
STATUTORY RULES OF NORTHERN IRELAND

2014 No. 320

The Criminal Justice (European Protection Order) (Northern Ireland) Regulations 2014

PART 3

Recognition in Northern Ireland of a European protection order made in a member State other than the United Kingdom

Interpretation – Part 3 and the Schedule

11.—(1) In this Part and in the Schedule—

“European protection order” has the meaning given by Article 2 of the Directive, where the decision was taken by a competent authority of a member State other than the United Kingdom;

“person causing danger” has the meaning given by Article 2 of the Directive;

“protected person” means the individual who is the object of the protection given by a protection measure adopted by a competent authority of a member State other than the United Kingdom.

“protection measure”, except as mentioned in regulation 12(6)(b) and (7), has the meaning given by Article 2 of the Directive.

(2) References in this Part to “the issuing State” are to be construed in accordance with regulation 12(1).

Requests from other member States to recognise a European protection order

12.—(1) This regulation applies if a competent authority of a member State other than the United Kingdom (“the issuing State”)—

(a) makes a European protection order; and

(b) makes a request for the recognition of the European protection order under the Directive.

(2) The competent authority of the issuing State makes a “request for the recognition of the European protection order under the Directive” if it or the central authority of the issuing State gives to the central authority for Northern Ireland the following documents —

(a) the European protection order or a copy of it, using the form set out in Annex I to the Directive; and

(b) if the form is not in English, a copy of the form translated into English.

(3) The central authority for Northern Ireland must give those documents to a magistrates’ court.

(4) The magistrates’ court must decide, without undue delay, whether any of the grounds for refusal to give effect to a European protection order in the Schedule apply.

(5) If the magistrates’ court decides that none of the grounds for refusal applies, it must give effect to the order under regulation 13.

(6) Subject to regulation 14, if the magistrates' court decides that one or more of the grounds for refusal in the Schedule applies, it may refuse to recognise the European protection order and, where it does so, it must—

- (a) without undue delay, inform the competent authority of the issuing State and the protected person that it has decided not to recognise the European protection order and of the grounds for doing so;
- (b) where appropriate, ensure that the protected person is informed of the possibility of applying for a protection measure under the law of Northern Ireland;
- (c) ensure that the protected person is informed of any applicable legal remedy that may be available against the decision under the law of Northern Ireland.

(7) In paragraph (6)(b), “protection measure” is to be construed in accordance with regulation 3(1).

(8) Where a guardian or other representative is acting on a protected person's behalf, references in paragraph (6) to the protected person are to be read instead as references to the guardian or other representative.

Giving effect in Northern Ireland to a European protection order

13.—(1) This regulation applies where a magistrates' court is required under regulation 12 to give effect to a European protection order.

(2) The magistrates' court must give effect to the order by making a restraining order under Article 7 of the Protection from Harassment (Northern Ireland) Order 1997(1), which has the effect for the purposes of this regulation as if—

- (a) for paragraph (2) there were substituted—

“(2) The order may, for the purpose of protecting a protected person under the Criminal Justice (European Protection Order) Regulations (Northern Ireland) 2014 (“the 2014 Regulations”), prohibit or restrict an individual causing danger from doing anything described in the order (subject to paragraph (2A)).

(2A) The prohibitions or restrictions imposed on a person under paragraph (2) must correspond as far as possible to those contained in the European protection order made by the competent authority of the issuing State.”;

- (b) paragraphs (3A), (4) and (4A) were omitted; and
- (c) after paragraph (7) there were inserted—

“(8) In this Article—

“European protection order”, “person causing danger” and “protected person” have the meanings given in regulation 11(1) of the 2014 Regulations;

“issuing State” is to be construed in accordance with regulation 12(1) of those Regulations.”.”

Procedural requirements relating to the making of a restraining order

14.—(1) If the magistrates' court considers that the ground for refusal mentioned in paragraph 1(a) of Schedule 1 applies, it must, before taking a decision refusing to recognise the European protection order under regulation 12—

(1) *S.R.1997 No. 1180*; Article 7 was amended by sections 13 and 58 of, and Schedules 10 and 11 to, the Domestic Violence, Crime and Victims Act 2004 (c.28). Article 7 (3A), (4A) and (7) were added by section 13 of the Domestic Violence, Crime and Victims Act 2004.

- (a) without delay, notify the competent authority of the member State that the information provided is incomplete; and
- (b) request that competent authority to provide the missing information, specifying a reasonable period for it do so.

(2) Where under paragraph (1)(b) the magistrates' court has specified a period within which the missing information must be provided, the decision whether or not to recognise the European protection order must be taken—

- (a) where the missing information is received by the court within the specified period, without undue delay after its receipt;
- (b) in any other case, without undue delay after the specified period ends.

(3) Where the magistrates' court has made a restraining order in accordance with regulation 13, it must ensure that the following are informed of the terms of the restraining order and the possible legal consequences of a breach of the restraining order—

- (a) the person causing the danger;
- (b) the competent authority of the issuing State; and
- (c) the protected person (or, where appropriate, the guardian or representative of the protected person).

