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*Committee on Civil Liberties, Justice and Home Affairs  
Committee on Women's Rights and Gender Equality*

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**2010/0802(COD)**

20.5.2010

**\*\*\*I**

## **DRAFT REPORT**

on the initiative for a directive of the European Parliament and of the Council  
on the European Protection Order  
(00002/2010 – C7-0006/2010 – 2010/0802(COD))

Committee on Civil Liberties, Justice and Home Affairs  
Committee on Women's Rights and Gender Equality

Rapporteurs: Teresa Jiménez-Becerril Barrio, Carmen Romero López

(Rule 51 – Joint committee meetings)

### ***Symbols for procedures***

- \* Consultation procedure
- \*\*\* Consent procedure
- \*\*\*I Ordinary legislative procedure (first reading)
- \*\*\*II Ordinary legislative procedure (second reading)
- \*\*\*III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

### ***Amendments to a draft act***

In amendments by Parliament, amendments to draft acts are highlighted in ***bold italics***. Highlighting in *normal italics* alerts the relevant departments to parts of the draft act which may require correction when the final text is prepared – for instance, obvious errors or omissions in a language version. Suggested corrections of this kind are subject to the agreement of the departments concerned.

The heading for any amendment to an existing act which the draft act seeks to amend includes a third and fourth line identifying respectively the existing act and the provision in that act affected by the amendment. Passages in a provision of an existing act that Parliament wishes to amend, but the draft act has left unchanged, are highlighted in **bold**. Any deletions that Parliament wishes to make in passages of this kind are indicated thus: [...].

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## DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the initiative for a directive of the European Parliament and of the Council on the European Protection Order  
(00002/2010 – C7-0006/2010 – 2010/0802(COD))

(Ordinary legislative procedure: first reading)

*The European Parliament,*

- having regard to the initiative of a group of Member States (00002/2010),
  - having regard to point (d) of the second subparagraph of Article 82(1) and Article 289(4) of the Treaty on the Functioning of the EU, pursuant to which the Council submitted the initiative to Parliament (C7-0006/2010),
  - having regard to Article 294(3) and (15) of the Treaty on the Functioning of the EU,
  - having regard to the contributions transmitted as reasoned opinions to its President by national parliaments on whether the initiative complies with the principle of subsidiarity,
  - having regard to Rules 44 and 55 of its Rules of Procedure,
  - having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs and of the Committee on Women’s Rights and Gender Equality pursuant to Rule 51 of the Rules of Procedure (A7-0000/2010),
1. Adopts its position at first reading hereinafter set out;
  2. Instructs its President to forward its position to the Council, to the Commission as well as to the governments and the parliaments of the Member States.

### Amendment 1

#### Draft directive

#### Citation 1

##### *Text of the initiative*

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 82(1)(d) thereof,

##### *Amendment*

Having regard to the Treaty on the Functioning of the European Union, and in particular **Article 82(1)(a) and** (d) thereof,

Or. en

## Amendment 2

### Draft directive Recital 3

#### *Text of the initiative*

(3) According to the Stockholm programme, adopted by the European Council at its meeting on 10 and 11 December 2009, mutual recognition could extend to all types of judgments and decisions of a judicial nature, which may, depending on the legal system, be either criminal or administrative. The programme also points out that victims of crime can be offered special protection measures which should be effective within the Union.

#### *Amendment*

(3) According to the Stockholm programme, adopted by the European Council at its meeting on 10 and 11 December 2009, mutual recognition could extend to all types of judgments and decisions of a judicial nature, which may, depending on the legal system, be either criminal or administrative. The programme also points out that victims of crime can be offered special protection measures which should be effective within the Union. ***The following points of the Stockholm programme mentioned above, respectively point 2.3.4 on the victims of criminality, point 3.1.1 as regards the witnesses and point 3.4.1 on the simplification of access to justice in the European Judicial Area, particularly in cross-border proceedings should be underlined.***

***In the Communication on the Action Plan Implementing the Stockholm Programme (COM (2010)171 final)<sup>1</sup> it is pointed out that the differences in guarantees provided to victims of crime should be analysed and reduced with a view to increasing protection by all means available and in this context it is proposed that a legislative proposal on a comprehensive instrument on the protection of victims and an action plan on practical measures including developing a European Protection Order should be adopted.***

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<sup>1</sup> ***Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions – Delivering an area of freedom, security and justice for Europe's citizens***

### Amendment 3

#### Draft directive Recital 4

*Text of the initiative*

(4) The resolution of the European Parliament of **2 February 2006** on the ***current situation in combating*** violence against women ***and any future actions recommends that Member States formulate a zero-tolerance policy as regards all forms of violence against women and*** calls on Member States to ***take appropriate measures to ensure better protection of and support to actual and potential victims.***

*Amendment*

(4) The resolution of the European Parliament of **26 November 2009** on the ***elimination of*** violence against women<sup>1</sup> 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 and support for all victims of violence. The resolution of the European Parliament of 10 February 2010 on equality between women and men in the European Union – 2009***<sup>2</sup> ***endorses the Spanish Presidency’s proposals to introduce the European protection order for victims and a common EU-wide telephone helpline for victims.***

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<sup>1</sup> P7\_TA(2009)0098.

<sup>2</sup> P7\_TA (2010)0021.

## Amendment 4

### Draft directive Recital 4 a (new)

*Text of the initiative*

*Amendment*

***(4a) In order to establish the causes of violence and enhance the protection of victims, it is necessary to have statistics and comparable data on violence at Union level. To this effect Member States should collect data related to the number of European protection orders requested, issued and enforced, data related to breaches of the protection measures adopted, as well as information on the types of crimes, for example domestic violence, forced marriages, female genital mutilation, honour-related violence, stalking and harassment and other forms of gender-based violence. Also data on victims of terrorism and of organised crime should be included in the data collection and all data should be differentiated by gender and forwarded every year to the Commission and to the European Parliament.***

Or. en

## Amendment 5

### Draft directive Recital 6 a (new)

*Text of the initiative*

*Amendment*

***(6a) This Directive applies to protection measures which aim at protecting a person against an act or behaviour of another person which may, in any way, endanger his life, physical or psychological integrity and dignity, personal liberty or sexual integrity, for example. by preventing any form of***



*harassment, as well as his personal liberty, for example. by preventing abductions, stalking and other forms of indirect coercion and aiming at avoiding new criminal acts or at reducing the consequences of previous criminal acts. It is important to underline that this Directive applies to protection measures which aim at protecting all victims and not only the victims of gender violence. This Directive is intended to apply to protection measures issued in favour of victims, or possible victims, of crimes.*

Or. en

## **Amendment 6**

### **Draft directive Recital 6 b (new)**

*Text of the initiative*

*Amendment*

*(6b) Member States should also take into account the protection of victims who may encounter risks of forced marriages, honour killings, female genital mutilations, paedophilia, trafficking in human beings, organised crime and becoming victims of terrorism.*

Or. en

## **Amendment 7**

### **Draft directive Recital 6 c (new)**

*Text of the initiative*

*Amendment*

*(6c) For the application of this Directive, a protection measure may have been imposed following a judgment, as defined by Article 2 of Council Framework*

*Decision 2008/947/JHA of 27 November 2008 on the application of the principle of mutual recognition to judgments and probation decisions with a view to the supervision of probation measures and alternative sanctions<sup>1</sup> or following a decision on supervision measures as defined in Article 4 of Council Framework Decision 2009/829/JHA of 23 October 2009 on the application, between Member States of the European Union, of the principle of mutual recognition to decisions on supervision measures as an alternative to provisional detention<sup>2</sup>.*

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<sup>1</sup> OJ L 337, 16.12.2008, p. 102.

