

## Basic information

2011/0130(COD)

COD - Ordinary legislative procedure (ex-codecision procedure)  
Regulation

Procedure completed

Mutual recognition of protection measures in civil matters

### Subject

1.20 Citizen's rights  
7.40.02 Judicial cooperation in civil and commercial matters

## Key players

European Parliament

### Joint committee responsible

**JURI** Legal Affairs

**FEMM** Women's Rights and Gender Equality

### Rapporteur

LÓPEZ-ISTÚRIZ WHITE  
Antonio (PPE)

PARVANOVA Antonya  
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### Appointed

25/01/2012

25/01/2012

### Shadow rapporteur

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### Committee for opinion

**LIBE** Civil Liberties, Justice and Home Affairs

### Rapporteur for opinion

ROMERO LÓPEZ Carmen  
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### Appointed

12/07/2011

Council of the European Union	<b>Council configuration</b>	<b>Meetings</b>	<b>Date</b>
	Justice and Home Affairs (JHA)	3244	2013-06-06
	Justice and Home Affairs (JHA)	3096	2011-06-09
	Justice and Home Affairs (JHA)	3162	2012-04-26
European Commission	<b>Commission DG</b>	<b>Commissioner</b>	
	Justice and Consumers	REDING Viviane	

Key events			
Date	Event	Reference	Summary
18/05/2011	Legislative proposal published	COM(2011)0276 	Summary
07/06/2011	Committee referral announced in Parliament, 1st reading		
09/06/2011	Debate in Council		Summary
19/01/2012	Referral to joint committee announced in Parliament		
26/04/2012	Debate in Council		Summary
19/03/2013	Vote in committee, 1st reading		
26/03/2013	Committee report tabled for plenary, 1st reading	A7-0126/2013	Summary
22/05/2013	Decision by Parliament, 1st reading	T7-0210/2013	Summary
22/05/2013	Results of vote in Parliament		
22/05/2013	Debate in Parliament		
06/06/2013	Act adopted by Council after Parliament's 1st reading		
12/06/2013	Final act signed		
12/06/2013	End of procedure in Parliament		
29/06/2013	Final act published in Official Journal		

Technical information	
<b>Procedure reference</b>	2011/0130(COD)
<b>Procedure type</b>	COD - Ordinary legislative procedure (ex-codecision procedure)
<b>Procedure subtype</b>	Legislation
<b>Legislative instrument</b>	Regulation
<b>Legal basis</b>	Rules of Procedure EP 59 Treaty on the Functioning of the European Union TFEU 082-p2
<b>Stage reached in procedure</b>	Procedure completed

## Documentation gateway






## European Parliament

Document type	Committee	Reference	Date	Summary
Committee opinion	<a href="#">LIBE</a>	<a href="#">PE473.887</a>	17/01/2012	
Committee draft report		<a href="#">PE483.787</a>	07/03/2012	
Amendments tabled in committee		<a href="#">PE487.696</a>	13/04/2012	
Amendments tabled in committee		<a href="#">PE506.209</a>	05/03/2013	
Committee report tabled for plenary, 1st reading/single reading		<a href="#">A7-0126/2013</a>	26/03/2013	<a href="#">Summary</a>
Text adopted by Parliament, 1st reading/single reading		<a href="#">T7-0210/2013</a>	22/05/2013	<a href="#">Summary</a>

## Council of the EU

Document type	Reference	Date	Summary
Draft final act	<a href="#">00007/2013/LEX</a>	12/06/2013	

## European Commission

Document type	Reference	Date	Summary
Document attached to the procedure	<a href="#">COM(2011)0274</a> 	18/05/2011	<a href="#">Summary</a>
Legislative proposal	<a href="#">COM(2011)0276</a> 	18/05/2011	<a href="#">Summary</a>
Document attached to the procedure	<a href="#">SEC(2011)0580</a> 	18/05/2011	
Document attached to the procedure	<a href="#">SEC(2011)0581</a> 	18/05/2011	
Commission response to text adopted in plenary	<a href="#">SP(2013)473</a>	26/06/2013	
Follow-up document	<a href="#">COM(2022)0127</a> 	28/03/2022	

