COUNCIL OF THE EUROPEAN UNION

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COPEN 102 CODEC 325

REPORT

from :	Presidency
to :	Coreper / Council
no. Initiative:	PE-CONS 2/10 + ADD 1 + ADD 2
no. Prev. Doc:	7938/10 COPEN 74 CODEC 242
Subject:	Initiative for a Directive of the European Parliament and of the Council on the European Protection Order

Delegations will find attached a clean version of the text of the draft Directive as it results from the integration into the text of the proposals set out in 8703/10, as well as from the integration of some proposals made by delegations during the last discussions.

Changes in respect to 7938/10 + COR 1 have been highlighted by underlining and (…).

ANNEX

Draft

Directive of the European Parliament and of the Council on the European Protection Order

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 Article 82(1)(a) and (d) thereof,

Having regard to the initiative of the Kingdom of Belgium, the Republic of Bulgaria, the Republic of Estonia, the Kingdom of Spain, the French Republic, the Italian Republic, the Republic of Hungary, the Republic of Poland, the Portuguese Republic, Romania, the Republic of Finland and the Kingdom of Sweden,

Acting in accordance with the ordinary legislative procedure [1],

Whereas [2]:

(1) The European Union has set itself the objective of maintaining and developing an area of freedom, security and justice.

(2) Article 82(1) of the Treaty on the Functioning of the European Union (TFEU) provides that judicial cooperation in criminal matters in the Union shall be based on the principle of mutual recognition of judgments and judicial decisions.

[1] Position of the European Parliament of … (not yet published in the Official Journal) and Council Decision of … (not yet published in the Official Journal).

[2] The recitals have not yet been discussed.

(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.

(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.

(5) In a common area of justice without internal borders, it is necessary to ensure that the protection provided to a person in one Member State is maintained and continued in any other Member State to which the person moves or has moved. It should also be ensured 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 of the TFEU, does not result in a loss of their security.

(6) In order to attain these objectives, this Directive should set out rules whereby the protection stemming from a protection measure adopted according to the law of one Member State ("the issuing State") can be extended to another Member State to which the protected person moves ("the executing State"), regardless of the type or duration of the obligations or prohibitions contained in the protection measure concerned.

(6bis) 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, psychological and sexual integrity, e.g. by preventing any form of harassment, as well as his personal liberty, e.g. by preventing abductions, stalking and other forms of indirect coercion, and aiming at avoiding new acts of crime or at reducing the consequences of previous acts of crime. This Directive is intended to apply to protection measures issued in favour of victims, or possible victims, of crimes; it should not apply to measures issued with a view to protecting witnesses.

(6ter) 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 [1], 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 [2].

(7) In order to prevent a crime or 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. 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, 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 be continued to be provided.

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1 OJ L 337, 16.12.2008, p. 102.
2 OJ L 294, 11.11.2009, p. 20.

(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.

(8bis) (deleted)

(8ter) The European protection order and the protection measure underlying the European protection order have the objective of safeguarding the protected person against behaviour of another person which may endanger his or her life, physical or psychological integrity, personal liberty or sexual integrity. These personal rights correspond to fundamental values recognised and upheld in all Member States to the effect that in all Member States acts or behaviour endangering or violating those rights constitute criminal offences and are punishable by severe penalties. Decisions establishing or validating protection measures serving the objective of providing safeguard against such offences therefore concern, in their essence, "criminal matters" within the meaning of Article 82 TFEU.

(8quarter) It follows that this Directive should apply to all types of decisions adopted in criminal matters, independent from the nature – criminal, civil or administrative – of the judicial or equivalent authority that adopts the decision concerned, be it in the context of criminal proceedings or in the context of any other proceedings with regard to an act or behaviour of a person which may endanger the life, physical or psychological integrity, personal liberty or sexual integrity of another person.

(8quinquies) Since in the Member States different kinds of authorities (criminal or civil) are competent to issue and enforce protection measures, 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 Member State, while under a generic 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 Member State and underlying the European protection order.

(8sexies) 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.

(8sexies - a) 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, e.g. by imposing certain modalities of such contacts or imposing restrictions on the contents of communications.

