

SECOND SUPPLEMENT TO THE GIBRALTAR GAZETTE

No. 5103 GIBRALTAR Thursday 2nd November 2023

LEGAL NOTICE NO. 292 OF 2023

EUROPEAN UNION (WITHDRAWAL) ACT 2019

MUTUAL RECOGNITION OF PROTECTION MEASURES IN CIVIL MATTERS (EU EXIT) REGULATIONS 2023

In exercise of the powers conferred upon him by section 11(1) of, and paragraph 1 of Schedule 3 to, the European Union (Withdrawal) Act 2019, the Minister with responsibility for Justice has made the following Regulations-

Title.

1. These Regulations may be cited as the Mutual Recognition of Protection Measures in Civil Matters (EU Exit) Regulations 2023.

Commencement.

2. These Regulations come into operation on the day of publication.

Amendment of the Recognition of Protection Measures Regulations 2015.

3.(1) The Recognition of Protection Measures Regulations 2015 are amended in accordance with this regulation.

(2) Delete regulation 4.

(3) Delete regulation 6(b).

Amendment of Regulation (EU) No 606/2013 of the European Parliament and of the Council of 12 June 2013 on mutual recognition of protection measures in civil matters.

4.(1) Regulation (EU) No 606/2013 of the European Parliament and of the Council of 12 June 2013 on mutual recognition of protection measures in civil matters is amended in accordance with this regulation.

(2) In Article 1-

(a) for “recognition” substitute “recognition in Gibraltar”; and

(b) for “Member State” substitute “participating Member State”.

(3) In Article 2–

- (a) for paragraph 1, substitute–

“This Regulation applies where the recognition or enforcement of a protection measure in Civil Matters ordered by an issuing authority is sought in Gibraltar.”; and

- (b) delete paragraph 2.

(4) In Article 3–

- (a) in the definition of “protection measure” for “Member State of origin” substitute “participating Member State”;

- (b) in the definition of ‘issuing authority–

(i) for “a Member State” substitute “a participating Member State”;

(ii) for “this Regulation” substitute “the MRP Regulation”; and

(iii) for “the Member State” substitute “the participating Member State”;

- (c) for the definition of “Member State of origin” substitute “‘Participating Member State’ means a Member State other than Denmark;”;

- (d) delete the definition of “Member State addressed”; and

- (e) after the newly defined “Participating Member State” insert the following definitions–

“(5A) ‘MRP Regulation’ means Regulation (EU) 606/2013 of the European Parliament and of the Council of 12 June 2013 on mutual recognition of protection measures in civil matters as it has effect in EU law;

(5B) ‘the competent court’, in relation to the recognition or enforcement of a protection measure means the Supreme Court of Gibraltar.”.

(5) In Article 4–

- (a) in paragraph 1, for “shall be recognised in the other Member States” substitute “shall be recognised by the competent court”;

- (b) for paragraph 2, substitute–

“2. A protected person who wishes to invoke a protection measure in Gibraltar must provide the competent court with–

- (a) a valid copy of the protection measure;
 - (b) the certificate issued in the participating Member State pursuant to Article 5 of the MRP Regulation; and
 - (c) where necessary, a transliteration and/or a translation of the certificate into English.”; and
- (c) in paragraph 5 for “the Member State addressed” substitute “Gibraltar”.
- (6) Delete Articles 5 to 10.
- (7) In Article 11–
- (a) in paragraph 1 –
 - (i) for “competent authority of the Member State addressed” substitute “competent court”; and
 - (ii) for “that Member State” substitute “Gibraltar”;
 - (b) in paragraph 2, for “the Member State addressed” substitute “Gibraltar”;
 - (c) in paragraph 4 –
 - (i) for the first subparagraph substitute-

“The notification shall be effected in accordance with the law of Gibraltar.”;
 - (ii) in the second subparagraph, for “the Member State addressed” substitute “Gibraltar”.
 - (d) in paragraph 5, for “the Member State addressed” substitute “Gibraltar”.
- (8) In Article 12–
- (a) delete “ordered in the Member State of origin”; and
 - (b) for “in the Member State addressed” substitute “by the competent court”.
- (9) In Article 13–
- (a) in paragraph 1–
 - (i) in point (a) for “the Member State addressed” substitute “Gibraltar”;
 - (ii) in point (b) for “the Member State addressed” substitute “Gibraltar”;

- (b) for paragraph 2 substitute—
 - “2. The application for refusal of recognition of enforcement of a protection measure must be made to the competent court.”; and
 - (c) in paragraph 3, for “the Member State addressed” substitute “Gibraltar”.
- (10) In Article 14—
- (a) delete paragraph 1; and
 - (b) in paragraph 2—
 - (i) for “paragraph 1” substitute “Article 14 (1) of the MRP Regulation”; and
 - (ii) for “competent authority of the Member State addressed” substitute “competent court”.
- (11) In Article 15, for “Member State” substitute “participating Member State”.
- (12) Delete Articles 16 to 21.
- (13) In Article 22, delete paragraphs 1 and 2.
- (14) In the text following Article 22, delete “This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaties.”.

Dated: 2nd November 2023.

N FEETHAM,
Minister with responsibility for Justice.

EXPLANATORY MEMORANDUM

These Regulations are made pursuant to the powers in section 11 and paragraph 1(b) of Schedule 3 of the European Union (Withdrawal) Act 2019 to address deficiencies arising from withdrawal from the European Union. The amendments provide for continued recognition and enforcement in Gibraltar of protection measures (court orders or legally binding decisions which impose restrictions on an individual who has caused a threat to, and on whom obligations have been imposed in respect of another individual) ordered in a Member State.