

ACT AMENDING THE COOPERATION IN CRIMINAL MATTERS WITH MEMBER STATES OF THE EUROPEAN UNION ACT (ZSKZDČEU-1A)

Article 1

In the Cooperation in Criminal Matters with Member States of the European Union Act (*Uradni list Republike Slovenije* [Official Gazette of the Republic of Slovenia], No. 41/13), a new point e) shall be added after point d) in the second paragraph of Article 1, to read as follows:

"e) decisions of courts or competent authorities to issue a European protection order;".  
The current point e) shall become point f).

Article 2

In the introductory sentence of the fourth paragraph of Article 2, the text "decisions of courts or competent authorities to issue a European protection order," shall be added after the text "on conditional release under custodial supervision"; in point 16, the text "Council Framework Decision 2009/984 JHA" shall be replaced by the text "Council Framework Decision 2009/948/JHA", the text "Framework Decision 2009/984 JHA" shall be replaced by the text "Council Framework Decision 2009/948/JHA", the full stop shall be replaced by a semicolon and a new point 17 shall be added, reading as follows:

"17. Directive 2011/99/EU of the European Parliament and of the Council of 13 December 2011 on the European protection order (OJ L 338 of 21 December 2011, p.2) (hereinafter: Directive 2011/99/EU).".

Article 3

In Article 3 the text "17a" shall be added after the text "16," and the text "having regard to the protection of human rights and fundamental freedoms" shall be added after the word "decision-making".

Article 4

After Article 184 a new Chapter 17a shall be added, with Articles 184a to 184s, which shall read:

"Chapter 17a

Recognition and enforcement of a European protection order adopted by a judicial or equivalent authority of another Member State and the issue of a European protection order by a competent national court

Basic provisions on protection measures

Article 184a

(1) This Chapter provides the rules under which a national court issues or recognises a European protection order issued by a competent judicial or equivalent authority of another Member State and the rules for the implementation of European protection orders that have been recognised by national courts.

(2) The terms used in this Chapter shall have the following meanings:

- "European protection order" means a decision issued by a judicial or equivalent authority of a Member State with a view to enabling a judicial or competent authority of another Member State to order and enforce adequate measures for continued protection of the protected person in accordance with its national legislation;
- "protection measure" means a decision in a criminal case issued in the issuing State in accordance with national law and procedures by which a person causing danger is issued with one or more prohibitions or restrictions referred to in the third paragraph of Article 184č of this Act to protect the protected persons against a criminal act that may endanger their life, physical or psychological integrity, dignity, personal freedom, or sexual inviolability;
- "protected person" means a natural person who is protected under a protection measure adopted in the issuing State; a relative of the main protected person, as defined in the law governing the prevention of domestic violence, may also apply for a European protection order if a protection measure was also issued for him or her;
- "person causing danger" means a natural person who is issued one or more prohibitions or restrictions referred to in the third paragraph of Article 184č of this Act;
- "issuing State" means a Member State in which a protection measure representing the basis for the issuing of a European protection order was adopted;
- "executing State" means a Member State that was sent a European protection order to acknowledge;
- "State of supervision" means a Member State that was sent a decision under Article 178 of this Act or a decision on protection measures under Article 118 of this Act.

(3) In accordance with its legislation, the competent authority of the executing State is not obliged to adopt the same protection measure as adopted in the issuing State and may decide to take a legal measure which is in a comparable case deemed to be in accordance with the law and suitable for ensuring continuous protection of the protected person in light of the protection measure adopted in the issuing State and specified in the European protection order.

#### Implementation of other regulations and relations with other regulations Article 184b

(1) The competent authorities of the Republic of Slovenia, in applying the provisions of this Chapter, shall also respect the provisions of other regulations on the protection of victims and the general public and on the protection of law and order.

(2) This Chapter shall not affect the application of Regulation (EC) No. 44/2001, Regulation (EC) No. 2201/2003 or Regulation (EU) No. 606/2013 **on mutual recognition of protection measures in civil matters, the Hague Convention of 1996 on jurisdiction, applicable law, recognition, enforcement and cooperation in respect of parental responsibility and measures for the protection of children, or the Hague Convention of 1980 on the civil aspects of international child abduction.**

(3) This Chapter shall not affect the implementation of the provisions of Chapters 12, 13, 16 and 17 of this Act.

