På det civilretlige område vil verserende sager og sager, der er indledt inden overgangsperiodens udløb, fortsætte i henhold til EU-retten. E-Justice-portalen vil – i overensstemmelse med en aftale med Det Forenede Kongerige – fortsat indeholde relevante informationer vedrørende Det Forenede Kongerige indtil udgangen af 2024.

Mutual recognition of protection measures in civil matters

Skotland

Article 17 - Information made available to the public

In Scotland

Outgoing protection measures (i.e. those applications ordered in the UK to be recognised & enforced in other EU member States)

Any applicant for (or recipient of) a domestic protection measure within scope of the Regulation will be able to apply for a protection measure certificate under this scheme to extend that protection to another EU member state from the court that issued it. In Scotland these courts will be:

the Court of Session

the sheriff court

If satisfied the conditions are met, the court issues a certificate in prescribed form (common throughout the EU). This is given to the protected person /applicant. The protected person can also request that the court provide her or him with a translated certificate.

The court notifies the 'person causing the risk' that the certificate has been issued (and is applicable anywhere in the EU). There is no appeal against the issuance of a certificate, though there can be an application for rectification or withdrawal.

The certificate means the protected person automatically has the protection measure recognised and if needed enforceable in any other member State (except Denmark, which is not bound by the Regulation).

The EU certificate will be available, on application, from the court that issued the domestic protection measure.

The recognition and enforcement of an incoming (to UK from another member State) protection measure

A protection measure issued in another Member State is automatically recognised without special procedure being required, and is enforceable without a declaration of enforceability. There is no need to present it to court for recognition.

If a protected person requires an 'adjustment of the factual elements' (e.g. new address etc) of her/his protection measure, and/or seeks enforcement of the measure if there has been an alleged breach, s/he can apply to the Court of Session and the sheriff court has jurisdiction in these areas.

These courts can adjust the measure accordingly (if that has been requested.) The person posing the risk is informed of the adjustments made (and of the penalties for breach).

These courts can enforce the protection measure by treating them in the same way as an interdict granted by a court in Scotland.

A 'person causing the risk' can apply to one of these courts to refuse to recognise or enforce the incoming protection measure, but there are specific and limited grounds for the court to do so; the measure would have to be manifestly contrary to public policy, or irreconcilable with a domestic decision.

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

In Scotland

the Court of Session

the Sheriff Court

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

In Scotland

the Court of Session

the Sheriff Court

In Northern Ireland

the High Court

the county courts

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

In Scotland

the Court of Session

the Sheriff Court

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

In Scotland

the Court of Session

the Sheriff Court

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

English in all jurisdictions in the UK

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