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Committee on Civil Liberties, Justice and Home Affairs

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OPINION

of the Committee on Civil Liberties, Justice and Home Affairs

for the Committee on Legal Affairs

for the Committee on Women's Rights and Gender Equality

(Rule 51 - Joint Committee meetings)

on the proposal for a regulation of the European Parliament and of the Council
on mutual recognition of protection measures in civil matters
(COM(2011)0276 – C7-0128/2011 – 2011/0130(COD))

Rapporteur: Carmen Romero López

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SHORT JUSTIFICATION

The Commission's proposal for a regulation on mutual recognition of protection measures in civil matters seeks to recognise protection measures on behalf of victims of violence in countries where the provision of such measures comes under civil or administrative jurisdiction. This proposal for a regulation has its origin in the draft Directive on the European protection order presented by 12 Member States at the instigation of the Spanish Presidency, in January 2010.

The Spanish initiative, in its original form, covered the full spectrum of protection measures existing in the various Member States, regardless of the type of authority they were issued by. All existing protection measures in the EU have the same purpose: to prevent crimes from being committed or repeated. Thus, by including a mechanism for the recognition and adaptation of the order issued in the State of origin, the Spanish initiative introduced in an original and practical way a single, effective mechanism enabling victims to move around within the EU with the same security with which they were provided in their country of origin.

The rapporteur considers that the above-mentioned directive could have been made applicable not only to those countries in which protection orders are issued by criminal courts but also to those in which they are a matter for civil or administrative courts. The mechanism originally proposed by the directive provided a simple and effective means of allowing mutual recognition of precautionary measures, obviating the need for this regulation. The difficulty of negotiating with the Member States in which the protection of victims is a civil or administrative matter has made it necessary to restrict the scope of the directive. This regulation is therefore a response to pressure from these Member States for the creation of a valid recognition mechanism for countries in which victims' protection is dealt with under civil or administrative law.

The rapporteur therefore considers that under current circumstances this regulation, which allows a Member State to recognise and automatically carry out a protection order issued by another Member State merely on presentation of a certificate, simplifies the enforcement of the protection order even if it is only applicable in certain EU Member States.

The combined application of the two instruments (penal and civil) enables persons who have been granted a protection order to move freely and safely within the EU, as provided for in Article 3 of the Treaty on European Union.

In this opinion, the rapporteur has sought to harmonise the two instruments so that they become complementary, integral parts of a complete protection system for use in cases of violence by a known aggressor, within Europe. To achieve this, terminology has been adjusted and the guarantees relating to respect for the fundamental rights of both the protected person and the one causing the risk have been strengthened. These guarantees have been increased by completing the automatic recognition of the protection order, with the competent authorities being required to transmit information on the issue of the certificate as a matter of course, thereby establishing an automatic transmission system. It is hoped that this will provide greater protection for potential victims, make the administrative procedure more straightforward for them and ensure that they are protected wherever they go.

Finally, the rapporteur wishes to highlight in her opinion the importance of collecting statistical data, without which we will be unable to gain an understanding of the true extent of this type of violence in Europe.

AMENDMENTS

The Committee on Civil Liberties, Justice and Home Affairs calls on the Committee on Legal Affairs and on the Committee on Women's Rights and Gender Equality, as the committees responsible, to incorporate the following amendments in their report:

Amendment 1

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 the full exercise by citizens of the Union of their right to move and reside freely in the territory of the Member States.***

Amendment 2

Proposal for a regulation

Recital 2 a(new)

Text proposed by the Commission

Amendment

(2a) In accordance with the Stockholm Programme, adopted by the European Council at its meeting on 10 and 11 December 2009, and the Commission

action plan implementing that Programme, mutual recognition could extend to all types of judgments and decisions of a judicial nature, which may, depending on the legal system in question, be either criminal or administrative. The Programme also calls on the Commission and the Member States to examine how to improve legislation and practical support measures for the protection of victims. It also emphasises that victims of crime can be offered special protection measures which should be effective throughout the Union.

