



**COUNCIL OF
THE EUROPEAN UNION**

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NOTE

from: **Presidency**
to: Council

No Cion prop.: 10613/11 JUSTCIV 143 COPEN 123 CODEC 889

Subject: Proposal for a Regulation of the European Parliament and of the Council on mutual recognition of protection measures in civil matters
- Orientation debate on certain issues

I. INTRODUCTION

1. By letter of 20 May 2011 the Commission submitted to the Council and to the European Parliament a proposal for a Regulation of the European Parliament and of the Council on mutual recognition of protection measures in civil matters.
2. The United Kingdom and Ireland have made the notification provided for under Article 3 of the Protocol on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, and will therefore take part in the adoption and application of the proposed Regulation.

3. In accordance with Articles 1 and 2 of the Protocol on the position of Denmark, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, Denmark is not taking part in the adoption of the proposed Regulation and will not be bound by it or subject to its application.
4. The Working Party on Civil Law Matters (Protection Measures) has discussed the proposed Regulation on a regular basis since the Commission proposal was submitted.
5. The proposed Regulation is subject to the ordinary legislative procedure. Informal contacts have been taken with the European Parliament for information purposes with a view to reaching a first-reading agreement.
6. The Presidency considers that the proposed Regulation will be of great benefit to citizens throughout the European Union, and the Presidency therefore attaches high priority to working on this file. Progress has been made in the Working Party on Civil Law Matters (Protection Measures), but due to the interlinked nature of the various parts of the proposed Regulation further negotiations are required before a final decision can be taken on all technical details of the proposal and on the proposal as a whole.
7. With a view to advancing the negotiations, the Presidency is, however, of the opinion that the time has come to ask the Council to hold an orientation debate and provide guidelines on certain key issues of the proposal with a view to framing the future work.

II. SUGGESTED GUIDELINES

A. Comprehensive approach for the recognition of protection measures

8. The proposed Regulation is part of the legislative package which aims at strengthening the rights of victims in the European Union.

9. Taking into account the different legal traditions in the Member States in this area, the proposal, which deals with protection measures in civil matters, aims at complementing Directive 2011/99/EU on the European protection order, which covers protection measures ordered in criminal matters. The link between these two instruments therefore needs careful consideration.
10. Discussions in the Working Party on Civil Law Matters (Protection Measures) to date have shown a general endorsement of the concept of complementarity. The exact shape of the various elements of the future instrument to attain this objective still needs to be determined. However, while respecting the civil law nature of the proposed Regulation, the solutions chosen in the Directive on the European protection order should be borne in mind and taken into account during the negotiations.
11. Directive 2011/99/EU on the European protection order must be implemented by 11 January 2015. Negotiations on the proposed Regulation should continue rapidly, so that the two instruments can be applied from the same date and that complementarity thereby is achieved from day one.
12. *The Presidency invites the Council to confirm the objective of working rapidly towards a complementary instrument in order to provide a legal framework so that protection measures both in criminal and civil matters are covered offering victims the widest possible protection.*

B. Simplified, quick and efficient system for the recognition of protection measures

13. In order to ensure that victims of physical or psychological violence can continue to benefit from protection ordered in one Member State in a quick and unburdensome manner even when they move, travel or work abroad, a simplified mechanism should be set up allowing for the protection to be extended to the other Member States and ensuring procedural safeguards for the persons concerned.

14. Given the urgency of the situations addressed by the draft Regulation, the recognition of protection measures should be automatic, without any intermediate procedure, and there should be no need for a declaration of enforceability. Thus, the aim should be to set up a simplified procedure of recognition, which is also taking account of the diverse nature of the authorities involved in these cases.
15. *The Presidency invites the Council to confirm its commitment to continuing to work towards ensuring these general principles.*

C. Certificate

16. With a view to enabling victims to invoke a protection measure easily and efficiently in another Member State, a certificate containing the information relevant to recognition and, where necessary, enforcement of the protection measure should be created.
17. To ensure simple use of this certificate, a standard EU-wide form should be established so that the required information can to a large extent be provided in a standardised form and any translation be minimised as far as possible.
18. In order to set up a simple and workable mechanism, in which it is for the protected person to decide whether he or she wishes to invoke a certificate in another Member State, the starting point should be a model, in which the certificate is handed by the issuing authority to the protected person.
19. *The Presidency suggests that the Council confirms its general commitment to working in this direction.*

III. CONCLUSION

20. Council is invited

- a) to endorse the guidelines set out in part II with a view to providing guidance for the future work on the proposed Regulation and
- b) to confirm that the examination of the proposal in the preparatory bodies of the Council should be continued as a matter of priority.