(8septies) (…) The competent authority of the executing State should inform the person causing danger, the competent authority of the issuing State and the protected person of any measure taken on the basis of the European protection order. In the notification of 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 detail is not comprised in the obligation or prohibition imposed as an enforcement measure on the person causing danger.

(8octies) 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.

(8novies) When implementing this Directive, Member States should consider putting in place procedures allowing the hearing of the protected person and the person causing danger before recognising and enforcing a European Protection Order, as well as legal remedies against decisions to recognise and enforce a European Protection Order.

(9) Given that this Directive deals with situations in which the protected person moves to another Member State, executing its provisions does not imply any transfer to the executing State of powers relating to principal, suspended, alternative, conditional or secondary penalties, or relating to security measures imposed on the person causing danger, if the latter continues to reside in the State that issued the protection measure.

(10) Where appropriate, it should be possible to use electronic means with a view to putting into practice the measures adopted in application of this Directive, in accordance with national laws and procedures.

(10bis) 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 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, e.g. as alternative to preventive detention or as a consequence of conditional suspension of a penalty. It is understood that such 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.

(11) Since the objective of this Directive, namely to protect persons who are in danger, cannot be sufficiently achieved by the Member States acting unilaterally, given the cross-border nature of the situations involved, and could instead, due to the scale and potential effects, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as referred to in Article 5(3) of the TEU. In accordance with the principle of proportionality, as set out in Article 5(4) of the TEU, this Directive does not go beyond what is necessary to achieve that objective.

(12) This Directive should contribute to the protection of persons who are in danger, thereby complementing but not affecting the instruments already in place in this field, such as Council Framework Decision 2008/947/JHA and Council Framework Decision 2009/829/JHA.

(12bis) This Directive, relating 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 [1]. 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 a compensation for damages, the recognition and enforcement of such decision should be carried out in accordance with the provisions of said Regulation.

(12ter) Equally, regarding judicial decisions for the protection of minors adopted in cases of parental responsibility falling under the scope of Council Regulation (EC) No 2201/2003 concerning jurisdiction and the recognition and enforcement of judgements in matrimonial matters and the matters of parental responsibility [2], the recognition and enforcement of such decisions should be sought in accordance with that Regulation.

(12quarter) For the recognition and enforcement of other decisions with 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.

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[1] OJ L 12, 16.1.2001, p. 1.
[2] OJ L 338, 23.12.2003, p. 1

(13) Personal data processed when implementing this Framework Decision 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 [1] 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.

(14) This Directive should respect the fundamental rights, as guaranteed by the Charter on Fundamental Rights of the European Union and by the European Convention for the Protection of Human Rights and Fundamental Freedoms, in conformity with Article 6 of the TEU,

HAVE ADOPTED THIS DIRECTIVE:

[1] OJ L 350, 30.12.2008, p. 60.

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 (...) of another person which may endanger his life, physical or psychological integrity, 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.

Article 2

Definitions

For the purposes of this Directive the following definitions shall apply:

1) "European protection order" means a decision, taken by a judicial or equivalent authority of a Member State in relation with 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 continue the safeguard of the protected person.

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 4, are imposed on a person 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, personal liberty or sexual integrity.

3) "Protected person" means the natural person who is the object of the protection stemming from a protection measure adopted by the issuing State.

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

5) "Issuing State" means the Member State in which a protection measure has been adopted, constituting the basis for issuing a European protection order.

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

7) "State of supervision" means the Member State to which 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 Framework Decision 2009/829/JHA, has been transferred.

Article 3

Designation of competent authorities

1. Each Member State shall inform the Commission which judicial or equivalent 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.

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

Article 3bis

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 Member State.

Article 4

Condition of existence of a protection measure under national law

A European protection order may only be issued when a protection measure has been previously ordered in the issuing State, imposing on the person causing danger one or more of the following obligations or prohibitions:

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

(b) (…)

(c) (…)

(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

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

Article 5

Issue of a European protection order

1. A European protection order may be issued when the protected person decides to reside or already resides in another Member State, or when the protected person decides to stay or already stays in another Member State. When deciding upon the advisability to issue a European protection order, the competent authority in the issuing State shall take into account, inter alia, the length of the period or periods time for which the protected person envisages to stay in the executing State and the seriousness of the need for protection.

