

# Mutual recognition of protection measures in civil matters

2011/0130(COD) - 22/05/2013 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 602 votes to 23, with 63 abstentions, a legislative resolution on the proposal for a regulation of the European Parliament and of the Council on mutual recognition of protection measures in civil matters.

Parliament adopted its position at first reading following the ordinary legislative procedure. The amendments adopted in plenary are the result of a compromise reached between the European Parliament and the Council. They amend the proposal as follows:

**Simple mechanism for the recognition of protection measures:** Parliament considers 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, the amended text establishes rules for a simple and rapid mechanism for the recognition of protection measures ordered in a Member State in civil matters.

The Regulation shall apply to **cross-border cases** in which the recognition of a protection measure ordered in one Member State is sought in another Member State. It shall not apply to protection measures adopted in criminal matters. Moreover, this Regulation should apply to decisions of **both judicial authorities and administrative authorities** provided that the latter offer guarantees with regard, in particular, to their impartiality and to the right of the parties to judicial review.

**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.

**Recognition and enforcement:** the new Regulation states that a protection measure ordered in a Member State shall be recognised in the other Member States without any special procedure being required and shall be **enforceable without a declaration of enforceability being required**.

According to the principle of mutual recognition, **the recognition corresponds to the duration of the protection measure. The effects of recognition under this Regulation should, by way of exception, be limited to a period of 12 months** from the issuing of the certificate provided for by this Regulation, irrespective of whether the protection measure itself has a longer duration. The procedure for the enforcement of protection measures shall be governed by the law of the Member State addressed.

**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:** where the person causing the risk resides in the Member State of origin, the notification shall be effected in accordance with the law of that Member State. The **whereabouts or other contact details of the protected person** shall not be disclosed to the person causing the risk unless their disclosure is 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. These include the details concerning the protected person and the person causing the risk; as well as 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.

**Information made available to the public:** Member States shall provide, within the framework of the European Judicial Network in civil and commercial matters established by Decision 2001/470/EC and with a view to making the information available to the public, a description of the national rules and procedures concerning protection measures in civil matters , including information on the type of authorities which are competent in the matters falling within the scope of this Regulation.