Amendment 3

Proposal for a regulation Recital 2 b(new)

Text proposed by the Commission

Amendment

(2b) In its resolution of 10 June 2011 on a roadmap for strengthening the rights and protection of victims, in particular in criminal proceedings, the Council stated that action should be taken at the level of the European Union in order to strengthen the rights and protection of victims, and called on the Commission to present appropriate proposals to that end. Within that framework, a mechanism should be created to ensure mutual recognition among Member States of decisions concerning protection measures for victims. According to the resolution, this Regulation, which concerns the mutual recognition of protection measures in civil matters, should complete the mechanism for mutual recognition of protection measures taken in criminal matters envisaged in Directive 2011/99/EU of the European Parliament and of the Council of 13 December 2011 on the European protection order¹.

Justification

It is important to clarify that this Regulation is part of a legislative package aimed at strengthening the protection of all victims and that it completes the mechanism for mutual recognition of protection measures taken in criminal matters envisaged in the Directive of the European Parliament and of the Council on the European Protection Order.

Amendment 4

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 ***equal treatment of persons at risk of suffering violence and harassment***. 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. ***Those provisions should also ensure that the legitimate exercise by citizens of the Union of their right to move and reside freely within the territory of Member States, in accordance with Article 3(2) of the Treaty on European Union and Article 21(1) of the Treaty on the Functioning of the European Union, does not result in a loss of their protection.***

Amendment 5

Proposal for a regulation Recital 5

Text proposed by the Commission

(5) This Regulation applies to protection measures taken in civil ***proceedings*** whatever the nature of the authority, be it a court, a tribunal, an administrative or any other authorities.

Amendment

(5) This Regulation applies to protection measures taken in civil ***matters*** whatever the nature of the authority, be it a court, a tribunal, an administrative or any other authorities.

Justification

Protection measures are not necessarily adopted in the course of civil proceedings in the Member States. The different legal systems of the Member States should be taken into account.

Amendment 6

Proposal for a regulation Recital 7 a (new)

Text proposed by the Commission

Amendment

(7a) Mutual confidence in the administration of justice in the Union and the objective of ensuring and facilitating the free movement of persons within the Union justify procedures for the recognition and/or enforcement of protection measures without any intermediate formalities. As a result, a protection measure taken in a Member State should, for the purposes of recognition and, where applicable, enforcement, be treated as if it had been taken in the Member State in which recognition and/or enforcement is sought. To that end, this Regulation should introduce a European uniform model of certificate to be issued by the Member State of origin on request by the protected person. In order to respect the principle of subsidiarity, that certificate should not replace the internal procedure of the Member States.

Amendment 7

Proposal for a regulation Recital 7 b (new)

Text proposed by the Commission

Amendment

(7b) The abolition of intermediate formalities should be accompanied by necessary safeguards aimed in particular at ensuring full respect of the rights of the defence and the right to a fair trial, as enshrined in Article 6 of the European Convention for the Protection of Human Rights and Fundamental Freedoms and in Article 47 of the Charter of Fundamental Rights of the European Union. To that end, the competent authorities in the Member State of origin should make sure that the certificate is not issued unless the right to a fair trial of the person causing the risk has been guaranteed.

Justification

This amendment stresses the importance of ensuring the respect of the rights of the defence of the person causing the risk in the context of an automatic mutual recognition of protection measures.

Amendment 8

Proposal for a regulation Recital 7 c (new)

Text proposed by the Commission

Amendment

(7c) Notwithstanding the right of the protected person to invoke the protection measure directly in another Member State, the authority which issues the certificate should in any event transmit the certificate to the competent authority of the Member State of recognition. This procedure should ensure that the

safeguard afforded to the protected person is maintained in any other Member State to which the protected person moves, even when that person has not been able to locate or contact the competent authority in the Member State of recognition.

Justification

In order to enhance the protection of potential victims it is necessary to establish the obligation for the competent authorities to transmit the certificate to the authority in the second Member State in addition to the right for the victim to directly contact the authority in the second Member State. This will ensure that in all cases the competent authority in the second Member State receives the certificate for the purpose of the recognition of the protection measure.

