
STATUTORY INSTRUMENTS

2015 No. 1490

The Criminal Procedure Rules 2015

PART 31

BEHAVIOUR ORDERS

Giving effect to a European protection order made in another EU member State

- 31.10.**—(1) This rule applies where the Lord Chancellor serves on the court officer—
- (a) a request by an authority in another European Union member State to give effect to a European protection order;
 - (b) a request by such an authority to give effect to a variation of such an order; or
 - (c) notice by such an authority of the revocation or withdrawal of such an order.
- (2) In the case of a request to which paragraph (1) refers, the court officer must, without undue delay—
- (a) arrange for the court to consider the request;
 - (b) serve on the requesting authority—
 - (i) notice of any further information required by the court, and
 - (ii) subject to any such requirement and any response, notice of the court's decision;
 - (c) where the court gives effect to the European protection order—
 - (i) include in the notice served on the requesting authority the terms of the restraining order made by the court,
 - (ii) serve notice of those terms, and of the potential legal consequences of breaching them, on the person restrained by the order made by the court and on the person protected by that order, and
 - (iii) serve notice on the Lord Chancellor of any breach of the restraining order which is reported to the court;
 - (d) where the court refuses to give effect to the European protection order—
 - (i) include in the notice served on the requesting authority the grounds for the refusal,
 - (ii) where appropriate, inform the protected person, or any representative or guardian of that person, of the possibility of applying for a comparable order under the law of England and Wales, and
 - (iii) arrange for that person, representative or guardian to be informed of any available avenue of appeal or review against the court's decision.
- (3) In the case of a notice to which paragraph (1) refers, the court officer must, as soon as possible, arrange for the court to act on that notice.
- (4) Unless the court otherwise directs, the court officer must omit from any notice served on a person against whom a restraining order may be, or has been, made the address or contact details of the person who is the object of the European protection order.

[Note. See regulations 11 to 19 of the Criminal Justice (European Protection Order) Regulations 2014.

Where the Lord Chancellor receives a request to give effect in England and Wales to a European protection order, a magistrates' court to which the request is given must give effect to that order by making a restraining order under section 5 of the Protection from Harassment Act 1997(1), as adapted by regulation 13 of the 2014 Regulations, unless one of the specified grounds for refusal applies. The grounds for refusal are—

- (a) the European protection order—
 - (i) is incomplete, and*
 - (ii) is not completed within a period specified by the court;**
- (b) the requirements set out in Article 5 of Directive 2011/99/EU of the European Parliament and of the Council of 13th December, 2011, on the European protection order have not been met;*
- (c) the protection measure on the basis of which the European protection order was issued was based on conduct that would not constitute an offence under the law of England and Wales if it occurred there;*
- (d) the person causing danger (within the meaning of the 2014 Regulations and the Directive) benefits from an immunity under the law of England and Wales which makes it impossible to give effect to the European protection order under the Regulations;*
- (e) the protection measure on the basis of which the European protection order was issued was based on conduct where, under the law of England and Wales—
 - (i) the criminal prosecution of the conduct would be statute-barred, and*
 - (ii) the conduct falls within the jurisdiction of England and Wales;**
- (f) giving effect to the European protection order would contravene the principle of ne bis in idem;*
- (g) the protection measure on the basis of which the European protection order was issued was based on conduct by a defendant who was under the age of 10 when the conduct took place;*
- (h) the protection measure on the basis of which the European protection order was issued relates to a criminal offence which, under the law of England and Wales, is regarded as having been committed wholly, or for a major or essential part, within its territory.*

Under regulation 17 of the 2014 Regulations, the magistrates' court may vary a restraining order which gives effect to a European protection order if that protection order is modified. Under regulation 18 of those Regulations, the magistrates' court must discharge such a restraining order on notice that the European protection order to which it gives effect has been revoked or withdrawn.]

(1) 1997 c. 40; section 5 was amended by sections 12 and 58 of, and paragraph 43 of Schedule 10 and 11 to, the Domestic Violence, Crime and Victims Act 2004 (c. 28) and by section 125 of the Serious Organised Crime and Police Act 2005 (c. 15).