(4) The court must not provide the person causing danger with the address or contact details of the protected person unless the disclosure of those details is necessary to enable the person causing danger to comply with the order.

Request for a European protection order from the protected person where the protection measures relate to a member State other than the United Kingdom

15.—(1) This regulation applies where a protected person makes a request for a European protection order to the central authority for Northern Ireland.

(2) The central authority for Northern Ireland must as soon as possible send the request to the competent authority of the member State to which the protection measure relates.

Notification of breach of a European protection order

16.—(1) The central authority for Northern Ireland must notify the competent authority of the issuing State, using the form set out in Annex II to the Directive, if it becomes aware of a breach of a restraining order made under these regulations.

(2) When sending a notification under paragraph (1), the central authority must send a copy of the form translated into the official language, or one of the official languages, of the issuing State, or an official language of the European Union if the issuing State has declared under Article 17 of the Directive that it will accept a translation into that language.

Modification of the European protection order (and giving effect to a modified order)

17.—(1) This regulation applies where—

- (a) a competent authority of an issuing State has modified a European protection order (“the modified EPO”); and
- (b) it or the central authority of the issuing State has sent the following documents to the central authority for Northern Ireland—
 - (i) the modified EPO or a copy of it, in the form set out in Annex I to the Directive; and
 - (ii) if the form is not in English, a copy of the form translated into English.

(2) The central authority for Northern Ireland must give a magistrates' court a copy of the modified EPO.

(3) The magistrates' court must, without undue delay, give effect to the modified EPO unless -

(a) the modified prohibition or restriction is not of a kind mentioned in Article 5 of the Directive; or

(b) the information provided in the modified EPO is incomplete.

(4) Where paragraph (3)(b) applies, the magistrates' court must without delay—

(a) notify the competent authority of the issuing State that the information provided is incomplete; and

(b) request the authority to provide the missing information, specifying a reasonable period for it to do so.

(5) Where under paragraph (4)(b) the magistrates' court has specified a period within which the missing information must be provided and the missing information is received by the court within the specified period, the court must (unless paragraph (3)(a) applies,) without undue delay, give effect to the modified European protection order.

(6) Where the magistrates' court is required by paragraph (3) or (5) to give effect to the modified EPO, it must vary the restraining order made under Article 7 of the Protection from Harassment (Northern Ireland) Order 1997 to which the person causing danger is subject (by virtue of regulation 13) by making a further order under the appropriate article.

(7) Article 7 of the Protection from Harassment (Northern Ireland) Order 1997 has effect for the purposes of the variation of a restraining order under this regulation as it has effect for the purposes of regulation 13 (and see in particular regulation 13(2)).

(8) Where a magistrates' court varies a restraining order under this regulation, regulation 14(3) and (4) apply to the court as they apply to a magistrates' court which has made a restraining order under regulation 13.

Revocation of the European protection order

18.—(1) This regulation applies where—

(a) the competent authority of the issuing State has revoked or withdrawn a European protection order; and

(b) the competent authority of the issuing State has notified the central authority for Northern Ireland of the revocation or withdrawal.

(2) The central authority for Northern Ireland must as soon as possible notify a magistrates' court of the revocation or withdrawal of the European protection order.

(3) When notified under paragraph (2), the magistrates' court must as soon as possible discharge the restraining order which was made for the purposes of giving effect to the European protection order.

Discharging a restraining order made under these regulations

19.—(1) A magistrates' court may, in any of the cases mentioned in paragraph (2), discharge a restraining order made under these regulations—

(a) on an application made by the protected person or by a guardian or other representative on the protected person's behalf;

(b) on an application by the person causing danger; or

(c) of the court's own motion.

- (2) The cases referred to in paragraph (1) are where—
- (a) the court is satisfied that the protected person is not residing or staying in Northern Ireland;
 - (b) the competent authority of the issuing State has modified a European protection order and none of the prohibitions or restrictions contained in the modified order is of a kind mentioned in Article 5 of the Directive;
 - (c) the competent authority of the issuing State has modified a European protection order and the information provided in the modified order—
 - (i) is incomplete; and
 - (ii) is not completed within the period specified by the magistrates’ court under regulation 17(4)(b);
 - (d) in relation to the person causing danger, the competent authority of the issuing State makes a request for monitoring of supervision measures under regulation 104 of the Criminal Justice and Data Protection (Protocol No. 36) Regulations 2014(2) (“the Protocol No. 36 Regulations”) and a magistrates’ court decides to recognise the decision on supervision measures under paragraph (5) of that regulation.
- (3) Where, in the exercise of this regulation, a magistrates’ court discharges a restraining order, it must immediately ensure that the competent authority of the issuing State and, where possible, the protected person are informed of the decision.
- (4) In this regulation, “request for monitoring of supervision measures” is to be read in accordance with regulation 104(2) of the Protocol No. 36 Regulations.