## National parliaments

Document type	Parliament /Chamber	Reference	Date	Summary
Contribution	<a href="#">RO_SENATE</a>	<a href="#">COM(2011)0276</a>	04/07/2011	

## Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary

EDPS	Document attached to the procedure	N7-0045/2012 OJ C 035 09.02.2012, p. 0010	17/10/2011	<a href="#">Summary</a>
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Additional information		
Source	Document	Date
National parliaments	IPEX	
European Commission	EUR-Lex	

Final act
<a href="#">Regulation 2013/0606</a> <a href="#">OJ L 181 29.06.2013, p. 0004</a> <span style="float: right;"><a href="#">Summary</a></span>

## Mutual recognition of protection measures in civil matters

2011/0130(COD) - 26/03/2013 - Committee report tabled for plenary, 1st reading/single reading

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.

## 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.

## Mutual recognition of protection measures in civil matters

2011/0130(COD) - 12/06/2013 - Final act

**PURPOSE :** to establish rules for a simple and rapid mechanism for the recognition of protection measures ordered in a Member State in civil matters

**LEGISLATIVE ACT :** Regulation (EU) No 606/2013 of the European Parliament and of the Council on mutual recognition of protection measures in civil matters.

**CONTENT :** the Regulation establishes rules for a simple and rapid mechanism for the recognition of protection measures ordered in a Member State in civil matters.

It shall apply to **cross-border cases** where a protection measure needs to be recognised in a Member State other than the Member State of origin. It does not concern protection measures in criminal matters.

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

The Regulation will 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, it will apply 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 will cover the duration of a protection measure. Irrespective of whether the protection measure has a longer duration, the effects of recognition shall be **limited to a period of 12 months**, starting from the date of the issuing of the certificate.

**Certificate:** in order to facilitate the free movement of protection measures within the Union, the Regulation introduces a uniform model of certificate and provides for the establishment of a multilingual standard form for that purpose. The issuing of the certificate will not be subject to appeal.

The certificate shall contain 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 circumscribed area which that person is prohibited from approaching or entering.

The certificate may only be issued if the protection measure has been brought to the notice of the person causing the risk in accordance with the law of the Member State of origin.

The place of residence and the contact details of the person protected must not be communicated to the person causing the risk, unless their disclosure is necessary for compliance with, or the enforcement of, the protection measure.

The certificate may be rectified or withdrawn under certain circumstances.

**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.

An appeal against the adjustment of the protection measure may be lodged by the protected person or the person causing the risk.

**Refusal of recognition or enforcement:** upon application by the person causing the risk, the recognition and, where applicable, the enforcement of the protection measure shall be refused, to the extent such recognition is: (a) manifestly contrary to public policy in the Member State addressed; or (b) irreconcilable with a judgment given or recognised in the Member State addressed.

**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 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 the Regulation.

**Review:** by 11 January 2020, the Commission shall submit a report on the application of the Regulation, accompanied by proposals for amendments if necessary.

ENTRY INTO FORCE : 19/07/2013.

APPLICATION : the Regulation shall apply to protection measures **ordered on or after 11 January 2015**, irrespective of when proceedings have been instituted. The United Kingdom and Ireland have decided to take part in the application and the adoption of this instrument.

Denmark will not be bound by it or subject to its application.

## Mutual recognition of protection measures in civil matters

2011/0130(COD) - 09/06/2011

The Council adopted a **roadmap** for strengthening the rights and protection of victims, in particular in criminal proceedings. The roadmap sets out priority actions for the protection of victims of crimes. It invites the Commission to submit proposals regarding all of the measures.

Among the overall objectives of EU action are establishing procedures to respect victims' dignity, integrity and privacy, enhancing their access to justice and designing procedures aimed at preventing repeat victimisation.

