# Regulation (EU) No 606/2013 of the European Parliament and of the Council of 12 June 2013 on mutual recognition of protection measures in civil matters

## REGULATION (EU) No 606/2013 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

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on mutual recognition of protection measures in civil matters

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular points (a), (e) and (f) of Article 81(2) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

After consulting the European Economic and Social Committee,

Having regard to the opinion of the Committee of the Regions[(1)],

Acting in accordance with the ordinary legislative procedure[(2)],

Whereas:

(1) The Union has set itself the objective of maintaining and developing an area of freedom, security and justice in which the free movement of persons is ensured and access to justice is facilitated, in particular through the principle of mutual recognition of judicial and extrajudicial decisions in civil matters. For the gradual establishment of such an area, the Union is to adopt measures relating to judicial cooperation in civil matters having cross-border implications, particularly when necessary for the proper functioning of the internal market.

(2) Article 81(1) of the Treaty on the Functioning of the European Union (TFEU) provides that judicial cooperation in civil matters having cross-border implications is to be based on the principle of mutual recognition of judgments and of decisions in extrajudicial cases.

(3) In a common area of justice without internal borders, provisions to ensure rapid and simple recognition and, where applicable, enforcement in another Member State of protection measures ordered in a Member State are essential to ensure that the protection afforded to a natural person in one Member State is maintained and continued in any other Member State to which that person travels or moves. It is necessary to 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 (TEU) and Article 21 TFEU, does not result in a loss of that protection.

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

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according to which protection measures ordered in one Member State are recognised in all other Member States without any special procedure being required. As a result, a protection measure ordered in one Member State ('Member State of origin') should be treated as if it had been ordered in the Member State where its recognition is sought ('Member State addressed').

(5) In order to attain the objective of free movement of protection measures, it is necessary and appropriate that the rules governing the recognition and, where applicable, enforcement of protection measures be governed by a legal instrument of the Union which is binding and directly applicable.

(6) This Regulation should apply to protection measures ordered with a view to protecting a person where 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 or violence in close relationships such as physical violence, harassment, sexual aggression, stalking, intimidation or other forms of indirect coercion. It is important to underline that this Regulation applies to all victims, regardless of whether they are victims of gender-based violence.

(7) Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime[(3)] ensures that victims of crime receive appropriate information and support.

(8) This Regulation complements Directive 2012/29/EU. The fact that a person is the object of a protection measure ordered in civil matters does not necessarily preclude that person from being defined as a 'victim' under that Directive.

(9) The scope of this Regulation is within the field of judicial cooperation in civil matters within the meaning of Article 81 TFEU. This Regulation applies only to protection measures ordered in civil matters. Protection measures adopted in criminal matters are covered by Directive 2011/99/EU of the European Parliament and of the Council of 13 December 2011 on the European Protection Order[(4)].

(10) The notion of civil matters should be interpreted autonomously, in accordance with the principles of Union law. The civil, administrative or criminal nature of the authority ordering a protection measure should not be determinative for the purpose of assessing the civil character of a protection measure.

(11) This Regulation should not interfere with the functioning of Council Regulation (EC) No 2201/2003 of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility[(5)] ('Brussels IIa Regulation'). Decisions taken under the Brussels IIa Regulation should continue to be recognised and enforced under that Regulation.

(12) This Regulation takes account of the different legal traditions of the Member States and does not interfere with the national systems for ordering protection measures. This Regulation does not oblige the Member States to modify their national systems so as to enable protection measures to be ordered in civil matters, or to introduce protection measures in civil matters for the application of this Regulation.

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(13) In order to take account of the various types of authorities which order protection measures in civil matters in the Member States, and unlike in other areas of judicial cooperation, 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. In no event should police authorities be considered as issuing authorities within the meaning of this Regulation.

(14) Based on the principle of mutual recognition, protection measures ordered in civil matters in the Member State of origin should be recognised in the Member State addressed as protection measures in civil matters in accordance with this Regulation.

(15) According to the principle of mutual recognition, the recognition corresponds to the duration of the protection measure. However, taking into account the diversity of protection measures under the laws of the Member States, in particular in terms of their duration, and the fact that this Regulation will typically apply in urgent situations, 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 (be it provisional, time-limited or indefinite in nature) has a longer duration.

(16) In cases where the duration of a protection measure is greater than 12 months, the limitation of the effects of recognition under this Regulation should be without prejudice to the right of the protected person to invoke that protection measure under any other available legal act of the Union providing for recognition or to apply for a national protection measure in the Member State addressed.

(17) The limitation of the effects of recognition is exceptional due to the special nature of the subject matter of this Regulation and should not serve as a precedent for other instruments in civil and commercial matters.

(18) This Regulation should deal only with the recognition of the obligation imposed by the protection measure. It should not regulate the procedures for implementation or enforcement of the protection measure, nor should it cover any potential sanctions that might be imposed if the obligation ordered by the protection measure is infringed in the Member State addressed. Those matters are left to the law of that Member State. However, in accordance with the general principles of Union law and particularly the principle of mutual recognition, Member States are to ensure that protection measures recognised under this Regulation can take effect in the Member State addressed.

