its national law which has equivalent effects and pursues similar aims and interests. The competent authority in the Member State of recognition should be able, in accordance with its national law, to apply civil, administrative or criminal measures.

Or. en

Amendment 65
Luigi Berlinguer

Proposal for a regulation
Recital 13 a (new)

Text proposed by the Commission

Amendment

(13a) Due attention should also be paid to the need for the protected person to receive information and assistance in an easily accessible and comprehensive form. That information and assistance should in particular be provided in the language of the protected person. Steps should also be taken to ensure that the protected person can be understood during any interactions with competent authorities. In this connection, the protected person's knowledge of the language used to provide information, and his or her age, maturity, intellectual and emotional capacities, level of literacy and any mental or physical impairment relating, for example, to sight or hearing, should be taken into account. Equally, account should be taken of any limitations on a protected person's ability to communicate information.

The role of those organisations should merely complement, not replace, the leading role that should be played by Member States.

Or. en

Amendment 66
Silvia Costa

Proposal for a regulation
Recital 13 a (new)

Text proposed by the Commission

Amendment

(13a) In giving effect to this Regulation, Member States should take into account the rights enshrined in the 1989 UN Convention on the Rights of the Child.

Or. it

Amendment 67
Mikael Gustafsson

Proposal for a regulation
Recital 13 a (new)

Text proposed by the Commission

Amendment

(13a) Member States should recognise and support the work of independent women's support services, including women's shelters, rape crisis centres and counselling centres. Cooperation with women's support structures is an important part of ensuring appropriate and efficient protection measures in cross-border cases, and Member States should therefore facilitate contact between such structures and the protected person, where appropriate.

Or. en

Amendment 68
Luigi Berlinguer

Proposal for a regulation
Recital 13 b (new)

Text proposed by the Commission

Amendment

(13b) Member States should recognise, encourage and support the work of civil society in supporting victims, including victims of gender-based violence, and establish effective methods of cooperation. Member States should facilitate contact between protected persons and those victim-support organisations during all proceedings relating to the recognition and enforcement of protection measures. To that end, the assisting services of the Member State of recognition should provide information on, or refer the protected person to, victim-support organisations that are able to provide assistance. However, this should complement, not replace, support services provided by the Member State concerned.

Or. en

Amendment 69
Antigoni Papadopoulou

Proposal for a regulation
Recital 15

Text proposed by the Commission

Amendment

(15) This Regulation respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union. In particular, it seeks to ensure the rights of the defence and fair trial, as established in Article 47 thereof. This Regulation must be applied according to these rights and principles.

(15) This Regulation respects the fundamental rights ***of victims of violence (e.g. domestic violence) and of persons whose physical and/or psychological integrity or liberty is at risk, as well as that of the perpetrators***, and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union. In particular, it seeks to ensure the rights of the defence and fair trial, as established in Article 47 thereof. This Regulation must be applied according

to these rights and principles.

Or. en

Amendment 70
Antigoni Papadopoulou

Proposal for a regulation
Recital 15 a (new)

Text proposed by the Commission

Amendment

(15a) Member States should pay particular attention to the fact that this Regulation also applies to cases where children are concerned, and should take the necessary measures to ensure that children are provided with assistance, support and protection, in their best interests.

Or. en

Amendment 71
Antigoni Papadopoulou

Proposal for a regulation
Recital 15 b (new)

Text proposed by the Commission

Amendment

(15b) This Regulation should also apply to the recognition and enforcement of other decisions for the protection of minors which fall within the scope of the 1996 Hague Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children.

Or. en

Amendment 72
Mikael Gustafsson

Proposal for a regulation
Article -1 (new)

Text proposed by the Commission

Amendment

Article -1
Objective

This Regulation lays down rules allowing an authority in a Member State in which a protection measure has been taken with a view to protecting a person when there exist serious grounds for considering that person's life, physical or psychological integrity and dignity, personal liberty and security or sexual integrity to be at risk, including in cases of violence against women, such as physical violence, stalking, harassment, sexual aggression, intimidation, etc., to issue a certificate enabling a competent authority in another Member State to continue the protection of the person concerned in the territory of that other Member State.