Amendment 9

Proposal for a regulation

Recital 8

Text proposed by the Commission

(8) The harmonious functioning of justice requires that irreconcilable decisions should not be pronounced in two Member States. To this end, this *regulation* should provide for a ground for refusal of recognition and/or enforcement ***on application by the person causing the risk*** in case of irreconcilable decisions.

Amendment

(8) The harmonious functioning of justice requires that irreconcilable decisions should not be pronounced in two Member States. To this end, this *Regulation* should provide for a ground for refusal of recognition and/or enforcement in case of irreconcilable decisions.

Justification

This amendment reflects the amendments for Article 12.

Amendment 10

Proposal for a regulation

Recital 9

Text proposed by the Commission

(9) Mutual trust in the administration of justice in the Union and the aim of ensuring quicker and less costly circulation of protection measures within

Amendment

deleted

the European Union justify procedures for the recognition and/or enforcement of such measures without any intermediate formalities. As a result, a protection measure taken in a Member State should, for recognition and, where applicable, enforcement purposes, be treated as if it had been taken in the Member State in which recognition and/or enforcement is sought.

(See amendment for recital 7a)

Amendment 11

Proposal for a regulation Recital 9 a (new)

Text proposed by the Commission

Amendment

(9a) The certificate should not be susceptible of appeal. However, if the protection measure is suspended or withdrawn in the Member State of origin, the competent authority of that Member State should inform the competent authority of the Member State of recognition thereof, which should immediately suspend or withdraw the recognition and/or enforcement of the protection measure accordingly.

Amendment 12

Proposal for a regulation Recital 9 b (new)

Text proposed by the Commission

Amendment

(9b) 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 under its national law which has equivalent effects and pursues similar aims and interests. The competent authority in the Member State of recognition may apply, in accordance with its national law, civil, administrative or criminal measures.

Justification

This amendment aims at giving the reasons for and specifying the scope and content of Article 8. It partly reproduces the wording of Recital 26 and Article 9 of the Directive on the European Protection Order.

Amendment 13

Proposal for a regulation

Recital 12

Text proposed by the Commission

Amendment

(12) In order to facilitate free movement of protection measures within the European Union, this Regulation should introduce a uniform model of certificate and appoint the authority competent to issue it. In order to respect the principle of subsidiarity, this certificate should not replace the internal procedure of the Member States.

deleted

(See amendment for Recital 7 a new)

Amendment 14

Proposal for a regulation
Recital 12 a (new)

Text proposed by the Commission

Amendment

(12a) The European uniform model of certificate should contain the list of Member States which recognise that certificate, in order to facilitate the free movement of persons obtaining a protection measure within the Union and to avoid imposing an additional administrative burden on Member States of origin by requiring them to issue new certificates when protected persons move to another Member State. A uniform model should inter alia facilitate the translation process as well.

Amendment 15

Proposal for a regulation
Recital 13

Text proposed by the Commission

Amendment

(13) The certificate should not be subject to appeal. However, if the protection measure is suspended or withdrawn in the first Member State, the competent authority of the second Member State should, on application by the person causing the risk, suspend or withdraw the recognition and/or enforcement of the protection measure.

deleted

(See amendment for Recital 9 a new)

Amendment 16

Proposal for a regulation Recital 13a (new)

Text proposed by the Commission

Amendment

(13a) Bearing in mind the principle of mutual recognition on which this Regulation is based, all official communications relating to a protection measure should be made, as far as possible, directly between the competent authorities of the Member State of origin and of the Member State of recognition.

Justification

This amendment aims at justifying the obligation of direct transmission of information relating to a protection measure between competent authorities, which is established by the amendments to Article 12.

Amendment 17

Proposal for a regulation Recital 13 b (new)

Text proposed by the Commission

Amendment

(13b) In the context of implementation of this Regulation, the competent authorities should give appropriate consideration to the needs of victims, notably those of particularly vulnerable persons, such as minors or persons with disabilities, and should take due account of the necessary assistance as proposed by the Member States.