#### Competent authorities Article 184c

(1) The district court with jurisdiction in the area where the protected person has permanent or temporary residence in the Republic of Slovenia shall have jurisdiction over issuing a European protection order and deciding on its recognition and over consulting with the competent authority of the issuing State or the executing State.

(2) If the court having jurisdiction cannot be determined according to the preceding paragraph, the District Court of Ljubljana shall have jurisdiction.

(3) If the court which receives a European protection order for recognition does not have jurisdiction, it shall immediately refer the case *ex officio* to a court having jurisdiction and notify the competent authority of the Issuing State which forwarded the European protection order for recognition and enforcement of this in writing, also informing the protected person thereof (also in writing).

#### Proceedings for issuing a European protection order Article 184č

(1) A European protection order shall be issued by a national court on a proposal of the protected person who wants the protection that he or she enjoys in the Republic of Slovenia to be also exercised in another Member State where he or she plans to reside or is already residing, or if the protected person decides to stay or is already staying in another Member State. Such a proposal may also be lodged by a guardian, legal representative or authorised person of the protected person.

(2) The protected person has the right to translation and interpretation and legal aid in accordance with the provisions of the law governing criminal procedure and the law governing legal aid.

(3) A national court may issue a European protection order only if the competent authority, in accordance with the law governing the duties and powers of the police or in accordance with the law governing criminal procedure, has previously adopted a protection measure for continued protection of the protected person, whereby one or more of the following prohibitions or restrictions were issued against the person causing danger:

- a) a prohibition from entering certain localities, places or defined areas where the protected person resides or which he or she frequents;
- b) a prohibition or regulation of contact with the protected person in any form, whether by phone, electronic or ordinary mail, or fax or otherwise; or
- c) a prohibition or regulation of approaching the protected person at a distance closer than prescribed.

(4) If the protected person lodges an application for the issuance of a European protection order with a national court, the court shall immediately forward it to the competent authority in the Issuing State, or to the central authority where it is not possible to identify the competent authority.

#### Taking into account the specific circumstances Article 184d

When deciding on the issuing of a European protection order, the national court shall take into account in particular the urgency of the need for protection and the time in which the protected person intends to reside or stay in the Executing State. The national court may require of the protected person to submit additional information, should this be deemed necessary for the court's decision.

#### The rights of a person causing danger Article 184e

(1) Before a European protection order is issued, the person causing danger has the right to a hearing before a competent national court regarding the protection measure which was

adopted on the basis of the law regulating the tasks and powers of the police, or on the basis of the law governing criminal proceedings.

(2) The person causing danger has the right to translation and interpretation and legal aid in accordance with the provisions of the law governing criminal procedure and the law governing legal aid.

(3) A hearing of the person causing danger may also be conducted via video conference, pursuant to the procedure and under the conditions provided for by law and in accordance with the applicable regulations on assistance and cooperation under international law and the law of the European Union.

The time limit within which a national court decides on the proposal  
for issuing a European protection order  
Article 184f

A competent national court shall decide on the recognition or rejection of a European protection order by way of a decision within ten days of receipt of the request for issuing a European protection order.

Form and content of a European protection order  
Article 184g

(1) A European protection order shall be issued on the form referred to in Annex 17, which constitutes an integral part of this Act and must contain the following data:

a) the identity and nationality of the protected person and the identity and nationality of his or her guardian or representative if the protected person is a minor or lacks the capacity to contract.

b) the date from which the protected person intends to reside or stay in the Executing State and the period or periods of stay in this country, if known;

c) the name, address, telephone number, fax number and email address of the competent national court;

č) reference to the legal act (e.g. the number and date) that includes the protection measure on the basis of which the European protection order is issued;

d) a summary of the facts and circumstances which demanded adoption of a protection measure in the Republic of Slovenia;

e) the prohibitions and restrictions imposed on a person causing danger by the protection measure underlying the European protection order, its duration, and an indication of any sanctions that apply in the event of a breach of any the prohibitions or restrictions;

f) the use of any technical device which has been provided to the protected person or the person causing danger as a means to enforce the protection measure;

g) the identity and nationality of the person causing danger and the contact details thereof;

h) an indication of whether the protected person or the person causing danger have been granted free legal aid in the issuing State, where this information is available to the competent authority of the issuing State without further inquiry;

i) where applicable, a description of other circumstances that might affect the assessment of the threat posed to the protected person;

j) where appropriate, a statement that a decision based on Article 178 of this Act or a decision on control measures under Article 118 of this Act has already been submitted to the State of supervision if the latter is not the executing State of the European protection order, and the details of the competent authority of that State for the enforcement of such a decision; and

k) other information indispensable or necessary for deciding on the order.

