

Uz sākulmapu>Prasības iesniegšana tiesā>Eiropas tiesiskās sadarbības atlants civilietās>Alzsardzības pasākumu savstarpēja atzīšana civilietās
Mutual recognition of protection measures in civil matters

Article 17 - Information made available to the public

The protection measures corresponding to the Regulation in Austrian law are in particular the interim measures on protection from domestic violence (Article 382b of the Enforcement Code (*Exekutionsordnung*, EO)), on protection from violence in general (Article 382e of the Enforcement Code) and on protection from interference with private life (Article 382g of the Enforcement Code). The legal provisions are as follows:

'Protection from domestic violence

Article 382b. (1) If one person makes continued cohabitation intolerable for the other person through physical assault, the threat of physical assault, or any behaviour which is severely damaging to the other's mental health, the Court must, upon application from the other person:

1.	order the former to leave the residence and its immediate vicinity and
2.	prohibit the former from returning to the residence and its immediate vicinity,
if the residence serves to meet the urgent housing needs of the applicant.	

(2) For interim measures under paragraph 1, a deadline for submitting an appeal (Article 391(2)) need not be set if the interim measure is granted for up to six months.

(3) Proceedings on the substance of the case within the meaning of Article 391(2) can be proceedings for the dissolution, annulment or declaration of invalidity of the marriage, proceedings for division of the matrimonial assets and matrimonial savings and proceedings for establishing the rights of access to the residence.

Protection from violence in general

Article 382e. (1) If one person makes continued meetings intolerable for the other person through physical assault, the threat of physical assault, or any behaviour which is severely damaging to the other's mental health, the Court must, upon application from the other person

1.	prohibit the former's presence at clearly specified locations and
2.	order the former to avoid meeting and contacting the applicant,
unless this is contrary to vital interests of the respondent.	

(2) For interim measures under paragraph 1, a deadline for submitting an appeal (Article 391(2)) need not be set if the interim measure is granted for up to one year. The same applies to an extension of the interim measure following a breach on the part of the respondent.

(3) If an interim measure under paragraph 1 is ordered together with an interim measure under Article 382b(1), then Articles 382b(3) and 382c(4) shall apply *mutatis mutandis*.

(4) The Court may entrust the security authorities with enforcement of the interim measures under paragraph 1. Article 382d(4) shall apply *mutatis mutandis*. Otherwise, interim measures under paragraph 1 shall be enforced in accordance with the provisions of Part One, Section Three.

Protection from interference with private life

Article 382g (1) The right to lack of interference with private life can be ensured in particular via the following measures:

1.	prohibition from making personal contract with and following the vulnerable party,
2.	prohibition from making contact by letter, telephone or other means,
3.	prohibition from being present at clearly specified locations,
4.	prohibition from forwarding and disseminating the personal data and photographs of the vulnerable party,
5.	prohibition from using the personal data of the vulnerable party to order goods or services from a third party,
6.	prohibition from inducing a third party to make contact with the vulnerable party.

(2) For interim measures under paragraph 1, points 1 to 6, a deadline for submitting an appeal (Article 391(2)) need not be set if the interim measure is granted for up to one year. The same applies to an extension of the interim measure following a breach on the part of the respondent.

(3) The Court may entrust the security authorities with enforcement of the interim measures under paragraph 1, points 1 and 3. Article 382d(4) shall apply *mutatis mutandis*. Otherwise, interim measures under paragraph 1 shall be enforced in accordance with the provisions of Part One, Section Three.'

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

Protection measures are ordered by district courts (*Bezirksgerichte*). In rare cases, a protection measure can also be ordered by a regional court (*Landesgericht*) as a court of first instance if the main proceedings are pending before it. In the course of appeal procedures, protection measures may also be ordered by regional courts, but also by higher regional courts (*Oberlandesgerichte*) or the Supreme Court (*Oberster Gerichtshof*), as courts of appeal. District courts also issue certificates concerning the protection measures they ordered. If, by way of an exception, a protection measure is ordered by a regional court, a higher regional court or the Supreme Court, then that court is also responsible for issuing the certificate. Thus, it is always the court which ordered the measure that is responsible for issuing the certificate concerning that measure.

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

District courts. Under Article 86b(1) of the Enforcement Code, the court with territorial jurisdiction to order the enforcement of a foreign protection measure in Austria and to decide on an application for enforcement on the basis of such a protection measure is the district court with general jurisdiction for disputes for the protected person (this is determined by place of residence). If the latter court is not in Austria, jurisdiction lies with the Vienna Inner City District Court (*Bezirksgericht Innere Stadt Wien*).

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

District courts are likewise competent to adjust foreign protection measures. Here, too, territorial jurisdiction is based on the general jurisdiction for disputes for the protected person (by place of residence), unless this is outside Austria, in which case the Vienna Inner City District Court has jurisdiction (Article 86b (1) of the Enforcement Code).

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

Under Article 86b(2) of the Enforcement Code, applications for refusal of recognition or of enforcement of a foreign protection measure that are not subject to a time limit must be submitted to the district court which ordered or approved the enforcement of the protection measure.

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

German is the only language which is accepted.

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