Amendment 18

Proposal for a regulation Recital 13 c (new)

Text proposed by the Commission

Amendment

(13c) Where information is to be provided under this Regulation to the protected person, or to the person causing the risk, that information should also be provided to the legal representative, guardian or tutor, if any, of the person concerned. Due attention should also be paid to the need for the protected person and the person causing the risk, or their representative, to receive information, as provided for by this Regulation, in a language they understand.

Justification

This Regulation aims at strengthening the rights of both the protected person and the person causing the risk by foreseeing the case they are minors or legally incapacitated and by ensuring that they understand all information they receive. This amendment reproduces the wording of Recital 13 of the Directive on the European Protection Order.

Amendment 19

Proposal for a regulation Recital 13 d (new)

Text proposed by the Commission

Amendment

(13d) In the context of implementation of this Regulation, Member States should take the necessary steps to ensure that the protected person does not have to meet the financial costs connected with recognition of the protection measure in another Member State.

Amendment 20

Proposal for a regulation
Recital 13 e (new)

Text proposed by the Commission

Amendment

(13e) Member States should foster as much direct contact as possible between the competent authorities in the context of implementation of this Regulation, and should promote regular training for judicial authorities and other competent authorities likely to come into contact with victims or potential victims, so that they can offer them adequate assistance.

Amendment 21

Proposal for a regulation
Recital 13 f (new)

Text proposed by the Commission

Amendment

(13f) Personal data processed under this Regulation should be protected in accordance with national laws implementing Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data¹.

¹OJ L 281, 23.11.1995, p. 31.

Amendment 22

Proposal for a regulation
Chapter I – title

Text proposed by the Commission

Amendment

Scope, definitions and jurisdiction

Objective, scope, definitions and jurisdiction

Amendment 23

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 serious reasons exist to consider that person's life, physical or psychological integrity and dignity, personal liberty or sexual integrity to be at risk, 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.

Justification

It is essential to define the objective of this Regulation. This amendment is inspired by the wording of Article 1 of the Directive on the European Protection Order.

Amendment 24

Proposal for a regulation Article 1

Text proposed by the Commission

Amendment

This Regulation applies to protection measures taken in civil matters whatever the nature of the authority. It does not apply to protection measures covered by Regulation (EC) No 2201/2003.

This Regulation applies to protection measures taken in civil matters whatever the nature of the authority *issuing the protection measure*. It does not apply to protection measures covered by Regulation (EC) No 2201/2003 *or to those covered by Directive 2011/99/EU of the European*

Parliament and of the Council of 13 December 2011 on the European protection order¹, in order to prevent overlapping between the civil law and criminal law systems.

¹ *OJ L 338, 21.12.2011, p. 2.*

Amendment 25

Proposal for a regulation Article 2 – point a

Text proposed by the Commission

(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.

The following are notably protection measures:

- (i) **an obligation not to enter** certain localities, places or defined areas where the protected person resides, works or that he visits; or
- (ii) **an obligation not to enter into** contact, in any form, with the protected person, including by phone, electronic or ordinary mail, fax or any other means; or

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 **an individual** person when serious reasons exist to consider the person's **life**, physical and/or psychological integrity, **dignity, personal liberty or sexual integrity** to be at risk. It shall include measures ordered without the person causing the risk being summoned to appear.

(If the part of this amendment concerning the words "person's life, ...or sexual integrity" is adopted, corresponding modifications will need to be made throughout the text)

Protection measures **may include one or more of the following obligations or prohibitions:**

- (i) **a prohibition from entering and/or remaining in** certain localities, places or defined areas where the protected person resides, works or that he visits; or
- (ii) **a prohibition or regulation of** contact, in any form, with the protected person, including by phone, electronic or ordinary mail, fax or any other means; or

(iii) ***an obligation not to approach*** the protected person closer than a prescribed distance; or

(iv) a decision attributing the exclusive use of the common housing of two persons to the protected person.