(2) A competent national court shall submit to the protected person a copy of the order referred to in the preceding paragraph.

Submission of a European protection order to the competent enforcement authorities of another Member State and communication between authorities

Article 184h

(1) The competent national court shall submit a European protection order to the competent enforcement authority in writing and under conditions that allow the recipient to verify the authenticity of the order together with a translation into the official language or one of the official languages of the executing State or into one of the languages of the institutions of the European Union that this country accepts.

(2) If a national court can not identify the competent authority in the executing State, it shall forward the European protection order to the central authority or the ministry responsible for justice in the executing State.

(3) The competent national court shall also send a copy of the European protection order to the authority of the Republic of Slovenia that adopted the protection measure which served as a basis for the issuing of the European protection order.

(4) The national court shall promptly respond to the call of the competent authority in the executing State regarding the enforcement of the measures.

Refusal to issue a European protection order

Article 184i

If a national court refuses to issue a European protection order, it shall notify the protected person of the possibility of appeal against this in writing. The time limit for such an appeal shall be eight days. A non-trial panel of the district court must render a decision on the appeal within eight working days.

Amendment or termination of the national protection measure which is the basis for a European protection order

Article 184j

(1) Competent national authorities and courts shall have exclusive jurisdiction to make decisions in accordance with the legislation of the Republic of Slovenia on the following:

- a) renewal, review, amendment, revocation and withdrawal of a protection measure and consequently of the European protection order;
- b) issue of a detention measure as a result of revoking the protection measure if the latter was imposed by way of a decision on protection measures under Article 178 of this Act or a decision on supervision measures under Article 118 of this Act.

(2) If a decision based on Article 178 of this Act or a decision on control measures under Article 118 of this Act has already been submitted to another Member State or is to be submitted after the issue of the European protection order, any further decisions shall be made in accordance with the provisions of Chapters 13 or 17 of this Act.

(3) If a decision in accordance with Article 178 of this Act imposing a protection measure has already been submitted to another Member State or is to be submitted after the issue of the European protection order and a competent authority of the State of supervision has made further decisions in accordance with Article 175 of this Act which influence the obligations or instructions ensuing from the protection measure, the national court shall promptly extend, amend, revoke or suspend the European protection order accordingly.

(4) The national court shall immediately notify the authority of the executing State of any decision adopted in accordance with paragraphs (1) and (3) of this Article.

#### Recognition of a European protection order and adjustment Article 184k

(1) A national court shall decide on the recognition of a European protection order on the basis of the form provided in Annex 17, completed and confirmed by a competent authority of the issuing State. If a European protection order is not written in Slovene, or if a translation into Slovene or English is not enclosed, the national court shall notify the competent authority of the issuing State thereof and set an appropriate time limit for the authority to submit a translation into Slovene or English. Depending on the circumstances of the case, a domestic court may also order the translation of a European protection order into Slovene or English.

(2) If the national court considers that the information received through the European protection order is incomplete, it shall promptly inform the competent authority of the issuing State in writing and set a suitable time limit for providing the necessary information.

(3) As part of recognition proceedings, a national court shall verify whether all conditions for recognising the forwarded European protection order are met. A national court may require that the competent authority of the issuing State provide it with the original of the decision on the European protection order.

(4) A national court shall, without undue delay and no later than within ten days of receipt of a European protection order, recognize the order by way of a decision and stipulate criminal and civil actions that to the greatest possible extent correspond to the protection measure adopted in the issuing State and which are admissible in accordance with the law governing criminal proceedings or in accordance with the law governing the prevention of domestic violence, except in the case that conditions for refusal are met pursuant to Article 184m of this Act. The European protection order shall be recognised with the same priority that would be applicable in a similar national case, taking into consideration any specific circumstances of the case, including the urgency of the matter, the date foreseen for the arrival of the protected person on the territory of the executing State and, where possible, the degree of risk for the protected person.

(5) The national court shall notify the person causing danger, the competent authority of the issuing State and the protected person of any decision adopted in accordance with the preceding paragraph of this Article. The address or other contact details of the protected person shall not be disclosed to the person causing danger, unless this is necessary for the implementation of the action.