The text states that action at the level of the Union directed at strengthening the rights and protection of victims should aim at **introducing common minimum standards and at attaining, among others, the following general objectives:**

1. Establish adequate procedures and structures to respect the dignity, personal and psychological integrity as well as the privacy of the victim in criminal proceedings.
2. Enhance the access to justice by victims of crime, also by fostering the role of victim support services.
3. Design adequate procedures and structures aimed at preventing secondary and repeat victimisation.
4. Encourage the provision of interpretation and translation for the victim within criminal proceedings.
5. Where appropriate, encourage victims to participate actively in criminal proceedings.
6. Strengthen the right of victims and of their legal counsel to receive timely information about the proceedings and their outcomes.
7. Encourage the recourse to restorative justice and alternative dispute resolution methods taking into account the interest of the victim.
8. Pay special attention to children, as part of the most vulnerable group of victims, and always keep in mind the best interest of the child.
9. Ensure that Member States provide training, or encourage the provision of training, to all relevant professionals.
10. Ensure that the victim may be awarded compensation as appropriate.

The roadmap lays down the following **priority measures:**

- revising current law (Framework Decision 2001/220/JHA) on the standing of victims in criminal proceedings;
- a **regulation on mutual recognition of protection measures for victims** taken in the context of civil matters. This would complement the [European protection order in criminal matters](#), currently under discussion in the Council after the first reading of the European Parliament.
- The Commission presented proposals for these two actions on 18 May, which the Council welcomes and intends to examine as matters of priority. The **other priority measures** concern:
  - guidelines on best practices among member states in the field of assistance and protection to victims of crime, once the revised legislation on the standing of victims is adopted;
  - a review of the existing directive relating to compensation to crime victims;
  - recommendations on how to deal with the specific needs of vulnerable victims and victims of particular types of crimes, e.g. trafficking in human beings or sexual exploitation of children.

The Council invited the Commission to also submit proposals on these priorities and undertook to deal with them as a matter of priority.

The Commission also presented to ministers the package on victims' rights it published on 18 May, which includes:

- a [communication](#) on strengthening victims' rights in the EU;
- the proposed regulation on mutual recognition of protection measures in civil matters;
- the proposed [directive](#) on minimum standards on the rights, support and protection of victims of crime.

## Mutual recognition of protection measures in civil matters

2011/0130(COD) - 18/05/2011

The Commission has presented a communication seeking to **strengthen victims' rights in the EU so that victims are properly recognised and that their rights are respected without any form of discrimination throughout the EU.**

**Need for new measures in favour of victims:** seeking to consolidate the area of freedom, security and justice, the Commission has identified as a [strategic priority](#) based on the Stockholm Programme and its [Action Plan](#) the need for action to strengthen the rights of victims of crime and to ensure that their need for protection, support and access to justice is met.

The EU has already acted on the rights of victims in criminal proceedings (see Council Framework Decision 2001/220/JHA; Directive 2004/80/EC relating to compensation to crime victims) and most Member States have some level of victim protection and support in place. However, the needs of victims in criminal proceedings are still generally not sufficiently addressed and **the level of victims' rights continues to differ significantly across the EU**

- According to Eurostat data, around **30 million crimes** against persons or property are recorded annually and many crimes are never reported. Crime often affects more than one victim and those close to the victims also suffer indirectly. This leads to a qualified estimate that there is likely to be up to 75 million direct victims of crime every year.
- Each year, many people are victims of road accidents. There are more than a million road accidents recorded in the EU and around **31 000 people are killed each year** on the roads, including 850 children under the age of 14, while 250 000 get serious injuries and 1.2 million suffer minor injuries.
- People in Europe are constantly moving across borders, and the risk of becoming a victim is just as great when abroad. Of an estimated **1.4 billion journeys made by Europeans in 2008**, about 90% were within the Union.

The Commission discusses the **gender dimension**, noting that women are particularly exposed to hidden forms of violence. The Council of Europe estimates that 20-25% of European women experience physical acts of violence at least once during their adult lives, 12-15% find themselves in a relationship of domestic abuse, and more than 10% suffer sexual violence.