<sup>2</sup> OJ L 294, 11.11.2009, p. 20.

Or. en

## Amendment 8

### Draft directive Recital 7

#### *Text of the initiative*

(7) In order to prevent a new crime being committed against the victim in the executing State, that State should be given a legal basis for recognising the decision previously adopted in the issuing State in favour of the victim, while also avoiding the need for the victim to start new proceedings or to produce the evidence in the executing State again as if the issuing State had not adopted the decision.

#### *Amendment*

(7) In order to prevent a crime being committed against the victim in the executing State, that State should be given a legal basis for recognising the decision previously adopted in the issuing State in favour of the victim, while also avoiding the need for the victim to start new proceedings or to produce the evidence in the executing State again as if the issuing State had not adopted the decision. ***The recognition of the European protection order by the executing State implies inter alia that the competent authority of that State, subject to the limitations set out in this Directive, automatically accepts the existence and validity of the protection measure adopted in the issuing State,***

*acknowledges the factual situation described in the European protection order, and agrees that protection should be provided and should continue to be provided.*

Or. en

## **Amendment 9**

### **Draft directive Recital 8**

#### *Text of the initiative*

(8) This Directive should be applied and enforced in such a way that the protected person receives the same or equivalent protection in the executing State as he would have received if the protection measure had been issued in that State ab initio, thus avoiding any discrimination.

#### *Amendment*

(8) This Directive should be applied and enforced in such a way that the protected person receives the same or equivalent protection in the executing State as he would have received if the protection measure had been issued in that State ab initio, thus avoiding any discrimination. ***Member States should take the necessary measures in order to ensure that no financial costs are imposed on the victim or potential victim when he or she requests the issuing of a European protection order.***

Or. en

## **Amendment 10**

### **Draft directive Recital 8 a (new)**

#### *Text of the initiative*

#### *Amendment*

***(8a) Taking into consideration the different judicial systems in the Member States, it seems appropriate to provide a high degree of flexibility in the cooperation mechanism between the Member States under this Directive.***

*Following receipt of a European protection order, the executing State, while under a general obligation to act, should be allowed to give effect to this order in the way which is most appropriate in the light of its own legal system. This may imply that the measure adopted in the executing State is conceptually and legally independent from the original protection measure taken by the issuing State and underlying the European protection order.*

Or. en

## **Amendment 11**

### **Draft directive Recital 8 b (new)**

*Text of the initiative*

*Amendment*

*(8b) This Directive contains a closed number of obligations or prohibitions which, when imposed in the issuing State and contained in the European protection order, should be recognised and enforced in the executing State, subject to the limitations set out in this Directive. The competent authority in the executing State does not in all cases have to take the same protection measure as adopted in the issuing State, but it has discretion to adopt any measure which it finds adequate and appropriate under its national law in order to provide continued protection to the protected person in the light of the protection measure adopted in the issuing State and as described in the European protection order.*

Or. en

## Amendment 12

### Draft directive Recital 8 c (new)

*Text of the initiative*

*Amendment*

***(8c) The obligations or prohibitions to which this Directive applies include, among others, measures limiting the freedom of movement of the person causing danger, if these are imposed in order to safeguard the protected person, and measures aimed at limiting personal or remote contacts between the protected person and the person causing danger, for example, by imposing certain modalities with regard to such contacts or imposing restrictions on the contents of communications.***

Or. en

## Amendment 13

### Draft directive Recital 8 d (new)

*Text of the initiative*

*Amendment*

***(8d) The competent authority of the executing State should inform the person causing danger, the competent authority of the issuing State and where appropriate the competent authority or authorities of the other executing State or States and the protected person of any measure taken on the basis of the European protection order. In the notification to the person causing danger due regard should be taken to the interest of the protected person of not having his/her address or other contact details disclosed. Such details should be excluded from the notification, provided that the address or other contact details are not comprised in***

*the obligation or prohibition imposed as an enforcement measure on the person causing danger.*

Or. en

#### **Amendment 14**

**Draft directive  
Recital 8 e (new)**

*Text of the initiative*

*Amendment*

*(8e) When the competent authority in the issuing State has withdrawn the European protection order, the competent authority in the executing State should end the measures which it has adopted in order to enforce the European protection order, it being understood that the competent authority in the executing State may – autonomously, of its own motion – adopt any protection measure under its national law in order to protect the person concerned.*

Or. en

#### **Amendment 15**

**Draft directive  
Recital 8 f (new)**

*Text of the initiative*

*Amendment*

*(8f) When implementing this Directive, Member States should consider putting in place procedures allowing for the protected person and the person causing danger to be heard before recognising and enforcing a European protection order, as well as legal remedies against decisions to recognise and enforce a European protection order.*

**Amendment 16****Draft directive  
Recital 10 a (new)***Text of the initiative**Amendment*

***(10a) In the framework of cooperation among the authorities involved in ensuring the safeguard of the protected person, the competent authority of the executing State should communicate without delay to the competent authority of the issuing State any breach of the measures adopted in the executing State with a view to executing the European protection order. This communication should enable the competent authority of the issuing State to promptly decide on any appropriate reaction with respect to the protection measure imposed in its State on the person causing danger. Such reaction may comprise, where appropriate, the imposition of a custodial measure in substitution of the non-custodial measure originally adopted, for example, as an alternative to preventive detention or as a consequence of conditional suspension of a penalty. It is understood that such a decision, since it does not consist in the imposition ex novo of a criminal sanction in relation to a new criminal offence, does not interfere with the possibility that the executing State may, where applicable, impose criminal or non-criminal sanctions in case of breach of the measures adopted in order to execute the European protection order.***

## Amendment 17

### Draft directive Recital 10 b (new)

*Text of the initiative*

*Amendment*

***(10b) Member States should pay particular attention to cases where children are concerned and should take the necessary measures in order to ensure that they will be provided with assistance, support and protection, taking into account the best interests of the child.***

Or. en

## Amendment 18

### Draft directive Recital 12 a (new)

*Text of the initiative*

*Amendment*

***(12a) This Directive, where it relates to criminal matters, does not amend or replace mutual recognition instruments in civil matters such as Council Regulation (EC) No 44/2001 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters<sup>1</sup>. When a decision relating to a protection measure falls both within the scope of this Directive and within the scope of Regulation (EC) No 44/2001, notably concerning compensation for damages, the recognition and enforcement of such a decision should be carried out in accordance with the provisions of that Regulation.***

<sup>1</sup> OJ L 12, 16.1.2001, pp. 1-23.