#### Hearing of a person causing danger Article 184 l

(1) In the course of the decision-making process for the recognition of a European protection order or in the case of a breach thereof, a national court may hear the person causing danger, even if the latter does not have his or her permanent or temporary residence in the Republic of Slovenia, regarding the following:

- the adjustment of protection measures or
- any violation of protection measures.

(2) The person causing danger has the right to translation and interpretation and legal aid in accordance with the provisions of the law governing criminal procedure and the law governing legal aid.

(3) A hearing of the person causing danger may also be conducted via video conference, pursuant to the procedure and under the conditions provided for by law and in accordance with the applicable regulations on assistance and cooperation under international law and the law of the European Union.

Grounds for non-recognition of a European protection order  
Article 184m

(1) A national court shall, by way of a decision, refuse recognition of a European protection order if:

- a) the protection measure relates to an act that does not constitute a criminal offence under the law of the Republic of Slovenia;
- b) the person causing danger is a minor of under 14 years of age, who cannot be held criminally responsible;
- c) there is immunity conferred under the law of the Republic of Slovenia on the person causing danger which makes it impossible to adopt measures on the basis of a European protection order;
- č) criminal prosecution against the person causing danger for the act or conduct in relation to which the protection measure has been adopted is statute-barred under the law of the Republic of Slovenia, and when the act or conduct falls within the competence of the Republic of Slovenia;
- d) the protection derives from the execution of a penalty or measure that, according to the law of the Republic of Slovenia, is covered by an amnesty and relates to an act or conduct which falls within the competence of the Republic of Slovenia;
- e) recognition of the European protection order would contravene the *ne bis in idem* principle; or
- f) the protection measure relates to a criminal offence which, under the law of the Republic of Slovenia, is regarded as having been committed wholly or in major or essential part within its territory.

(2) A national court may refuse recognition of a European protection order if:

- a) the European protection order is incomplete or has not been completed within the time limit set by the national court;
- b) the requirements regarding a European protection order have not been met because either one or more of the following prohibitions or restrictions are imposed:
  - a prohibition from entering certain localities, places or defined areas where the protected person resides or which he or she frequents;
  - a prohibition or regulation of contacts with the protected person in any form, whether by phone, electronic or ordinary mail, or fax or otherwise; or
  - a prohibition or regulation of approaching the protected person at a distance closer than prescribed.

(3) Where the national court refuses to recognise a European protection order on one of the grounds referred to in paragraphs (1) or (2) of this Article, it shall:

- without undue delay, inform in writing the issuing authority and the protected person of the refusal and of the grounds relating thereto;
- where appropriate, inform the protected person in writing on the possibility of requesting the adoption of a protection measure in accordance with the law regulating the tasks and powers of the police, or in accordance with the law governing criminal proceedings, or in accordance with the law governing the prevention of domestic violence;
- inform the protected person in writing on any applicable legal remedies that are available under the legislation of the Republic of Slovenia against such a decision.

Grounds for recognition or rejection of a European protection order  
Article 184n

- (1) The order on recognition of a European protection order must include the following:
- information on the person causing danger referred to in Annex 18, which constitutes an integral part of this Act, and on the protected person referred to in Annex 17 in accordance with the restrictions referred to in paragraph (4) of this Article;
  - the title of the authority whose decision is the subject of recognition proceedings,
  - the reference number and date of issuing of the European protection order;
  - the type(s) of protection measure(s);
  - a description of the offence and/or an assessment of danger;
  - regulations of the issuing State which were applied in issuing the European protection order;
  - the type and nature of the protection measure(s) which correspond(s) to the European protection order to be enforced in the Republic of Slovenia and, if necessary, also a more detailed statement of the scope and manner of its execution due to adaptation to the legislation of the Republic of Slovenia;
  - the duration of the protection measure;
  - the maximum possible duration of execution of the protection measure under the law of the Republic of Slovenia and statutory requirements regarding the renewal or testing of reasons for its execution;
  - the competent authorities which are to cooperate in the execution of protection measures and their tasks; and
  - other information indispensable or necessary for the execution of a European protection order.
- (2) A decision on rejection of a European protection order must include in particular:
- information on the person causing danger and on the protected person under the condition referred to in paragraph (4) of this Article;
  - the title of the authority whose decision is the subject of recognition proceedings;
  - the reference number and date of issuing of the European protection order; and
  - the grounds for rejection.
- (3) The order on recognition or refusal to recognise must be reasoned.
- (4) The order on recognition or refusal of recognition shall be served on the person causing danger and on the protected person. The address or other contact details of the protected person shall not be disclosed to the person causing danger unless this is necessary for the implementation of the action.
- (5) The person causing danger and the protected person may appeal against the order on recognition or refusal of recognition within eight days of the service of the order. The court shall inform, in writing, the person causing danger and the protected person of the possibility of appeal. A non-trial panel of the district court must render a decision on an appeal within the time limit of eight working days. An appeal against the order shall not stay its execution.