Or. en

Amendment 73
Mikael Gustafsson

Proposal for a regulation
Article 2 – point a – paragraph 1

Text proposed by the Commission

Amendment

(a) ‘protection measure’ means any decision, whatever it may be called, of a preventive and temporary nature taken by an authority in a Member State in accordance with its national law with a view to protecting a person when serious reasons exist to consider the person's physical and/or psychological integrity or

(a) ‘protection measure’ means any decision, whatever it may be called, of a preventive and temporary nature taken by an authority in a Member State in accordance with its national law with a view to protecting a person when serious reasons exist to consider the person's physical and/or psychological integrity or

liberty to be at risk. It shall include measures ordered without the person causing the risk being summoned to appear.

liberty to be at risk, ***including in cases of violence against women***. It shall include measures ordered without the person causing the risk being summoned to appear.

Or. en

Amendment 74
Antigoni Papadopoulou

Proposal for a regulation
Article 2 – point a – paragraph 2 – point i

Text proposed by the Commission

(i) an obligation not to enter certain localities, places or defined areas where the protected person resides, works or that he visits; or

Amendment

(i) an obligation not to enter certain localities, places or defined areas where the protected person resides, works or that he ***or she*** visits; or

Or. en

Amendment 75
Marina Yannakoudakis, Andrea Češková

Proposal for a regulation
Article 4

Text proposed by the Commission

A protection measure taken in a Member State shall be recognised in the other Member States without any special procedure being required and without any possibility of opposing its recognition if the decision has been certified in the Member State of origin in accordance with Article 5.

Amendment

A protection measure taken in a Member State shall be recognised in the other Member States without any special procedure being required and without any possibility of opposing its recognition if the decision has been certified in the Member State of origin in accordance with Article 5. ***Recognition may take place only in civil matters and shall be dependent on the legal system of the Member State of recognition.***

Or. en

Amendment 76
Cecilia Wikström

Proposal for a regulation
Article 5 – paragraph 1

Text proposed by the Commission

1. A party who wishes to invoke in another Member State a protection order recognised *pursant* to this Article shall provide the competent authorities of the Member State of recognition with the certificate issued in accordance with this Article.

Amendment

1. A party who wishes to invoke in another Member State a protection order recognised *pursuant* to this Article **shall notify the competent authority of the Member State of origin, which** shall **then** provide the competent authorities of the Member State of recognition with the certificate issued in accordance with this Article.

Or. en

Amendment 77
Luigi Berlinguer

Proposal for a regulation
Article 5 – paragraph 2

Text proposed by the Commission

2. The competent authorities of the Member State of origin shall issue the certificate using the standard form set out in the Annex, containing, inter alia, a description of the measure which shall be formulated in such a way as to facilitate the recognition and, where applicable, the enforcement in the second Member State.

Amendment

2. The competent authorities of the Member State of origin shall issue the certificate using the standard form set out in the Annex, containing, inter alia:

(a) a description of the measure which shall be formulated in such a way as to facilitate the recognition and, where applicable, the enforcement in the second Member State; **and**

(b) ***an indication of the duration of the protection measure and, if applicable, of***

the sanctions to be imposed in the event of violation of that measure, and

(c) if applicable, information on whether the protected person has benefited from partial or complete legal aid in the Member State of origin or any exemption from costs or expenses; this shall not, however, exempt the protected person from applying for legal aid in the Member State of recognition.

Or. en

Amendment 78

Antonyia Parvanova, Antonio López-Istúriz White

Proposal for a regulation

Article 5 – paragraph 3 – point ii

Text proposed by the Commission

(ii) at the request of the protected person in any other case; when adopting a protection measure, the competent authority of the Member State of origin shall inform the **protected** person of the possibility of requesting a certificate as established by this Regulation.

Amendment

(ii) at the request of the protected person, **or, where appropriate, of the legal representative, guardian or tutor of the protected person on that person's behalf,** in any other case; when adopting a protection measure, the competent authority of the Member State of origin shall inform the person of the possibility of requesting a certificate as established by this Regulation, **and of the basic conditions for making such a request.**

Or. en

Amendment 79

Luigi Berlinguer

Proposal for a regulation

Article 8

Text proposed by the Commission

If a protection measure is not known in the

Amendment

If a protection measure is not known in the

Member State of recognition, the competent authority in that Member State shall, to the extent possible, adapt the protection measure to one known under its own law which has equivalent effects attached to it and pursues similar aims and interests.

Member State of recognition, the competent authority in that Member State shall, to the extent possible, adapt the protection measure to one known ***and already provided for*** under its own law which has equivalent effects attached to it and pursues similar aims and interests.

Or. en

Amendment 80

Marina Yannakoudakis, Andrea Češková

Proposal for a regulation

Article 8 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

Member States shall ensure that, if a civil protection order needs to be transposed into a European protection order or vice versa, transposition is done quickly, with guidance from the Commission if necessary, without unnecessary court proceedings and at no cost to the victim.