Or. en



## Amendment 19

### Draft directive Recital 12 b (new)

*Text of the initiative*

*Amendment*

***(12b) Equally, regarding judicial decisions adopted for the protection of minors, in cases of parental responsibility falling under the scope of Council Regulation (EC) No 2201/2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility<sup>1</sup>, the recognition and enforcement of such decisions should be sought in accordance with that Regulation.***

<sup>1</sup>*OJ L 338, 23.12.2003, p. 1.*

Or. en

## Amendment 20

### Draft directive Recital 12 c (new)

*Text of the initiative*

*Amendment*

***(12c) For the recognition and enforcement of other decisions which aim at the protection of minors, falling under the scope of the 1996 Hague Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Cooperation in respect of Parental Responsibility and Measures for the Protection of Children, this Convention should apply.***

Or. en

## Amendment 21

### Draft directive Recital 12 d (new)

*Text of the initiative*

*Amendment*

***(12d) Personal data processed when implementing this Directive should be protected in accordance with Council Framework Decision 2008/977/JHA of 27 November 2008 on the protection of personal data processed in the framework of police and judicial cooperation in criminal matters and in accordance with the principles laid down in the Council of Europe Convention of 28 January 1981 for the Protection of Individuals with regard to Automatic Processing of Personal Data, which all Member States have ratified.***

Or. en

## Amendment 22

### Draft directive Recital 12 e (new)

*Text of the initiative*

*Amendment*

***(12e) This Directive should respect the fundamental rights and observe the principles recognised in particular by the Charter of Fundamental Rights of the European Union and by the European Convention for the Protection of Human Rights and Fundamental Freedoms. In particular, this Directive should ensure full respect for these rights and principles and should be implemented accordingly.***

Or. en

## Amendment 23

### Draft directive Recital 12 f (new)

*Text of the initiative*

*Amendment*

***(12f) In the application of this Directive, Member States are encouraged to take into account the rights and principles enshrined in the Convention on the elimination of all forms of discrimination against women (CEDAW).***

Or. en

## Amendment 24

### Draft directive Article -1 (new)

*Text of the initiative*

*Amendment*

***Article -1***

***Objective***

***This Directive sets out rules allowing a judicial or equivalent authority in a Member State, in which a protection measure has been issued with a view to protecting a person against a criminal act, offensive or threatening behaviour of another person which may endanger his life, physical or psychological integrity and dignity, personal liberty or sexual integrity, to issue a European protection order enabling a competent authority in another Member State to continue the protection of the person concerned in the territory of this Member State, following the commission of an act which has been or could have been the object of proceedings by a court having jurisdiction in particular in criminal matters.***

Or. en

## Amendment 25

### Draft directive

#### Article 1 – paragraph 1

##### *Text of the initiative*

1) “European protection order” means a **judicial** decision **relating** to a protection measure **issued by a Member State and aiming at facilitating the taking by another Member State, where appropriate, of a protection** measure under its own national law with a view to the safeguard of the life, physical and psychological integrity, freedom or sexual integrity of a person.

##### *Amendment*

1) “European protection order” means a decision, **taken by a judicial or equivalent authority of a Member State in relation to** a protection measure, **on the basis of which a judicial or equivalent authority of another Member State takes any appropriate** measure under its own national law with a view to **continuing** the safeguard of the life, physical and psychological integrity **and dignity**, freedom or sexual integrity of a person.

Or. en

## Amendment 26

### Draft directive

#### Article 1 – paragraph 2

##### *Text of the initiative*

2) “Protection measure” means a decision adopted **by a competent authority of a Member State imposing on a person causing danger** one or more of the obligations or prohibitions referred to in Article 2(2), **provided that the infringement of such obligations or prohibitions constitutes a criminal offence under the law of the Member State concerned or may otherwise be punishable by a deprivation of liberty in that Member State.**

##### *Amendment*

2) “Protection measure” means a decision adopted **in the issuing State in accordance with its national law and procedures by which** one or more of the obligations or prohibitions, referred to in Article 2(2), **are imposed on a person or persons causing danger, to the benefit of a protected person with a view to protecting the latter against a criminal act which may endanger his life, physical or psychological integrity and dignity, personal liberty or sexual integrity.**

Or. en

## Amendment 27

### Draft directive

#### Article 1 – paragraph 3

##### *Text of the initiative*

3) “Protected person” means the person whose life, physical and psychological integrity, freedom, or sexual integrity are the object of the protection stemming from a protection measure adopted by the issuing State.

##### *Amendment*

3) “Protected person” means the **natural** person – **man, woman or child** – whose life, physical and psychological integrity **and dignity**, freedom, or sexual integrity are the object of the protection stemming from a protection measure adopted by the issuing State.

Or. en

## Amendment 28

### Draft directive

#### Article 1 – paragraph 4

##### *Text of the initiative*

4) “Person causing danger” means the person on whom one or more of the obligations or prohibitions, referred to in Article 2(2), have been imposed.

##### *Amendment*

4) “Person causing danger” means the **natural** person **or persons** on whom one or more of the obligations or prohibitions, referred to in Article 2(2), have been imposed.

Or. en

## Amendment 29

### Draft directive

#### Article 1 – paragraph 6

##### *Text of the initiative*

6) “Executing State” means the Member State to which a European protection order has been forwarded with a view to its recognition.

##### *Amendment*

(6) “Executing State **or States**” means the Member State **or the Member States** to which a European protection order has been forwarded with a view to its recognition.

### Amendment 30

#### Draft directive

#### Article 1 – paragraph 7 a (new)

*Text of the initiative*

*Amendment*

**(7a) “Judicial authority” means a judge, investigating magistrate or public prosecutor or other judicial authority.**

Or. en

### Amendment 31

#### Draft directive

#### Article 2 – paragraph 1 – point a

*Text of the initiative*

*Amendment*

(a) an obligation not to enter certain localities, places or defined areas where the protected person resides or that he visits;

**(a) a prohibition** to enter **any** localities, places or defined areas where the protected person resides, **works** or that he **or she** visits;

Or. en

### Amendment 32

#### Draft directive

#### Article 2 – paragraph 1 – point d

*Text of the initiative*

*Amendment*

(d) an obligation to avoid contact with the protected person; **or**

**(d) 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. en

### Amendment 33

#### Draft directive

#### Article 2 – paragraph 1 – point e

##### *Text of the initiative*

(e) a prohibition on approaching the protected person closer than a prescribed distance.