The Commission presents a legislative package, the core objective of which is to deal with victims' needs in a comprehensive manner. The proposals address the needs of both direct victims of crime and indirect victims, such as the family members who also suffer from the consequences of the crime. Immediate family or dependents of direct victims will therefore, where appropriate, benefit from the support and protection proposed in this package.

The main points are as follows:

- **Recognition and respectful treatment:** human dignity of individuals is a fundamental right and the foundation for proper treatment of victims. Individuals who have suffered from crime therefore expect to be recognised as victims, to have their suffering acknowledged and to be treated in a sensitive and professional manner.
- **Protection:** to avoid harm caused by inadequate procedures, such as repeated and insensitive interviewing, it is important to ensure protection of victims throughout criminal investigations and court proceedings. This protection is essential for particularly vulnerable victims, such as children. Even after a crime, victims are vulnerable to further harm, intimidation or reprisals from the offender. To protect people who exercise their right to free movement, the Commission is proposing for the first time the mutual recognition of protection measures.
- **Support:** appropriate and timely support is essential to help victims overcome emotional, practical, administrative and legal obstacles and to recover. Despite the work done by existing victim support services, such assistance is currently not always easily accessible.
- **Access to justice:** information for victims on their rights and on key dates and decisions is an essential aspect of participating in proceedings, and it should be given in a way that victims understand. Victims should also be able to attend the trial and follow their case through. Victims across the EU do not always get access to these basic elements of justice.
- **Compensation and restoration:** persons who have suffered harm because of the acts of others often expect to get some form of financial compensation, whether from the State or the offender. Restorative justice, which is a relatively new concept in criminal proceedings, goes

beyond purely financial compensation to focus on the recovery of the victim. As an alternative to, or in combination with formal justice, it aims to restore victims to the position they had before the crime by giving them, if they so wish, an opportunity to confront their offenders face to face and for the offenders to take responsibility for their acts.

The Commission is proposing the following **package of legislative instruments** to respond to these needs and to ensure that victims in Europe receive a minimum level of rights, protection, support, access to justice and restoration. The Commission will propose:

- a [Directive establishing minimum standards on the rights, support and protection of victims of crime](#), replacing the 2001 Framework Decision. The Directive will ensure that victims are treated with respect and that the special needs of vulnerable victims are properly addressed. It will also ensure that victims receive the support they need, that they can participate in proceedings and receive and understand relevant information, and that they are protected throughout criminal investigations and court proceedings;
- a **Regulation on mutual recognition of protection measures in civil matters**, which will help preventing harm and violence and ensure that victims (of domestic violence, for example) who benefit from a protection measure taken in one Member State are provided with the same level of protection in other Member States should they move or travel there. Such protection should be awarded without the victim having to go through additional procedures. This measure complements the [proposal for a Directive of the European Parliament and of the Council on the European Protection Order](#) which is currently being discussed in the European Parliament and Council.

Looking to the future, for the next phase of action on victims' rights the Commission will:

- review Directive 2004/80/EC on compensation of crime victims and Regulation "Rome II" (to address the question of the law applicable to limitation periods for cross-border traffic accidents) ;
- carry out further studies and action on victims, in particular in relation to specific categories of victims such as victims of terrorism, organised crime and gender-based violence, including female genital mutilation, with a view to improving the situation of such victims;
- implement a range of flanking measures that will be crucial to ensuring that victims obtain effective rights in practice, and not necessarily only when involved in criminal proceedings. This will include training and capacity building, exchange of good practices, prevention of crime and violence (such as raising awareness and providing information), data collection and research ;
- continue to give financial support under existing financing programmes to promote issues relevant to victims' rights and needs.

These measures will allow the EU to make victims' rights and needs a central part of securing justice.

## Mutual recognition of protection measures in civil matters

2011/0130(COD) - 18/05/2011 - Legislative proposal

PURPOSE: to ensure the mutual recognition of protection measures in civil matters in order to strengthening victims' rights in the EU.

