

Начало>Предприемане на съдебни действия>Европейския съдебен атлас по гражданскоправни въпроси>

Взаимно признаване на мерки за осигуряване на защита по граждански дела

Mutual recognition of protection measures in civil matters

Финландия

Article 17 - Information made available to the public

In Finland, the protection measures referred to in Directive 2011/99/EU and Regulation (EU) No 606/2013 are laid down in the Act on Restraining Orders (898 /1998).

The Act provides for the imposition of a restraining order to prevent a crime against life, health, liberty or privacy, a threat of such a crime or any other kind of severe harassment. If the person who feels threatened and the person against whom a restraining order is requested live permanently in the same residence, a restraining order may be imposed to prevent a crime against life, health or liberty or a threat of such a crime (*inside-the-family restraining order*). Directive 2011/99/EU applies to restraining orders imposed in Finland, if the restraining order has been imposed as a result of a crime or an alleged crime. If the restraining order is not related to a crime as referred to in the Directive, it is subject to Regulation (EU) No 606/2013.

As specified in more detail in the relevant judgment, a person subject to a restraining order may not meet the person under protection or otherwise contact or try to contact him or her (*a basic restraining order*). It is also forbidden to follow and observe the person under protection. A person subject to an inside-the-family restraining order must leave the residence where he or she and the person under protection live permanently together, and he or she may not return there. If there is reason to believe that a basic restraining order is insufficient, the restraining order may be extended. In this case the restraining order also applies to being in the vicinity of the permanent residence, holiday residence or workplace of the person under protection or in the vicinity of another comparable place specified separately (*extended restraining order*). However, the restraining order does not apply to contacts for which there is an appropriate reason and that are manifestly necessary. The arrangement of any necessary contacts should preferably be provided for already in the decision on the restraining order.

A restraining order may be imposed for at most one year. An inside-the-family restraining order may be imposed for at most three months. A restraining order enters into force following the district court's decision to impose such an order. The decision must be complied with regardless of appeal, unless the higher court hearing the case rules otherwise. A restraining order may be renewed. In case of renewal, the restraining order may be imposed for at most two years. An inside-the-family restraining order may be renewed for at most three months.

The imposition of a restraining order may be requested by anyone who has a justified reason to feel threatened or harassed by another person. The request may also be made by a prosecuting, police or social welfare authority. The request may be made orally or in writing using a specific form.

Cases concerning restraining orders are resolved by the district court. The court with jurisdiction is the district court of the place where the person to be protected resides or where the restraining order would principally be applied. If the person against whom a restraining order is requested is suspected of a crime that may be relevant when resolving the case relating to the restraining order, the competent criminal court is competent also in the matter of the restraining order.

In so far as appropriate, the provisions concerning criminal procedure apply to the hearing in court of a case relating to a restraining order. In Finnish case-law, a restraining order is imposed almost without exception as an independent measure separately from the hearing of a criminal case, although under the law it may also be dealt with in connection with criminal proceedings.

A restraining order may be imposed if there are reasonable grounds to assume that the person against whom the order is requested is likely to commit a crime against the life, health, liberty or privacy of the person who feels threatened or severely harass him or her in some other way.

An inside-the-family restraining order may be imposed if the person against whom the restraining order is requested is likely, as judged from the threats he or she has made and any previous offences or other behaviour, to commit a crime against the life, health or liberty of the person who feels threatened, and the imposition of a restraining order is not unreasonable considering the severity of the impending crime, the circumstances of the persons living in the same household and other facts presented in the case.

When assessing the prerequisites for imposing a restraining order, attention must be paid to the circumstances of the persons involved, the nature of any past crime or harassment and whether it has been repeated, as well as the likelihood that the person against whom the restraining order is requested will continue the harassment or commit a crime against the person who feels threatened.

A temporary restraining order may also be imposed. The imposition of a temporary restraining order is decided by an official with the power of arrest or by a court. The official with the power of arrest must without delay and not later than within three days submit his or her decision to the consideration of the competent district court.

In principle, the parties themselves are liable for the costs arising from the consideration of a case relating to a restraining order. However, if there are weighty reasons to do so, the court may order a party to pay for part or all of the reasonable legal costs of the opposite side. No court fee is charged.

The parties have the right to use a lawyer, and they are also entitled to free legal assistance if the conditions laid down in the Legal Aid Act (257/2002) are met.

The court must immediately enter into the police computer system a judgment imposing, repealing or amending a restraining order.

The judgment is also notified to the applicant, the person to be protected by the restraining order and the person against whom the restraining order was requested. The judgment must be served in a verifiable manner to the person against whom the restraining order was imposed, unless it was declared or delivered in the person's presence.

The police supervises the enforcement of restraining orders.

Violations of restraining orders are punishable under Chapter 16, Section 9a of the Criminal Code (39/1889).

Article 18 (a)(i) - the authorities which are competent to order protection measures and issue certificates in accordance with Article 5

Authorities competent to order protection measures

General courts (district courts, appeal courts and the Supreme Court)

Authorities competent to issue certificates in accordance with Article 5

General courts (district courts, appeal courts and the Supreme Court)

The certificate is issued by the court that imposed a restraining order covered by the scope of the Regulation and referred to in the Act on Restraining Orders (898/1998).

The certificate is issued in accordance with Articles 5-7 of the Regulation. The certificate is notified to the person causing the risk in accordance with Article 8 of the Regulation and Section 5 of the Act (227/2015) implementing the Regulation of the European Parliament and of the Council on mutual recognition of protection measures in civil matters.

<https://oikeus.fi/tuomioistuimet/fi/index.html>

Article 18 (a)(ii) - the authorities before which a protection measure ordered in another Member State is to be invoked and/or which are competent to enforce such a measure

Helsinki District Court.

Contact information: <http://www.oikeus.fi/karajaoikeudet/helsinginkarajaoikeus/fi/index.html>

A protection measure imposed in another Member State is recognised in Finland in accordance with Article 4(1) of the Regulation without a separate procedure, as laid down in Section 4 of the Act (227/2015) implementing the Regulation of the European Parliament and of the Council on mutual recognition of protection measures in civil matters. Such a protection measure is entered in the register referred to in Section 15 of the Act on Restraining Orders (898/1998) in the same way as a restraining order imposed in Finland.

Article 18 (a)(iii) - the authorities which are competent to effect the adjustment of protection measures in accordance with Article 11(1)

Helsinki District Court.

Contact information: <http://www.oikeus.fi/karajaoikeudet/helsinginkarajaoikeus/fi/index.html>

The adjustment of a protection measure is done as specified in Article 11 of the Regulation in accordance with the written procedure referred to in Section 3 of the Act (227/2015) implementing the Regulation of the European Parliament and of the Council on mutual recognition of protection measures in civil matters.

Article 18 (a)(iv) - the courts to which the application for refusal of recognition and, where applicable, enforcement is to be submitted in accordance with Article 13

Helsinki District Court.

Contact information: <http://www.oikeus.fi/karajaoikeudet/helsinginkarajaoikeus/fi/index.html>

Recognition or enforcement of the judgment is refused pursuant to Article 13 of the Regulation, in accordance with the written procedure referred to in Section 3 of the Act (227/2015) implementing the Regulation of the European Parliament and of the Council on mutual recognition of protection measures in civil matters.

Article 18 (b) - the language or languages accepted for translations as referred to in Article 16(1)

The accepted languages are Finnish, Swedish and English. A certificate issued in another language may also be accepted, provided there is no other obstacle to its acceptance.

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