##### *Amendment*

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

Or. en

### Amendment 34

#### Draft directive

#### Article 2 – paragraph 1 – point e a (new)

##### *Text of the initiative*

##### *Amendment*

**(ea) any other obligations or prohibition imposed to guarantee the protection of the victims.**

Or. en

### Amendment 35

#### Draft directive

#### Article 4 – paragraph 1

##### *Text of the initiative*

##### *Amendment*

1. Each Member State shall inform the General Secretariat of the Council which judicial authority or authorities are competent under its national law to issue a European protection order and to recognise such an order, in accordance with this Directive, when that Member State is the issuing State or the executing State.

1. Each Member State shall inform the General Secretariat of the Council **and the Commission** which judicial authority or authorities are competent under its national law to issue a European protection order and to recognise such an order, in accordance with this Directive, when that Member State is the issuing State or the executing State.

### Amendment 36

#### Draft directive

#### Article 4 – paragraph 2

*Text of the initiative*

*Amendment*

**2. By derogation from paragraph 1, Member States may designate non-judicial authorities as the competent authorities for taking decisions under this Directive, provided that such authorities have the competence to take decisions of a similar nature under their national law and procedures.**

**deleted**

Or. en

### Amendment 37

#### Draft directive

#### Article 4 – paragraph 3

*Text of the initiative*

*Amendment*

**3. The *General Secretariat of the Council* shall make the information received available to all Member States *and to the Commission*.**

**3. *The Commission* shall make the information received available to all Member States.**

Or. en



## Amendment 38

### Draft directive

#### Article 4 a (new) – paragraph 1

*Text of the initiative*

*Amendment*

#### ***Article 4a***

##### ***Recourse to a central authority***

***1. Each Member State may designate a central authority or, where its legal system so provides, more than one central authority to assist its competent authorities.***

***2. A Member State may, if it is necessary as a result of the organisation of its internal judicial system, make its central authority(ies) responsible for the administrative transmission and reception of any European protection order, as well as for all other official correspondence relating thereto. As a consequence, all communications, consultations, exchanges of information, enquiries and notifications between competent authorities may be dealt with, where appropriate, with the assistance of the central authority(ies) of the Member State concerned.***

***3. Member States wishing to make use of the possibilities referred to in this Article shall communicate to the Commission information relating to the designated central authority or central authorities. These indications shall be binding upon all the authorities of the issuing State.***

Or. en

## Amendment 39

### Draft directive

#### Article 5 – paragraph 1

##### *Text of the initiative*

1. On the basis of a protection measure adopted in the issuing State, ***a judicial authority of that State, or another competent authority referred to in Article 4(2), shall, only at the request of the protected person,*** issue a European protection order, after verifying that the protection measure meets all the requirements set out in *Article 3(1)*.

##### *Amendment*

1. On the basis of a protection measure adopted in the issuing State, ***a European protection order may be issued when a protected person decides to reside or already resides in another Member State or States or he or she decides to stay or already stays on the territory of another Member State. A judicial or equivalent authority of the issuing State may issue a European protection order only at the request of the protected person or of his or her legal representative, guardian or tutor and*** after verifying that the protection measure meets all the requirements set out in *Article 2(2)*.

Or. en

## Amendment 40

### Draft directive

#### Article 5 – paragraph 2

##### *Text of the initiative*

2. The protected person ***or*** his legal representative may submit a request for the issuance of a European protection order either to the competent authority of the issuing State or to the competent authority of the executing State.

##### *Amendment*

2. The protected person, his ***or her*** legal representative, ***guardian or tutor*** may submit a request for the issuance of a European protection order either to the competent authority of the issuing State or to the competent authority of the executing State. ***When there are one or more executing States, the competent authority of the state in which the request has been submitted informs the competent authorities of the other executing State or States about the request.***

***If such a request is submitted in the executing State, its competent authority***

*shall transfer this request as soon as possible to the competent authority of the issuing State in order, where appropriate, to issue the European protection order.*

Or. en

#### Amendment 41

##### Draft directive

##### Article 5 – paragraph 3

###### *Text of the initiative*

3. The authority which adopts a protection measure containing one or more of the obligations referred to in Article 2(2) shall inform the protected person about the possibility of requesting a European protection order when he ***intends to move to*** another Member State. The authority shall advise the protected person to submit the application before leaving the territory of the issuing State.

###### *Amendment*

3. The authority which adopts a protection measure containing one or more of the obligations referred to in Article 2(2) shall inform the protected person ***or his or her legal representative, guardian or tutor in any appropriate way in accordance with procedures under its national law*** about the possibility of requesting a European protection order when he ***or she decides to reside or already resides in*** another Member State ***or he or she decides to stay or already stays on the territory of another Member State***. The authority shall advise the protected person to submit the application before leaving the territory of the issuing State, ***while informing the protected person about the possibility to request the issuance of the European protection order in the executing State***.

Or. en

#### Amendment 42

##### Draft directive

##### Article 6 – point a

###### *Text of the initiative*

(a) the identity and nationality of the protected person, as well as the identity

###### *Amendment*

(a) the identity and nationality of the protected person, as well as the identity

and nationality of the person's legal representative if the protected person is a minor or is legally incapacitated;

and nationality of the person's legal representative, ***guardian or tutor*** if the protected person is a minor or is legally incapacitated;

Or. en

#### **Amendment 43**

##### **Draft directive**

##### **Article 6 – point a a (new)**

*Text of the initiative*

*Amendment*

***(aa) the date from which the protected person intends to reside or stay in the executing State, and the period or periods of stay, if known;***

Or. en

#### **Amendment 44**

##### **Draft directive**

##### **Article 6 – point b**

*Text of the initiative*

*Amendment*

(b) the use of any ***technological instruments***, if any, that ***have*** been provided to the protected person to carry out the immediate enforcement of the protection measure, where appropriate;

(b) the use of any ***technical device***, if any, that ***has*** been provided to the protected person to carry out the immediate enforcement of the protection measure, where appropriate;

Or. en

## Amendment 45

### Draft directive

#### Article 6 – point c a (new)

*Text of the initiative*

*Amendment*

***(ca) the name, address, telephone and fax numbers, and e-mail address of the competent authority or authorities of the executing State or States;***

Or. en

## Amendment 46

### Draft directive

#### Article 6 – point f

*Text of the initiative*

*Amendment*

(f) the obligations or prohibitions imposed in the protection measure underlying the European protection order on the person causing danger, their length and the ***express*** indication ***that their infringement constitutes a criminal offence under the law of the issuing State or may otherwise be punishable by a deprivation of liberty;***