(iii) ***a prohibition or regulation on approaching*** the protected person closer than a prescribed distance; or

(iv) a decision attributing the exclusive use of the common housing of two persons to the protected person; ***or***

(iva) any other prohibitions or regulations imposed in order to guarantee the protection of the protected person.

Amendment 26

Proposal for a regulation

Article 2 – point a – subparagraph 2 – point iv a (new)

Text proposed by the Commission

Amendment

(iva) a prohibition forbidding publication, under the terms of Directive 95/46/EC, of the personal data of protected individuals without their consent.

Amendment 27

Proposal for a regulation

Article 2 – point a a (new)

Text proposed by the Commission

Amendment

(aa) 'protected person' means the natural person who is the object of the protection stemming from a protection measure adopted in the Member State of origin.

Justification

This amendment repeats the wording of the definition of protected person laid down in the directive on the European Protection Order.

Amendment 28

Proposal for a regulation Article 2 – point a b (new)

Text proposed by the Commission

Amendment

(ab) 'person causing the risk' means the natural person against whom a protection measure imposing one or more of the obligations or prohibitions referred to in point (a) is or has been adopted.

Justification

This amendment partly reproduces the wording of the definition of person causing danger laid down in the directive on the European Protection Order.

Amendment 29

Proposal for a regulation Article 5 – paragraph 1

Text proposed by the Commission

Amendment

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

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

Amendment 30

Proposal for a regulation Article 5 – paragraph 3 – point ii

Text proposed by the Commission

Amendment

(ii) at the request of the protected person in any other case; ***when adopting a***

(ii) at the request of the protected person in

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.

any other case.

Justification

See amendment for Article 5, paragraph 3 a (new).

Amendment 31

Proposal for a regulation

Article 5 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. When a competent authority adopts a protection measure, it shall inform the protected person about the possibility of requesting a certificate in the event that he or she decides to leave for another Member State. The competent authority shall advise the protected person to submit the request before leaving the territory of the Member State of origin.

Justification

See amendment for Article 5, paragraph 3, point (ii). This amendment aims at strengthening the protection of the potential victim, who shall be informed and advised about the possibility to request a certificate when moving to another Member State. The second sentence of the paragraph reproduces the wording of Article 6, paragraph 5, second sentence of Directive on the European Protection Order.

Amendment 32

Proposal for a regulation Article 5 – paragraph 3 b (new)

Text proposed by the Commission

Amendment

3b. When a competent authority issues a certificate in accordance with paragraph 3, it shall inform the protected person as to which authorities are competent to recognise and/or enforce the protection measure in the Member State of recognition.

Justification

This amendment aims at strengthening the protection of the potential victim. This amendment takes into consideration the fact that the potential victim moving to another Member State might not know which authorities she or he has to contact in order to invoke the protection measure.

Amendment 33

Proposal for a regulation Article 5 – paragraph 3 c (new)

Text proposed by the Commission

Amendment

3c. Notwithstanding paragraph 1, when a competent authority issues a certificate in accordance with paragraph 3, it shall immediately transmit that certificate to the competent authority of the Member State of recognition.

Justification

In order to avoid a situation where the potential victim encounters obstacles of whatever nature (language barriers, administrative barriers etc..) in invoking the protection measure in the Member State to which she or he moves, this amendment imposes an obligation upon the authority, issuing the certificate, to transmit it automatically and directly to the competent authority in the second Member State. This procedure will ensure that the protection of the

potential victim is maintained in the second Member State in all circumstances.

Amendment 34

Proposal for a regulation Article 5 – paragraph 4

Text proposed by the Commission

4. *The competent authorities of the Member State of recognition may, where necessary, request a transliteration or a translation of the content of the certificate, in accordance with Article 15.*

Amendment

4. Where necessary, the content of the certificate ***shall be transliterated or translated by the competent authority of the Member State of origin into the official language or one of the official languages of the Member State of recognition or any other language that the Member State of recognition has indicated it can accept.***

Justification

This amendment aims at strengthening the protection of the potential victim. The protected person shall not bear the costs of translation of the certificate. It is therefore necessary to amend the text in order to establish that the translation of the certificate shall be provided by the authority, which adopted the protection measure and issued the certificate.