Ordering the execution of protective measures and their enforcement  
Article 184o

- (1) A national court shall order the enforcement of a recognised European protection order without delay, forwarding it to the police, which, under the law of the Republic of Slovenia, is the competent body for the direct execution of protection measures.



(2) At any time during the execution of protection measures, a national court may request that the competent authority of the issuing State affirm whether further execution of a protection measure is still necessary or appropriate given the circumstances of the case.

Changes to a European protection order  
Article 184p

Where appropriate, after the receipt of notification that the competent authority of the issuing State has renewed, reviewed, amended, revoked or withdrawn a European protection order, the national court shall:

- a) change the measures adopted on the basis of the European protection order, in accordance with Article 184k of this Act or
- b) refuse the execution of a changed prohibition or restriction if the latter does not correspond to the type of prohibition or restriction referred to in point b) of the second paragraph of Article 184m or if the data provided with the European protection order are incomplete or have not been completed within the time limit set by the competent authority of the executing State in accordance with the second paragraph of Article 184k of this Act.

Grounds for termination of the protection measures adopted on the basis of a European protection order  
Article 184r

(1) A national court may order the police to discontinue the enforcement of measures that were adopted with a view to executing a European protection order:

- a) where there is clear indication that the protected person does not reside or is not staying in the territory of the Republic of Slovenia or has definitely left that territory;
- b) where, according to national law, the maximum term of duration of the measures adopted in execution of the European protection order has expired;
- c) in the cases referred to in point b) of the preceding Article; or
- č) where a judgment within the meaning of Article 162 of this Act or a decision on supervision measures within the meaning of Article 97 of this Act is transferred to the competent authority in the Republic of Slovenia by a national court.

(2) The national court shall immediately inform the competent authority of the issuing State and, where possible, the protected person of such a decision.

(3) Before discontinuing measures in accordance with point b) of paragraph 1 of this Article, the national court 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 case in question.

Breach of the measure(s) adopted on the basis of a European protection order and notification of the issuing State and the State of supervision  
Article 184s

(1) The national court shall notify in writing the competent authority of the issuing State or the State of supervision in the event of any breach of measure(s) adopted on the basis of a European protection order. Notice shall be given using the form set out in Annex 18, with a translation in English enclosed if the form has not been completed in English.

(2) In the event of a breach of one or more of the measures taken after the recognition of a European protection order, the national court, in accordance with the preceding paragraph, has jurisdiction to:

- a) impose criminal penalties or take any other measure as a consequence of the breach if that breach amounts to a criminal offence under the law of the Republic of Slovenia;
  - b) take any additional non-criminal measures related to the breach; or
  - c) take any urgent and provisional measures in accordance with the legislation of the Republic of Slovenia in order to put an end to the breach, pending, where appropriate, a subsequent decision by the issuing State.
- (3) A national court may communicate to a competent authority of the issuing State or the State of supervision any information on the risk that the person causing danger may pose to the protected person and the broader or general public."

#### Article 5

New Annexes 17 and 18 shall be added after Annex 16.

### TRANSITIONAL PROVISION

#### Article 6

(1) In proceedings for restraining orders prohibiting approaching a particular person, place or area on the basis of the law regulating the tasks and powers of the police, the police and the investigating judge shall inform the protected person in writing that in the event of relocation to or staying in another Member State, before leaving the territory of the Republic of Slovenia, they may file a proposal for a European protection order, explaining the conditions for its issue under this Act. The information on this shall be entered in the file.

### FINAL PROVISION

#### Article 7

This Act shall enter into force on the fifteenth day following its publication in the Official Gazette of the Republic of Slovenia and shall begin to apply three months after it enters into force.

No. 713-01/15-6/14

Ljubljana, 20 May 2015

EPA 382-VII

National Assembly  
of the Republic of Slovenia  
**Primož Hainz**  
Vice-President