(f) the obligations or prohibitions imposed in the protection measure underlying the European protection order on the person causing danger, their length and the indication ***of the penalty or sanction, if any, in case of the breach of the respective obligation or prohibition;***

Or. en

## Amendment 47

### Draft directive

#### Article 6 – point g

*Text of the initiative*

*Amendment*

(g) the identity and nationality of the person causing danger, as well as his contact details;

(g) the identity and nationality of the person ***or persons*** causing danger, as well as his ***or their*** contact details;

Or. en

## Amendment 48

### Draft directive Article 6 – point i a (new)

*Text of the initiative*

*Amendment*

***(ia) If appropriate, the name and contact details of the lawyers dealing with the file and, where appropriate, the existence of the right of free legal assistance in the issuing State, in order to ensure continuity of free legal assistance and an immediate action in case of breach of the European protection order.***

Or. en

## Amendment 49

### Draft directive Article 7 – paragraph 1

*Text of the initiative*

*Amendment*

Transmission procedure

1. Where the competent authority of the issuing State transmits the European protection order to the competent authority of the executing State, it shall do so by any means which leaves a written record so as to allow the competent authority of the executing *Member State* to establish its authenticity.

Transmission procedure

1. Where the competent authority of the issuing State transmits the European protection order to the competent authority of the executing State ***or States***, it shall do so by any means which leaves a written record so as to allow the competent authority of the executing State ***or States*** to establish its authenticity. ***All official communication shall also be made directly between the said competent authorities.***

Or. en

## Amendment 50

### Draft directive

#### Article 7 – paragraph 2

##### *Text of the initiative*

2. If the competent authority of either the executing or the issuing State is not known to the competent authority of the other State, the latter authority shall make all the relevant enquiries, including via the contact points of the European Judicial Network created by the Council Joint Action 98/428/JHA of 29 June 1998 on the creation of a European Judicial Network, the National Member of Eurojust or the National System for the coordination of Eurojust of its State, in order to obtain the required information.

##### *Amendment*

2. If the competent authority of either the executing ***State or States*** or the issuing State is not known to the competent authority of the other State, the latter authority shall make all the relevant enquiries, including via the contact points of the European Judicial Network created by the Council Joint Action 98/428/JHA of 29 June 1998 on the creation of a European Judicial Network, the National Member of Eurojust or the National System for the coordination of Eurojust of its State, in order to obtain the required information.

Or. en

## Amendment 51

### Draft directive

#### Article 7 – paragraph 3

##### *Text of the initiative*

3. When an authority of the executing State which receives a European protection order has no competence to recognise it, that authority shall, ex officio, forward the European protection order to the competent authority.

##### *Amendment*

3. When an authority of the executing State which receives a European protection order has no competence to recognise it, that authority shall, ex officio, forward the European protection order to the competent authority ***and shall without delay inform the competent authority of the issuing State accordingly by any means which leaves a written record.***

Or. en

## Amendment 52

### Draft directive

#### Article 8 – paragraph 1 – point a

##### *Text of the initiative*

(a) upon receipt of a European protection order transmitted in accordance with Article 7, recognise that order and take, **where appropriate, all measures that would be available** under its national law in a similar case in order to ensure the protection of the protected person, unless it decides to invoke one of the grounds for non-recognition referred to in Article 9;

##### *Amendment*

(a) upon receipt of a European protection order transmitted in accordance with Article 7, recognise that order **without delay** and take **any corresponding measures guaranteeing the same level of protection** under its national law in a similar case in order to ensure the protection of the protected person, unless it decides to invoke one of the grounds for non-recognition referred to in Article 9;

Or. en

## Amendment 53

### Draft directive

#### Article 8 – paragraph 1 – point b

##### *Text of the initiative*

(b) inform the person causing danger, where appropriate, of any measure taken in the executing State;

##### *Amendment*

(b) inform the person causing danger, where appropriate, of any measure taken in the executing State **and of the legal consequences of any breach of the protection measure described therein**;

Or. en

## Amendment 54

### Draft directive

#### Article 8 – paragraph 1 – point d

##### *Text of the initiative*

(d) immediately notify the competent authority of the issuing State and, if the issuing State is different from the State of

##### *Amendment*

(d) immediately notify the competent authority of the issuing State and, if the issuing State is different from the State of



supervision, the competent authority of the State of supervision, of any breach of the protection measure underlying the European protection order and described therein. Notice shall be given using the standard form set out in Annex II.

supervision, the competent authority of the State of supervision, **and in case there are several executing States the competent authority in the other executing State or States** of any breach of the protection measure underlying the European protection order and described therein. Notice shall be given using the standard form set out in Annex II.

Or. en

## Amendment 55

### Draft directive

#### Article 8 – paragraph 2

##### *Text of the initiative*

2. The competent authority of the executing State shall inform the competent authority of the issuing State and the protected person about the measures adopted in accordance with this Article.

##### *Amendment*

2. The competent authority of the executing State shall inform **without delay the person causing danger**, the competent authority of the issuing State and the protected person about the measures adopted in accordance with this Article **whilst avoiding disclosing the address or other contact details concerning the protected person**.

Or. en

## Amendment 56

### Draft directive

#### Article 8 – paragraph 2 a (new)

##### *Text of the initiative*

##### *Amendment*

**2a. If the competent authority in the executing State considers that the information transmitted with the European protection order in accordance with Article 6 is incomplete, it shall without delay inform the issuing authority**

*by any means which leaves a written record, setting a deadline for the issuing authority to provide the missing information.*

Or. en

## **Amendment 57**

### **Draft directive**

#### **Article 8 a (new) – paragraph 1**

*Text of the initiative*

*Amendment*

#### *Article 8a*

##### *Prevention, information campaigns and training*

- 1. Member States shall take appropriate measures to prevent violence against persons.*
- 2. Member States shall take appropriate actions such as information and awareness-raising campaigns, research and education programmes, where appropriate in cooperation with civil society organisations, aimed at raising awareness about the existence of the possibility of issuing the European protection order and reducing the risk of people becoming victims of violence.*
- 3. Member States shall promote regular training for the judicial authorities and other competent authorities likely to come into contact with victims and potential victims, aimed at enabling them to offer adequate assistance.*

Or. en

## Amendment 58

### Draft directive

#### Article 9 – paragraph 1

##### *Text of the initiative*

1. **Grounds** shall be given for any refusal to recognise a European protection order.

##### *Amendment*

1. **Reasons** shall be given for any refusal to recognise a European protection order.