PROPOSED ACT: Regulation of the European Parliament and of the Council.

BACKGROUND: the Commission considers that in a common area of freedom, security and justice, victims of (for example, domestic) violence or persons whose physical and/or psychological integrity or liberty is at risk and who benefit from a protection measure taken in one Member State should benefit from the same level of protection in other Member States should they move or travel, without going through expensive and time consuming procedures.

This proposal is part of a legislative package which aims at **strengthening the rights of victims in the EU** and which also includes the following other elements:

- a [communication](#) on the strengthening of victims' rights in the EU;
- a [directive](#) establishing minimum standards on the rights, support and protection of victims of crime.

The European Union has already acted on the rights of victims in criminal proceedings through Council Framework Decision 2001/220/JHA on the standing of victims in criminal proceedings. Whilst improvements have been achieved on victims' rights, the objectives of the Council Framework decision have not been fully realised.

In September 2009, 12 Member States put forward a [proposal for a Directive](#) of the European Parliament and of the Council on the European Protection Order. During the negotiations, it appeared that the mechanisms used in this instrument, based on Article 82 TFUE dealing with mutual recognition in criminal matters, is not compatible with the ambitious standard of mutual recognition already reached for civil matters, covered by Article 81 TFUE.

In its resolution of [26 November 2009](#) on the elimination of violence against women the European Parliament calls on the Member States to improve their national laws and policies to combat all forms of violence against women and to act in order to tackle the causes of violence against women, not least by employing preventive measures and calls on the Union to guarantee the right to assistance, protection and support for all victims of violence.

The present proposal therefore aims at completing a legal instrument on the mutual recognition of protection measures taken in criminal matters to ensure that all protection measures taken in a Member State benefit from an efficient mechanism to ensure their free circulation throughout the EU.

Such action also replies to the Commission's call to further dismantle the obstacles to citizens' rights, set out in its [Citizenship Report](#) of 27 October 2010.

**IMPACT ASSESSMENT:** the Commission first hosted an experts' meeting on 25 May 2010 which confirmed that many Member State have put civil law protection measures in place, the mutual recognition of which should follow the common standards used in civil matters, rather than the more heavy procedures which are common standard in criminal matters.

The European Commission also contracted an external Study to assist with the impact assessment in identifying the needs of victims of crime, which measures could be established to meet these needs and to examine the impacts of any possible options. The Commission held a public consultation from 15 July 2010 to 30 September 2010, open to all members of the public as well as to nongovernmental and governmental organisations asking their views on what action the EU should take to improve the situation of victims of crime, including in the field of protection orders.

A further study was contracted to examine options in relation to the specific objective of ensuring that the protection gained through a protection order is not lost when a protected person travels or moves to another Member States.

**LEGAL BASIS:** Article 81(2)(a), (e) and (f) of the Treaty on the Functioning of the European Union (TFEU).

**CONTENT:** to protect victims of violence, in particular domestic violence, stalking or violence against children, the national laws of the Member States provide for the possibility to adopt temporary and preventative measures with a view to protecting a person when a serious risk exists to consider the persons physical and/or psychological integrity or liberty at risk. Protection measures are issued by a judicial or other authority upon request of the person at risk. Many of them are ordered without the person causing the risk being summoned to appear, in particular in case of urgency ("*ex parte*" procedures). Protection measures are issued by a judicial or other authority upon request of the person at risk.

Due to the increase of free movement more persons are moving or travelling abroad. Consequently, it is extremely important to ensure that such a **temporary protection provided in one Member State is maintained when a person travels or moves to another Member State without having to go through time-consuming procedures.**

This proposal is a mutual recognition instrument in civil matters and as such it follows the rationale of existing EU instruments on judicial cooperation in civil and commercial matters, from which it takes broad inspiration.

More specifically, this proposal provides for a **speedy and efficient mechanism** to ensure that the Member State to which the person at risk moves will recognise the protection measure issued by the first Member State without any intermediate formalities.