Or. en

Amendment 81

Cecilia Wikström

Proposal for a regulation

Article 8 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

The competent authority in the Member State of recognition shall inform the competent authority in the Member State of origin how the protection measure will be implemented. The competent authority in the Member State of origin shall then inform the parties affected by the measure how it will be implemented in the Member

State of recognition.

Or. en

Amendment 82
Antigoni Papadopoulou

Proposal for a regulation
Article 10 – paragraph 2 – point a

Text proposed by the Commission

(a) he was not served with the document instituting the proceedings or an equivalent document in sufficient time and in such a way as to enable him to arrange for his defence; or

Amendment

(a) he *or she* was not served with the document instituting the proceedings or an equivalent document in sufficient time and in such a way as to enable him *or her* to arrange for his *or her* defence; or

Or. en

Amendment 83
Antigoni Papadopoulou

Proposal for a regulation
Article 10 – paragraph 2 – point b

Text proposed by the Commission

(b) he was prevented from contesting the protection measure by reason of force majeure or due to extraordinary circumstances without any fault on his part;

Amendment

(b) he *or she* was prevented from contesting the protection measure by reason of force majeure or due to extraordinary circumstances without any fault on his *or her* part;

Or. en

Amendment 84
Antigoni Papadopoulou

Proposal for a regulation
Article 10 – paragraph 2 – final part

Text proposed by the Commission

unless he failed to challenge the protection measure when it was possible for him to do so.

Amendment

unless he **or she** failed to challenge the protection measure when it was possible for him **or her** to do so.

Or. en

Amendment 85
Cecilia Wikström

Proposal for a regulation
Article 12 – paragraph 2

Text proposed by the Commission

2. If the protection measure is suspended or withdrawn in the Member State of origin, the competent authority of the Member State of *recognition* shall, **on application by the person causing the risk**, suspend or withdraw the recognition and, when applied, the enforcement of the protection measure. **The application shall be submitted using the form set out in Annex II.**

Amendment

2. If the protection measure is suspended or withdrawn in the Member State of origin, the competent authority of the Member State of *origin* shall **notify this to the competent authority of the Member State of recognition, which shall then** suspend or withdraw the recognition and, when applied, the enforcement of the protection measure.

Or. en

Amendment 86
Antigoni Papadopoulou

Proposal for a regulation
Article 15 a (new)

Text proposed by the Commission

Amendment

Article 15a

Prevention, information campaigns and training

Member States shall take appropriate measures to prevent all forms of violence

and crime against persons, and in particular against women and children who are the most vulnerable, and to organise, in cooperation with civil society organisations, appropriate actions such as awareness-raising campaigns, research and education programmes aimed at informing the public about the existence of schemes for the protection, assistance and support of victims of violence. Moreover, Member States shall promote regular training for the judicial authorities and other competent authorities likely to come into contact with victims and potential victims, with a view to ensuring that such persons are given appropriate protection, assistance and support.

Or. en

Amendment 87
Mikael Gustafsson

Proposal for a regulation
Article 15 a (new)

Text proposed by the Commission

Amendment

Article 15a

Right to support

Given that a large number of national protection measures are taken to prevent further violence against women, including physical violence, intimidation, sexual aggression, threats, etc., Member States shall, in accordance with Directive ... of the European Parliament and of the Council of ... establishing minimum standards on the rights, support and protection of victims of crime and from the date of application of that Directive, provide specialist support and assistance to victims of violence against women and of gender-based violence.*

* *OJ L* ..., p. .

Or. en

Amendment 88
Luigi Berlinguer

Proposal for a regulation
Article 16 – paragraph 1a (new)

Text proposed by the Commission

Amendment

This shall not, however, exempt the protected person from applying for legal aid in the Member State of recognition.

Or. en

Amendment 89
Antigoni Papadopoulou

Proposal for a regulation
Article 19 a (new)

Text proposed by the Commission

Amendment

Article 19a

Data collection

In order to reveal the real causes of violence and develop fact-based measures for the protection of victims, it is essential to have reliable statistics and comparable data on violence, both at national and at Union level. To that end, Member States shall collect data relating to the number of European protection orders applied for, issued and enforced, data relating to breaches of the protection measures adopted, and information on all types of violence, for example domestic violence, forced marriages, female genital mutilation, "honour"-related violence,

stalking and harassment. Data on victims of terrorism and of organised crime shall also be collected and differentiated by gender. All those data shall be forwarded annually to both the European Parliament and the Commission.

Or. en