Or. en

## Amendment 59

### Draft directive

#### Article 9 – paragraph 1 – point c

##### *Text of the initiative*

***(c) the protection derives from the execution of a penalty or measure that is covered by amnesty according to the law of the executing State and relates to an act which falls within its competence according to that law;***

##### *Amendment*

***deleted***

Or. en

## Amendment 60

### Draft directive

#### Article 9 – paragraph 1 – point d

##### *Text of the initiative*

***(d) there is immunity conferred under the law of the executing State on the person causing danger, which makes it impossible to adopt the protection measures;***

##### *Amendment*

***deleted***

Or. en

## Amendment 61

### Draft directive Article 9 a (new)

*Text of the initiative*

*Amendment*

#### ***Article 9a***

##### ***Governing law and competence in the executing State***

***1. The executing State, after consulting the issuing State, has competence to adopt and to enforce measures in that State following the recognition of a European protection order. The law of the executing State applies to the adoption and enforcement of the decision provided for in Article 8(1), including rules on legal remedies against decisions adopted in the executing State relating to the European protection order.***

***2. In case of a breach of one or more of the measures taken by the executing State following the recognition of a European protection order, the competent authority of the executing State has, pursuant to paragraph 1, the competence to:***

***(a) impose criminal sanctions and take any other measure as a consequence of the breach of such measures, if this amounts to a criminal offence under the law of the executing State;***

***(b) take any non-criminal decisions related to the breach;***

***(c) take any urgent and provisional measure in order to put an end to the breach, where appropriate pending a subsequent decision by the issuing State.***

***3. Where the competent authority of the executing State refuses to recognise a European protection order on one of the grounds referred to in Article 9(2)(a) and (b), it shall inform the protected person about the possibility of requesting the adoption of a protection measure in***

*accordance with its national law.*

Or. en

## **Amendment 62**

### **Draft directive Article 9 b (new)**

*Text of the initiative*

*Amendment*

#### **Article 9b**

##### **Notification in case of breach**

***The competent authority of the executing State shall notify the competent authority of the issuing State and of the State of supervision of any breach of the measure or measures taken on the basis of the European protection order. Notice shall be given using the standard form set out in Annex II.***

Or. en

## **Amendment 63**

### **Draft directive Article 10 – title**

*Text of the initiative*

*Amendment*

***Subsequent decisions*** in the issuing State

***Competence*** in the issuing State

Or. en

## **Amendment 64**

### **Draft directive Article 10 – paragraph 1**

*Text of the initiative*

*Amendment*

1. The competent authority of the issuing

1. The competent authority of the issuing

State shall have *jurisdiction* to take *all subsequent* decisions relating to *the protection measure underlying a European protection order. Such subsequent decisions shall concern notably:*

State shall have *exclusive competence* to take decisions relating to:

Or. en

## Amendment 65

### Draft directive

#### Article 10 – paragraph 1 – point a

##### *Text of the initiative*

(a) the renewal, review and withdrawal of the protection measure;

##### *Amendment*

(a) the renewal, review, ***modification, revocation*** and withdrawal of the protection measure ***and, consequently, of the European protection order;***

Or. en

## Amendment 66

### Draft directive

#### Article 10 – paragraph 1 – point a a (new)

##### *Text of the initiative*

##### *Amendment*

***(aa) the imposition of a custodial measure as a consequence of revoking the protection measure, provided that the protection measure has been applied on the basis of a judgment, as defined by Article 2 of Council Framework Decision 2008/947/JHA, or on the basis of a decision on supervision measures, as defined in Article 4 of Council Framework Decision 2009/829/JHA;***

Or. en

**Amendment 67**

**Draft directive**

**Article 10 – paragraph 1 – point b**

*Text of the initiative*

*Amendment*

***(b) the modification of the protection measure;*** ***deleted***

Or. en

**Amendment 68**

**Draft directive**

**Article 10 – paragraph 1 – point c**

*Text of the initiative*

*Amendment*

***(c) the issuing of an arrest warrant or any other enforceable judicial decision having the same effect;*** ***deleted***

Or. en

**Amendment 69**

**Draft directive**

**Article 10 – paragraph 1 – point d**

*Text of the initiative*

*Amendment*

***(d) the initiation of new criminal proceedings against the person causing the danger.*** ***deleted***

Or. en

## Amendment 70

### Draft directive

#### Article 10 – paragraph 3

##### *Text of the initiative*

3. Where a judgment, as defined in Article 2 of Council Framework Decision 2008/947/JHA, or a decision on supervision measures, as defined in Article 4 of Council Framework Decision 2009/829/JHA, has already been transferred to another Member State, subsequent decisions shall be taken in accordance with the relevant provisions of those Framework Decisions.

##### *Amendment*

3. Where a judgment, as defined in Article 2 of Council Framework Decision 2008/947/JHA, or a decision on supervision measures, as defined in Article 4 of Council Framework Decision 2009/829/JHA, has already been transferred, ***or is transferred after the issuing of the European protection order,*** to another Member State, subsequent decisions shall be taken in accordance with the relevant provisions of those Framework Decisions.

Or. en

## Amendment 71

### Draft directive

#### Article 10 – paragraph 3 a (new)

##### *Text of the initiative*

##### *Amendment*

***3a. The competent authority of the issuing State shall inform without delay the competent authority of the executing State of any decision taken in accordance with paragraph 1.***

Or. en



**Amendment 72**

**Draft directive**

**Article 10 – paragraph 3 b (new)**

*Text of the initiative*

*Amendment*

***3b. If the competent authority in the issuing State has revoked or withdrawn the European protection order in accordance with paragraph 1(a), the competent authority in the executing State shall end the measures adopted in accordance with Article 8(1) as soon as it has been duly notified by the competent authority of the issuing State.***

Or. en

**Amendment 73**

**Draft directive**

**Article 10 – paragraph 3 c (new)**

*Text of the initiative*

*Amendment*

***3c. If the competent authority in the issuing State has modified the European protection order in accordance with paragraph 1(a), the competent authority in the executing State shall, as appropriate:***

Or. en

**Amendment 74**

**Draft directive**

**Article 10 – paragraph 3 c (new) – point a (new)**

*Text of the initiative*

*Amendment*

***(a) change the measures taken on the basis of the European protection order,***

*acting in accordance with Article 8;*

Or. en

## Amendment 75

### Draft directive

#### Article 10 – paragraph 3 c (new) – point b (new)

*Text of the initiative*

*Amendment*

*(b) refuse to enforce the modified obligation or prohibition when it does not fall within the types of obligations or prohibitions referred to in Article 4 or if the information transmitted with the European protection order in accordance with Article 6 is incomplete and has not been completed within the time limit set by the competent authority of the executing State in accordance with Article 8(2a).*

Or. en

## Amendment 76

### Draft directive

#### Article 11

*Text of the initiative*

*Amendment*

Grounds for *revoking the recognition* of a European protection order

Grounds for *discontinuation of measures taken on the basis* of a European protection order