2. A judicial or equivalent authority of the issuing State may issue a European protection order only at the request of the protected person and after verifying that the protection measure meets all the requirements set out in Article 4.

3. The protected person may submit a request for issuing a European protection order either to the competent authority of the issuing State or to the competent authority of the executing State. 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.

3 bis. Before issuing an European protection order the person causing danger shall be given the right to be heard and the right to challenge the protection measure, if he has not had these rights in the procedure leading to the adoption of the protection measure.

4. When a competent authority adopts a protection measure containing one or more of the obligations referred to in Article 4, it shall inform the protected person in any appropriate way in accordance with procedures under its national law about the possibility of requesting a European protection order in case he decides to leave for another Member State. The authority shall advise the protected person to submit the application before leaving the territory of the issuing State.

5. If the protected person has a guardian or legal representative, that person may introduce the request referred to in paragraph 2 and 3 on behalf of the protected person. In the same situation, the competent authority of the issuing shall also provide the information referred to in paragraph 4 to the guardian or legal representative.

Article 6

Form and content of the European protection order

The European protection order shall be issued in accordance with the form set out in Annex I to this Directive. It shall in particular contain the following information:

(a) the identity and nationality of the protected person, as well as the identity and nationality of the person's guardian or legal representative if the protected person is a minor or is legally incapacitated;

(b) 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;

(c) the name, address, telephone and fax numbers, and e-mail address of the competent authority of the issuing State;

(d) the identification (e.g. through a number and date) of the legal act containing the protection measure on the basis of which the European protection order is adopted;

(e) a summary of the facts and circumstances which have led to the imposition of the protection measure in the issuing State;

(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, that can be imposed in case of a breach of the protection measure;

(f-bis) the use of a technical device, if any, that has been provided to the protected person or to the person causing danger as a means to enforce the protection measure;

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

(h) where appropriate, other circumstances that could have an influence on the assessment of the danger that confronts the protected person;

(i) the express indication, where applicable, that a judgement, as defined by Article 2 of Council Framework Decision 2008/947/JHA, or a decision on supervision measures, as defined by Article 4 of Council Framework Decision 2009/829/JHA, has already been transferred to the State of supervision and the identification of the competent authority of that State for the enforcement of such a judgment or decision.

Article 7

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. All official communication shall also be made directly between the said competent authorities.

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 [1], the National Member of Eurojust or the National System for the coordination of Eurojust of its State, in order to obtain the required information.

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.

[1] OJ L 191, 7.7.1998, p. 4.

Article 8

Measures in the executing State

1. Upon receipt of a European protection order transmitted in accordance with Article 7, the competent authority of the executing State shall without undue delay recognise that order and take a decision adopting any measure 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.

1 bis. The measure adopted by the competent authority of the executing State in accordance with paragraph 1, as well as any other measure taken on the basis of a subsequent decision referred to in Article 9 bis, shall correspond, as much as possible, to the protection measure ordered in the issuing State.

2. The competent authority of the executing State shall inform the person causing danger, the competent authority of the issuing State and the protected person of any measures taken in application of paragraph 1, avoiding, where appropriate, to disclose the address or other contact details concerning the protected person which might expose him to danger.

3. If the competent authority in the executing State considers that the information transmitted with the European protection order according to Article 6 is incomplete, it shall without delay inform the issuing authority by any means which leaves a written record, assigning a term for the issuing authority to provide the missing information.

Article 9

Grounds for non-recognition of a European protection order

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

2. The competent authority of the executing State may refuse to recognise a European protection order in the following circumstances:

(a) the European protection order is not complete or has not been completed within the time-limit set by the competent authority of the executing State;

(b) the requirements set out in Article 4 have not been met.

(c) the protection measure relates to an act that does not constitute a criminal offence under the law of the executing State.