Amendment 35

Proposal for a regulation Article 7 – paragraph 2

Text proposed by the Commission

2. No appeal shall lie against the issuing of a certificate.

Amendment

2. No appeal shall lie against the issuing of a certificate. ***Procedural errors shall be rectified in accordance with paragraph 1 of this Article.***

Amendment 36

Proposal for a regulation Article 8

Text proposed by the Commission

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.

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, ***and which also guarantees the protected person the same level of protection.***

Amendment 37

**Proposal for a regulation
Article 12 – paragraph 1**

Text proposed by the Commission

1. The competent authority in the Member State of recognition may, on application by the person causing the risk, refuse the recognition of the protection measure taken by the court of origin if it is irreconcilable with a decision taken in the Member State of recognition.

Amendment

1. The competent authority in the Member State of recognition may, ***either*** on application by the person causing the risk ***or of its own motion***, refuse the recognition of the protection measure taken by the court of origin if it is irreconcilable with a decision taken in the Member State of recognition.

Justification

According to Recital (8) the refusal of recognition in case of irreconcilable decisions is justified by the need for ensuring the harmonious functioning of justice. Therefore, this ground of refusal should be applied by the competent authority ex officio as well.

Amendment 38

Proposal for a regulation Article 12 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. The recognition and/or enforcement of a protection measure may not be refused on the ground that the law of the Member State of recognition does not allow for such a measure based on the same facts.

Justification

See amendment for Article 12, paragraph 4. It is more logical to have this paragraph immediately after the paragraph on the ground of refusal.

Amendment 39

Proposal for a regulation Article 12 – paragraph 1 b (new)

Text proposed by the Commission

Amendment

1b. Where the competent authority in the Member State of recognition refuses recognition of the protection measure in accordance with paragraph 1, it shall immediately inform the competent authority of the Member State of origin of that refusal.

Justification

It seems appropriate that the authority in the Member State of origin should be informed about the possible refusal of recognition of the protection measure in the second Member State.

Amendment 40

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 **competent authority of the Member State of origin suspends or withdraws the protection measure, it shall immediately inform** the competent authority of the Member State of recognition **of that suspension or withdrawal.**

Justification

The person causing the risk should not be expected to make an application for suspension or withdrawal to the competent authority in the Member State of recognition. This is impractical and the onus should not be on the person to apply. For these reasons, this amendment establishes, in line with the previous amendments, the obligation of direct transmission of information between competent authorities.

Amendment 41

Proposal for a regulation

Article 12 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. If the protection measure is suspended or withdrawn in the Member State of origin, the competent authority of the Member State of recognition shall suspend or withdraw the recognition and, as the case may be, the enforcement of the protection measure as soon as it has been duly informed by the competent authority of the Member State of origin in accordance with paragraph 2.

Amendment 42

Proposal for a regulation Article 12 – paragraph 4

Text proposed by the Commission

Amendment

4. The recognition of a protection measure may not be refused because the law of the Member State of recognition does not allow for such a measure based on the same facts.

deleted

(See amendment for Article 12, paragraph 1a)

Amendment 43

Proposal for a regulation Article 13 – paragraph 1 – introductory wording

Text proposed by the Commission

Amendment

1. The competent authorities of the Member State of origin shall, without delay and according to the law of that Member State, bring to the notice of the person causing the risk and to the protected person:

1. The competent authorities of the Member State of origin shall, without delay and according to the law of that Member State, bring to the notice of the person causing the risk and to the protected person **and, where appropriate, his or her legal representative, guardian or tutor:**

Amendment 44

Proposal for a regulation Article 13 – paragraph 1 – point iv

Text proposed by the Commission

Amendment

(iv) any suspension **or** withdrawal of the protection measure.

(iv) any suspension, withdrawal **or review** of the protection measure.