The competent authority of the executing State may *revoke the recognition of a European protection order where there is evidence that the protected person has definitively left the territory of the executing State.*

1. The competent authority of the executing State may *discontinue the measures taken in execution of a European protection order:*

*(a) where there is undoubted and clear evidence that proves that the protected person does not reside or stay in the*

*territory of the executing State, or has definitively left that territory;*

*(b) when, according to its national law, the maximum term of duration of the measures adopted in execution of the European protection order has expired;*

*(c) in the case referred to in Article 10(6)(b);*

*(d) where a judgment, as defined in Article 2 of Council Framework Decision 2008/947/JHA, or a decision on supervision measures, as defined in Article 4 of Council Framework Decision 2009/828/JHA, is transferred to the executing State after the recognition of the European protection order.*

*2. The competent authority of the executing State shall immediately inform the competent authority of the issuing State and the protected person of such a decision.*

*3. Before discontinuing measures in accordance with paragraph 1(b) the competent authority of the executing State may invite the competent authority of the issuing State to provide information as to whether the protection provided for by the European protection order is still needed in the circumstances of the particular case at hand. The competent authority of the issuing State shall, without delay, reply to such an invitation.*

Or. en

## **Amendment 77**

### **Draft directive Article 12 – paragraph 1**

#### *Text of the initiative*

1. The European protection order shall be *recognised without delay*.

#### *Amendment*

1. The European protection order shall be *executed within 20 days*.

**Amendment 78**

**Draft directive**

**Article 12 – paragraph 2**

*Text of the initiative*

*Amendment*

**2. The competent authority of the executing State shall decide without delay on the adoption of any measure under its national law further to the recognition of a European protection order, in accordance with Article 8.**

**2. According to the nature of the protection needed, it must be ensured that the issuing of a European protection order follows fast-track procedures at national level.**

Or. en

**Amendment 79**

**Draft directive**

**Article 13**

*Text of the initiative*

*Amendment*

**Article 13**

**deleted**

**Governing law**

**Decisions made by the competent authority of the executing State under this Directive shall be governed by its national law.**

Or. en

**Amendment 80**

**Draft directive**

**Article 14**

*Text of the initiative*

*Amendment*

**Article 14**

**deleted**

### *Obligations of the authorities involved*

*1. Where, in application of Article 10(1)(b), the competent authority of the issuing State has modified the protection measure underlying the European protection order, it shall without delay inform the competent authority of the executing State of such modification.*

*Where appropriate, the competent authority of the executing State shall take the necessary measures in order to give effect to the modified protection measure, if those measures would be available under its national law in a similar case, informing the competent authority of the issuing State, the protected person and, where appropriate, the person causing danger, when the latter is in the territory of the executing State.*

*2. The competent authority of the issuing State shall without delay inform the competent authority of the executing State and the protected person of the expiry or revocation of the protection measure underlying the European protection order that was issued in the issuing State and, subsequently, of the revocation of the order.*

Or. en

## **Amendment 81**

### **Draft directive**

#### **Article 16 – paragraph 1**

##### *Text of the initiative*

The European protection order shall be translated into the official language or one of the official languages of the executing State.

##### *Amendment*

*1. The European protection order shall be translated **by the competent authority of the issuing State** into the official language or one of the official languages of the executing State **or States**.*

## Amendment 82

### Draft directive

#### Article 16 – paragraph 1 a (new)

*Text of the initiative*

*Amendment*

***1a. The form referred to in Article 9b shall be translated by the competent authority of the executing State into the official language or one of the official languages, as appropriate, of the issuing State.***

Or. en

## Amendment 83

### Draft directive

#### Article 16 – paragraph 2

*Text of the initiative*

*Amendment*

Any Member State may, either when this Directive is adopted or at a later date, state in a declaration deposited with the ***General Secretariat of the Council***, that it will accept a translation in one or more other official languages of the institutions of the Union.

**2.** Any Member State may, either when this Directive is adopted or at a later date, state in a declaration deposited with the ***Commission*** that it will accept a translation in one or more other official languages of the institutions of the Union.

Or. en

## Amendment 84

### Draft directive Article 18 a (new)

*Text of the initiative*

*Amendment*

#### *Article 18a*

##### *Relationship with other instruments*

**1. This Directive shall not affect the application of Council Regulation (EC) No 44/2001 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters, nor of Council Regulation (EC) No 2201/2003 on jurisdiction and the recognition and enforcement of judgments in matrimonial matters and in matters of parental responsibility for joint children, repealing Regulation (EC) No 1347/2000, nor of the 1996 Hague Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Cooperation in respect of Parental Responsibility and Measures for the Protection of Children, nor of the 1980 Hague Convention on the Civil Aspects of International Child Abduction.**

**2. This Directive shall not affect the application of Council Framework Decision 2008/947/JHA and Council Framework Decision 2009/829/JHA.**

Or. en

## Amendment 85

### Draft directive Article 19 – paragraph 2

*Text of the initiative*

*Amendment*

1. Member States shall **take the** necessary **measures** to comply with **the provisions of** this Directive by ... \*

1. Member States shall **bring into force the laws, regulations and administrative provisions** necessary to comply with this

Directive by ...\* *They shall forthwith inform the Commission thereof. When Member States adopt those measures, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The methods of making such reference shall be laid down by the Member States.*

Or. en

## Amendment 86

### Draft directive Article 19 – paragraph 2

#### *Text of the initiative*

2. Member States shall *transmit to the General Secretariat of the Council and* to the Commission the text of the provisions *transposing into their* national law *the obligations imposed on them under* this Directive.

#### *Amendment*

2. Member States shall *communicate* to the Commission the text of the *main* provisions *of* national law *which they adopt in the field covered by* this Directive.

Or. en

## Amendment 87

### Draft directive Article 19 a (new)

#### *Text of the initiative*

#### *Amendment*

#### *Article 19a*

#### *Data collection*

*1. Member States shall collect data on the basis of the European protection order, in particular data related to the number of European protection orders requested, issued and enforced. In addition data related to breaches of the protection*



*measures adopted should be collected as well as information on the types of crimes, for example domestic violence, forced marriages, female genital mutilation, honour-related violence, stalking and harassment and other forms of gender-based violence. Also data on victims of terrorism and of organised crime should be included in the data collection. All data should be differentiated by gender.*

*2. Member States shall forward to the Commission and to the European Parliament the information collected on the basis of the European protection order.*

Or. en

## Amendment 88

### Draft directive Article 20

#### *Text of the initiative*

##### Review

*1. By ....\*, the Commission shall **draw up** a report **based on the information received from the Member States under Article 19(2).***

*2. **On the basis of this report, the Council shall assess:***

*(a) **the extent to which the Member States have taken the necessary measures in order to comply with this Directive, and***

*(b) **the application of this Directive.***

*3. The report shall be accompanied, if necessary, by legislative proposals.*

#### *Amendment*

##### Review

By .... \*, the Commission shall **submit** a report **to the European Parliament and to the Council on the application of this Directive.** The report shall be accompanied, if necessary, by legislative proposals.