~~3.~~ (…)

(d) 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 or behaviour which falls within its competence according to that law;

(e) there is immunity conferred under the law of the executing State on the person causing danger, which makes it impossible to adopt measures on the basis of a European protection order;

(f) criminal prosecution against the person causing danger for the act or behaviour in relation to which the protection measure has been adopted is statute-barred under the law of the executing State;

(g) recognition of the European protection order would contravene the ne bis in idem principle;

(h) under the law of the executing State, the person causing danger cannot, because of his age, be held criminally responsible for the act or behaviour in relation to which the protection measure has been adopted.

(i) the protection measure relates to a criminal offence which under the law of the executing State is regarded as having been committed wholly or for a major or essential part within its territory.

Article 9bis

Governing law and competence in the executing State

1. The executing 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 foreseen in Article 8 paragraph 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, in application of paragraph 1, the competences to:

   a) impose criminal sanctions and take any other measure as consequence of the breach of such measure, 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. If there is no available measure at national level in a similar case to be taken in the executing State, the competent authority of the executing State shall report any breach of the protection measure described in the European protection order.

(…)

Article 9ter

Notification in case of breach

The competent authority of the executing State shall notify the competent authority of the issuing State or 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.

Article 10

Competence in the issuing State

1. The competent authority of the issuing State shall have exclusive competence to take decisions relating to :

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

   (b) 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 judgement, 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;

2. The law of the issuing State shall apply to decisions taken pursuant to paragraph 1.

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.

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

5. 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.

6. 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

(a) change the measures taken on the basis of the European protection order, acting in accordance with Article 8;

or

(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 according to Article 6 is incomplete and has not been completed within the time-limit set by the competent authority of the executing State according to Article 8(3).

Article 11

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

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

   (a) where there is sufficient indication 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 20008/947/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 of such 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.

Articles 12, 13 and 14

(deleted)

Article 15

Consultations between competent authorities

Where appropriate, the competent authorities of the issuing State and of the executing State may consult each other in order to facilitate the smooth and efficient application of this Directive.

Article 16

Languages

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.

2. The form referred to in Article 9ter shall be translated by the competent authority of the executing State into the official language or one of the official languages of the issuing State.

3. 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.

Article 17

Costs

Costs resulting from the application of this Directive shall be borne by the executing State, except for costs arising exclusively within the territory of the issuing State.

Article 18

Relation to other agreements and arrangements

1. Member States may continue to apply bilateral or multilateral agreements or arrangements which are in force upon the entry into force of this Directive, insofar as they allow the objectives of this Directive to be extended or enlarged and help to simplify or facilitate further the procedures for taking protection measures.

2. Member States may conclude bilateral or multilateral agreements or arrangements after the entry into force of this Directive, insofar as they allow the objectives of this Directive to be extended or enlarged and help to simplify or facilitate the procedures for taking protection measures.

3. By …*, Member States shall notify the Commission of the existing agreements and arrangements referred to in paragraph 1 which they wish to continue applying. Member States shall also notify the Commission of any new agreements and arrangements as referred to in paragraph 2, within three months of signing such an agreement.

* OJ: please insert date 3 months after the entry into force of this Directive

Article 18bis

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 [1], 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 [2], 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.

[1] OJ L 12 of 16.1.2001, p. 1.
[2] OJ L 338 of 23.12.2003, p. 1.

Article 19

Implementation

1. Member States shall bring into force the laws, regulations and administrative provisions 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.

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.

Article 20

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.

Article 21

Entry into force

This Directive shall enter into force on the twentieth day following its publication in the Official Journal of the European Union.

Done at [Brussels],

For the European Parliament — For the Council

The President — The President

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[*] OJ: please insert date 2 years after the entry into force of this Directive. DE proposed a term for implementation of 3 years.

[*] OJ: please insert date 4 years after the entry into force of this Directive

ANNEX I *

EUROPEAN PROTECTION ORDER

referred to in Article 6 of the draft Directive

(provisionally deleted; see Annex I to doc 6812/10)

ANNEX II

FORM

referred to in Article 8(1)(d) of the draft Directive

(provisionally deleted; see Annex II to doc 6812/10)

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* The contents of Annexes I and II will be examined after a general approach has been reached on the operative part of the Directive.