Amendment 45

Proposal for a regulation
Article 13 – paragraph 2 – introductory wording

Text proposed by the Commission

2. Upon reception of the certificate pursuant to Article 5 ***provided by the protected person***, the competent authorities of the Member State of recognition shall, without delay and where necessary according to the rules of Regulation (EC) No 1393/2007, bring to the notice of the person causing the risk and to the protected person:

Amendment

2. Upon reception of the certificate pursuant to Article 5, the competent authorities of the Member State of recognition shall, without delay and where necessary according to the rules of Regulation (EC) No 1393/2007 ***of the European Parliament and of the Council of 13 November 2007 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters (service of documents)***¹, bring to the notice of the person causing the risk and to the protected person ***and, where appropriate, his or her legal representative, guardian or tutor, in a language which they understand:***

¹ OJ L 324, 10.12.2007, p. 79.

Amendment 46

Proposal for a regulation
Article 13 – paragraph 2 – point i a (new)

Text proposed by the Commission

Amendment

(ia) if applicable, the protection measure adopted in accordance with Article 8;

Justification

The obligation to bring to the notice of the person causing the risk and the protected person any information related to the protection measure shall include the information about the measure adopted to adapt the unknown foreign protection measure to one known under the national law of the Member State of recognition.

Amendment 47

Proposal for a regulation

Article 13 – paragraph 2 – point iv

Text proposed by the Commission

(iv) any suspension or withdrawal of the protection measure.

Amendment

(iv) any ***refusal of recognition and/or enforcement***, suspension or withdrawal of the protection measure.

Justification

See justification of the amendment for Article 13, paragraph 2, point (1a).

Amendment 48

Proposal for a regulation

Article 13 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. When bringing to the notice of the person causing the risk the information referred to in paragraphs 1 and 2, the competent authorities of the Member State of origin and those of the Member State of recognition shall be particularly attentive to the fact that it is not in the interests of the protected person to have his or her address or other personal details divulged unless this is necessary for the purposes of enforcement of the protection measure.

Amendment 49

Proposal for a regulation

Article 15

Text proposed by the Commission

Article 15

Transliteration or translation

Amendment

deleted

When a transliteration or translation is required under this Regulation, such transliteration or translation shall be into the official language or one of the official languages of the Member State of recognition or any other language that the Member State of recognition has indicated it can accept. Any translation made under this Regulation shall be done by a person qualified to do translations in one of the Member States.

(See amendment for Article 5, paragraph 4)

Amendment 50

Proposal for a regulation Article 16

Text proposed by the Commission

An applicant who, in the Member State of origin, has benefited from complete or partial legal aid or exemption from costs or expenses, shall be ***entitled***, in any proceeding relating to the *enforceability* of the protection measure, to benefit from ***the most favourable*** legal aid or the most extensive exemption from costs or expenses provided for by the law of the Member State of recognition.

Amendment

An applicant who, in the Member State of origin, has benefited from complete or partial legal aid or exemption from costs or expenses, shall be ***considered***, in any proceeding relating to the *enforceability* of the protection measure, ***for entitlement*** to benefit from legal aid or the most extensive exemption from costs or expenses provided for by the law of the Member State of recognition, ***as decided by that Member State***.

Amendment 51

Proposal for a regulation Article 19 a (new)

Text proposed by the Commission

Amendment

Article 19a

Data collection

In order to facilitate evaluation of the application of this Regulation, Member

States shall communicate to the Commission relevant data relating to the application of national procedures on the issuing of certificates referred to in Article 5 and the transmission thereof between competent authorities. Those data shall include, at least, information on the number of protection measures and certificates requested, issued and/or recognised and on the number of certificates refused, suspended and/or withdrawn, as well as the reasons for such refusal and/or withdrawal, with due regard for the fundamental principles of privacy and the protection of personal data.

Amendment 52

Proposal for a regulation Article 20

Text proposed by the Commission

By [**five** years from the date of application in Article 23] at the latest, the Commission shall submit a report to the European Parliament, the Council and the European Economic and Social Committee on the application of this Regulation. If necessary, the report shall be accompanied by proposals for adaptation.