Or. en



## EXPLANATORY STATEMENT

The proposal for a directive on the European protection order, submitted by 12 Member States, is an initiative aimed at preventing crime. Even when Member States have provided for protection orders for victims, the resulting enforcement measures stop at the border of the issuing State. Victims, however, may move from one Member State to another for many reasons, not least to escape crime. Because they move in this way they are defenceless when judicial and law enforcement cooperation fails to protect them by implementing a rapid, effective Europe-wide early-warning and prevention mechanism. Setting up a cooperation arrangement along these lines is the aim that has given rise to this initiative. The action taken by Member States shows that crime can be prevented at European level when the aggressor or aggressors are identified.

The Council Framework Decision of 15 March 2001 on the standing of victims in criminal proceedings and Council Directive 2004/80/EC of 29 April 2009 relating to compensation to crime victims are based on the Council of Europe recommendation of 28 June 2005 on the position of the victim in the framework of criminal law and procedure, but they do not cover crime prevention, the case concerned here.

The Stockholm Programme and the related Action Plan set out the need to address the situation of victims, combat violence, and facilitate access to justice in the European judicial area, particularly in cross-border proceedings (Stockholm Programme, point 3.4.1). The communication on the Action Plan Implementing the Stockholm Programme (COM(2010)0171)<sup>1</sup> points out that the differences in guarantees provided to victims of crime should be analysed and reduced with a view to increasing protection by all means available, and in this context it is proposed to adopt a legislative proposal on a comprehensive instrument on the protection of victims and an action plan on practical measures, including developing a European protection order.

In keeping with the procedures resulting from implementation of the Treaty of Lisbon, Rule 51 of Parliament's Rules of Procedure allows reports to be drawn up on a cross-cutting basis. This report has benefited from input from the discussions in the Committee on Civil Liberties, Justice and Home Affairs and the Committee on Women's Rights and Gender Equality as well as from the collaboration between the two rapporteurs.

The European Council presented its first proposal for a directive for a European protection order for victims on 5 January 2010. Since then the proposal has been modified and revised many times by the Council. Much of the content and the construction of the legal basis of the Council's proposal were based on a questionnaire which was answered in October 2009 by 20 EU Member States.

This report and the suggested amendments from both rapporteurs are based on the Council's version of 22 January.

The Council defines victim protection as activating appropriate mechanisms to prevent a repeat offence or a different, perhaps more serious, offence by the same offender against the

same victim. These protection measures are applicable only in the territory where the measures were laid down by a legal authority. A mechanism to extend these protection measures to another Member State is what the Council is aiming for. Or in other words, it wants to avoid the situation in which a victim would have to restart the whole legal process of gaining protection measures when moving to another Member State.

The rapporteurs' view

The rapporteurs largely agree with the Council's proposal. Taking into account the Stockholm Action Plan, the initiative of the European Union to maintain and develop an area of freedom, security and justice, which was approved by the European Council at its meeting on 10 and 11 December, this directive is the first of many coming initiatives to reach these goals. Victims of violence should not only be prevented in their country from being harmed by offenders, but also within the whole of the European Union they should have these kinds of preventive measures. For those reasons the rapporteurs support the overall concept of the protection order.

The scope of the initiative is deliberately wide. Although most of the protection orders in force concern women victims of gender violence, any other victim – that is to say, a child or adult of either sex – who had suffered violence at the hands of an identified aggressor could be covered. In this context the Stockholm Programme states that victims of crime, including terrorism, who are most vulnerable or who find themselves in particularly exposed situations, such as persons subjected to repeated violence in close relationships, victims of gender-based violence, or persons who fall victim to other types of crimes in a Member State of which they are not nationals or residents, are in need of special support and legal protection. A European protection order should therefore be applicable to all *victims of crime*, such as victims of human trafficking, victims of female genital mutilations, forced marriages, honour killings, incest, gender violence, witnesses, victims of terrorism and victims of organised crime, regardless of the age or sex of the victim, where there is an identified aggressor. If the victim is too young for an order to be issued, he or she needs the assistance and approval of a tutor or legal representative.

The amendments proposed to the directive improve the text by

- improving the arrangements for revoking a European protection order,
- ensuring continuity of legal protection,
- limiting the reasons for refusal to recognise, or rejection of, a European protection order,
- laying down a 20-day deadline for execution of an order,
- clarifying the position as regards victims moving from one Member State to another.

However, the rapporteurs are aware of the complexity of the initiative and of the challenges that the directive might face in the future. The fact that the judicial systems of Member States are different and that the proceedings may be criminal, civil or administrative needs to be overcome.

The intention of the rapporteurs is to ensure the best protection possible of the victims by *inter alia* ensuring the necessary legal certainty. The victims should benefit from clear

procedures and always be informed about the measures that are available in both the issuing State and the States where they intend to move or have already moved. In addition, the grounds for refusal should be as restrictive as possible and the victim should be clearly informed about the reasons that have led to a refusal.

Furthermore, protection of victims does not mean just physical protection. Also the dignity of victims needs to be taken in account when we speak of victim protection. As mentioned in the Council Framework Decision on preventing and combating trafficking in human beings and protecting victims, repealing Framework Decision 2002/629/JHA, ‘any action of the Union in this field must respect fundamental rights and observe the principles recognized in particular by the Charter of Fundamental Rights of the European Union (EU Charter) and the Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), notably human dignity’. It is also mentioned that every provision aimed at supporting victims in the concrete exercise of their rights in criminal proceedings, such as assistance measures, psychological assistance and legal counselling, should empower them and contribute to strengthening respect for their dignity. The rapporteurs consider it imperative to include protection for victims that aims to restore their dignity and the respect due to them as human beings, whenever they have decided to move to another country or are already living in another Member State.

The directive protects victims who have been mistreated by one single person. Reality, however, shows that more than one person could threaten or harm another person. If a judicial court is prosecuting a group of people and protective measures have been imposed, the European protection order, if it has been issued, should also cover protection against violence committed by a group of people.

This initiative from a group of Member States fails to provide for moral assistance, which should be included in the directive. Victims who have been morally damaged through violence of any kind whatsoever need to be provided with the right information and assistance on how they can start a new life while not losing the protection measures which have been imposed, even before they have the idea of moving to another Member State. Throughout the process this assistance should be considered.

This report is the result of two rapporteurs working to ensure that the European protection order is a strong instrument in providing a safer haven for victims of violence across Member States’ borders.