As for other mutual recognition instruments in civil matters, this proposal introduces a **standardised certificate** which contains all information relevant for the recognition and, where applicable, enforcement. Therefore, a certificate will be issued by the competent authority of the first Member State, either ex-officio or on request of the protected person, who will then contact the competent authorities in the second Member State and provide them with the certificate. The competent authorities of the second Member State will notify the person causing the risk about the geographical extension of the foreign protection measure, the sanctions applicable in case of its violation and, where applicable, ensure its enforcement.

The proposal provides for the **abolition of intermediate procedures** and **no grounds for refusal** have been proposed, except for the existence of an irreconcilable decision in the Member State of recognition.

Automatic recognition also applies when the Member State of recognition and/or enforcement does not have protection measures in civil matters.

The abolition of intermediate procedures will be accompanied by **fundamental rights safeguards:**

- the authority of the first Member State which will be requested to issue the certificate will have to check that the right to a fair trial, in particular the right of defence, of the person causing the risk has been respected. In case such rights have not been guaranteed, the certificate cannot be issued;
- in case of suspension or withdrawal of the protection measure by the first Member State, the competent authority of the second Member State has, at request of the person causing the risk, to suspend or withdraw its recognition and, when applied, enforcement;
- the competent authorities of both Member States have to bring to the notice of the person causing the risk and to the protected person any information related to the issuing, recognition, possible enforcement and sanctions, suspension or withdrawal of the protection measure.

The proposal does not deal with criminal sanctions put in place by Member States in case of violation of a protection measure. This question will continue to be dealt with by the national law of each Member State.

**BUDGETARY IMPLICATIONS:** the proposal has no implication for the Union budget.

## Mutual recognition of protection measures in civil matters

2011/0130(COD) - 17/10/2011

**Opinion of the European Data Protection Supervisor on the legislative package on the victims of crime, including a proposal for a Directive establishing minimum standards on the rights, support and protection of the victims of crime and a proposal for a Regulation on mutual recognition of protection measures in civil matters**

It is recalled that on 18 May 2011, the Commission adopted a package of legislative instruments on the protection of the victims of crime consisting of: (i) a [proposal for a Directive](#) establishing minimum standards on the rights, support and protection of victims of crime and a (ii) a **proposal for a Regulation** on mutual recognition of protection measures in civil matters. Both proposals are accompanied by a [Commission communication](#) on strengthening victims' rights in the EU.

However, the EDPS notes that he was not consulted under Article 28(2) of Regulation (EC) No 45/2001, and this Opinion is therefore based on Article 41(2) of the same Regulation.

Whilst the EDPS **welcomes the policy objectives of the two proposals** under consideration and generally shares the approach of the Commission, he finds that **the protection of privacy and personal data of the victims in the proposed Directive could be in some instances strengthened and clarified**.

The EDPS' comments focus mainly on the following aspects:

- Article 23 of the proposed Directive dealing with the right to protection of privacy and relations with media;
- victims' rights of information and access to their own personal data; and
- the protection of the confidentiality of communications between the victim and victim support services.

**1) Protection of the victim's privacy (Article 23 of the proposed Directive):** the EDPS notes, inter alia, that the Article does not cover the full right to protection of privacy of the victims of crime. The provision is much more limited in scope as it simply provides for the power of 'judicial authorities' to issue protective measures 'during the court proceedings'. However, the protection of privacy should not only be guaranteed during the court proceedings, but also during the investigation and pre-trial phase. More generally, privacy should be ensured where necessary from the first contact with the competent authorities and also after the termination of court proceedings. Furthermore, the Article does not contain any indication about the content of the specific measures that may be adopted by judicial authorities to preserve the victim's right to privacy, nor does it contain any provision guaranteeing the confidentiality of the information held by public authorities.