(19) Protection measures covered by this Regulation should afford protection to the protected person at his or her place of residence or place of work, or at another place which that person visits on a regular basis, such as the residence of close relatives or the school or educational establishment attended by his or her child. Irrespective of whether the place in question or the extent of the area covered by the protection measure is described in the protection measure by one or more specific addresses or by reference to a circumscribed area which the person causing the risk may not approach or enter, respectively (or a combination of the two), the recognition of the obligation imposed by

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the protection measure relates to the purpose which the place serves for the protected person rather than to the specific address.

(20) In the light of the foregoing and provided that the nature and the essential elements of the protection measure are maintained, the competent authority of 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. Factual elements include the address, the general location or the minimum distance the person causing the risk must keep from the protected person, the address or the general location. However, the type and the civil nature of the protection measure may not be affected by such adjustment.

(21) In order to facilitate any adjustment of a protection measure, the certificate should indicate 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. Furthermore, if relevant, the circumscribed area (approximate radius from the specific address) to which the obligation imposed by the protection measure on the person causing the risk applies should also be indicated in the certificate.

(22) In order to facilitate the free movement of protection measures within the Union, this Regulation should introduce a uniform model of certificate and provide for the establishment of a multilingual standard form for that purpose. The issuing authority should issue the certificate upon request by the protected person.

(23) Free text fields in the multilingual standard form for the certificate should be as limited as possible, so that translation or transliteration may be provided in most cases without imposing any costs on the protected person by making use of the standard form in the relevant language. Any costs for necessary translation that goes beyond the text of the multilingual standard form are to be allocated as provided under the law of the Member State of origin.

(24) Where a certificate contains free text, the competent authority of the Member State addressed should determine whether any translation or transliteration is required. This should not preclude the protected person or the issuing authority of the Member State of origin from providing a translation or transliteration on their own initiative.

(25) To ensure respect for the rights of defence of the person causing the risk, where the protection measure was ordered in default of appearance or under a procedure that does not provide for prior notice to that person (‘*ex-parte* proceeding’), the issue of the certificate should only be possible if that person has had the opportunity to arrange for his or her defence against the protection measure. However, with a view to avoiding circumvention and taking into account the typical urgency of cases necessitating protection measures, it should not be required that the period for raising such defence has expired before a certificate may be issued. The certificate should be issued as soon as the protection measure is enforceable in the Member State of origin.

(26) Having regard to the objectives of simplicity and speed, this Regulation provides for simple and quick methods to be used for bringing procedural steps to the notice of the

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person causing the risk. Those specific methods of notification should apply only for the purposes of this Regulation due to the special nature of its subject matter, should not serve as a precedent for other instruments in civil and commercial matters and should not affect any obligations of a Member State concerning the service abroad of judicial and extrajudicial documents in civil matters arising from a bilateral or multilateral convention concluded between that Member State and a third country.

(27) When the certificate is brought to the notice of the person causing the risk and also when any adjustment is made to any factual elements of a protection measure in the Member State addressed, due regard should be paid to the interest of the protected person in not having his or her whereabouts or other contact details disclosed. Such details should not be disclosed to the person causing the risk unless such disclosure is necessary for compliance with, or the enforcement of, the protection measure.

(28) The issuing of the certificate should not be subject to appeal.

(29) The certificate should be rectified where, due to an obvious error or inaccuracy, such as a typing error or an error of transcription or copying, the certificate does not correctly reflect the protection measure, or should be withdrawn if it was clearly wrongly granted, for example where it was used for a measure that falls outside the scope of this Regulation or where it was issued in breach of the requirements for its issuing.

(30) The issuing authority of the Member State of origin should, upon request, assist the protected person in obtaining information on the authorities of the Member State addressed before which the protection measure is to be invoked or enforcement is to be sought.

(31) The harmonious functioning of justice requires that irreconcilable decisions should not be delivered in two Member States. To that end, this Regulation should provide for a ground for refusal of recognition or enforcement of the protection measure in cases of irreconcilability with a judgment given or recognised in the Member State addressed.

(32) Public interest considerations may, in exceptional circumstances, justify a refusal by the court of the Member State addressed to recognise or enforce a protection measure where its application would be manifestly incompatible with the public policy of that Member State. However, the court should not be able to apply the public-policy exception in order to refuse recognition or enforcement of a protection measure when to do so would be contrary to the rights set out in the Charter of Fundamental Rights of the European Union, and in particular Article 21 thereof.

(33) In the event of suspension or withdrawal of the protection measure or withdrawal of the certificate in the Member State of origin, the competent authority of the Member State addressed should, upon submission of the relevant certificate, suspend or withdraw the effects of recognition and, where applicable, the enforcement of the protection measure.

(34) A protected person should have effective access to justice in other Member States. To ensure such effective access in procedures covered by this Regulation, legal aid is to be provided in accordance with Council Directive 2003/8/EC of 27 January 2003 to improve access to justice in cross-border disputes by establishing minimum common rules relating to legal aid for such disputes[6].