Amendment

By [**four** years from the date of application in Article 23] at the latest, the Commission shall submit a report to the European Parliament, the Council and the European Economic and Social Committee on the application of this Regulation **and on the interaction between this Regulation and Directive 2011/99/EU**. If necessary, the report shall be accompanied by proposals for adaptation.

Amendment 53

Proposal for a regulation Article 21 – paragraph 1

Text proposed by the Commission

Within the framework of the European Judicial Network in civil and commercial matters established by Council Decision 2001/470/EC, the Member States shall

Amendment

Within the framework of the European Judicial Network in civil and commercial matters established by Council Decision 2001/470/EC, the Member States shall

provide a description of the national rules and procedures concerning protection measures, including authorities competent for recognition and/or enforcement with a view to making it available to the public.

provide a description of the national rules and procedures concerning protection measures, including authorities competent for recognition and/or enforcement with a view to making it available to the public.

Information concerning individual cases shall remain confidential.

Amendment 54

Proposal for a regulation Article 22 – paragraph 1

Text proposed by the Commission

By [1 year before the entry into force of this Regulation], **the** Member State shall communicate to the Commission

(a) the authorities having competence in the matters falling within the scope of this Regulation;

(b) the languages accepted for translations of the of the certificate as referred to in **Article 15**.

Amendment

By [1 year before the entry into force of this Regulation], **each** Member State shall communicate to the Commission

(a) the **names and contact details of the** authorities having competence in the matters falling within the scope of this Regulation;

(b) the languages accepted for translations of the certificate as referred to in **Article 5(4)**.

Amendment 55

Proposal for a regulation Annex I – Title

Text proposed by the Commission

Annex I

Amendment

Annex

Justification

This amendment is justified by the deletion of Annex II (See amendment for Annex II)

Amendment 56

Proposal for a regulation

Annex II

Text proposed by the Commission

Amendment

Annex II

Annex deleted

(See amendments for Article 12)

PROCEDURE

Title	Mutual recognition of protection measures in civil matters			
References	COM(2011)0276 – C7-0128/2011 – 2011/0130(COD)			
Committees responsible Date announced in plenary	JURI 7.6.2011	FEMM 7.6.2011		
Committee(s) asked for opinion(s) Date announced in plenary	LIBE 7.6.2011			
Rapporteur(s) Date appointed	Carmen Romero López 12.7.2011			
Rule 51 – joint committee meetings Date announced in plenary				
Discussed in committee	19.9.2011	11.10.2011	23.11.2011	12.1.2012
Date adopted	12.1.2012			
Result of final vote	+: –: 0:	48 1 1		
Members present for the final vote	Jan Philipp Albrecht, Sonia Alfano, Roberta Angelilli, Vilija Blinkevičiūtė, Arkadiusz Tomasz Bratkowski, Philip Claeys, Frank Engel, Kinga Gál, Kinga Göncz, Nathalie Griesbeck, Sylvie Guillaume, Salvatore Iacolino, Sophia in 't Veld, Lívia Járóka, Teresa Jiménez-Becerril Barrio, Timothy Kirkhope, Juan Fernando López Aguilar, Svetoslav Hristov Malinov, Véronique Mathieu, Anthea McIntyre, Nuno Melo, Louis Michel, Antigoni Papadopoulou, Georgios Papanikolaou, Carmen Romero López, Birgit Sippel, Csaba Sógor, Renate Sommer, Kyriacos Triantaphyllides, Wim van de Camp, Axel Voss, Renate Weber, Josef Weidenholzer, Auke Zijlstra			
Substitute(s) present for the final vote	Elena Oana Antonescu, Michael Cashman, Anna Maria Corazza Bildt, Ioan Enciu, Nadja Hirsch, Stanimir Ilchev, Franziska Keller, Jean Lambert, Marian-Jean Marinescu, Mariya Nedelcheva, Hubert Pirker, Zuzana Roithová, Raúl Romeva i Rueda, Kārlis Šadurskis, Bogusław Sonik, Cecilia Wikström			