EDPS advises the legislator to:

- include in Article 23 a **general provision** on the protection of privacy and personal data stating that Member States shall guarantee as far as possible the protection of the private and family life of victims and protect personal data of the victims from the first contact with the official authorities, throughout any court proceedings and after such proceedings;
- the current Article 23(1) should be modified so as to enable judicial authorities to issue protective measures '**during criminal investigation**';
- specify under Article 23(1) a list of **minimum measures** (such as non-disclosure or limitation of the disclosure of information concerning the identity and whereabouts of the victims or family members) which judicial authorities may adopt in order to protect the privacy and photographic images of the victims and their family members ;
- provide that Member States shall require all authorities in contact with victims to adopt clear standards by which they may only disclose to a third party information received from or relating to a victim under the condition that the victim has **explicitly consented** to such disclosure or that there is a **legal requirement or authorisation** to do so.

As it deals with the relationship between **privacy and the media**, the EDPS notes that the proposal has adopted a minimalistic approach, by simply referring to the instrument of self- regulation. The EDPS understands the reasons for adopting a cautious attitude with regard to this subject and generally agrees with the Commission's approach.

**2) Specific rights to information and access:** the EDPS notes that Article 3 of the proposed Directive, dealing with the right to receive information from the first contact with a competent authority, does not mention information relating to data protection. In order to ensure adequate protection of their personal data, victims should receive at appropriate times all the information necessary to enable them to fully understand how their personal data will be processed. The EDPS asks the legislator to:

- include in Article 3 a **requirement to provide victims with information concerning further processing of his/her personal data** in conformity with Article 10 of Directive 95/46/EC and consider whether to include specific provisions on the right to access his/her personal data;

**3) Confidentiality of communications between victims and support services:** certain categories of victims, such as victims of sexual violence, gender, racial hatred or other bias crimes, or victims of terrorism, may require specialist support services, including psychological support. In these cases, the communications between the victim and the professionals providing support services should be adequately protected from disclosure. The EDPS suggests that the legislator:

- **clarify the scope of the confidentiality requirement of victim support services** under Article 7, by specifying that the victim shall have the right to refuse disclosure in any judicial or administrative proceedings of confidential communications with a support service provider and that in principle such communications may be disclosed by a third party only with his/her consent.

**Regulation on mutual recognition of protection measures in civil matters:** the proposed Regulation complements the [EPO initiative](#) concerning mutual recognition of protection measures in criminal matters. Since the proposed Regulation concerns judicial cooperation in civil matters having cross-border implications, its application falls within the scope of Directive 95/46/EC. This was not the case for the EPO initiative.

Furthermore, it is not sufficiently clear from the proposal which personal data of the protected person will be communicated to the person causing the risk, in particular pursuant to Article 13.

The EDPS advises the legislator to:

- insert, at least in the recitals of the proposal, a **reference to Directive 95/46/EC** stating that personal data processed under the regulation should be protected in accordance with the national laws implementing Directive 95/46/EC;

- state clearly in Article 13 that **the person causing the risk should be provided only with those personal data of the protected person that are strictly necessary for the execution of the measure**. The communication in question should, as far as possible, avoid disclosing the address or other contact details concerning the protected person.

## Mutual recognition of protection measures in civil matters

2011/0130(COD) - 26/04/2012

The Council held a debate on a proposed regulation on mutual recognition of protection measures taken in civil matters upon request of the person at risk

Ministers endorsed guidelines on certain key issues of the proposal to provide guidance for the future work. Those guidelines concern three main issues:

- the need to **work rapidly towards the adoption of the proposed regulation**. The Council stressed that the work on the regulation should be continued as a matter of priority;
- the need to **provide for a simplified system** for the recognition and enforcement of protection measures. The Council noted that there should be automatic recognition and no need for a declaration of enforceability. It also underlined that in light of the diverse nature of authorities involved, the procedure must be kept simple;
- the importance of **creating a certificate** enabling victims to invoke protection measures in another Member State in order to facilitate recognition and reducing the need of translation.

This proposal is part of a legislative package, which aims at strengthening the protection of victims in the EU. This legislative package also includes a [Directive](#) on minimum standards on the rights, support and protection of victims of crime.

The United Kingdom and Ireland have decided to take part in this instrument. Denmark will not participate.