Legal protection of adults: cross-border implications

2008/2123(INL) - 17/11/2008

The Committee on Legal Affairs unanimously adopted the own-initiative report drafted by **LÓPEZ-ISTÚRIZ WHITE** (EPP-ED, ES) containing a series of recommendations to the Commission on cross-border implications of the legal protection of adults.

Concerned about the need to guarantee an effective European area of civil justice, not least as regards the recognition and enforcement of judicial decisions, MEPs stress that work and consultations have been conducted in that context on decisions concerning family property issues, successions and wills, with a view to drawing up new legislative proposals. They welcome the commitment of the French Presidency regarding the situation of vulnerable adults and their cross-border legal protection and congratulate those Member States which have signed and ratified the Hague Convention of 13 January 2000 on the international protection of adults.

MEPs request the Commission, as soon as sufficient experience of the operation of the Hague Convention has been acquired, to submit to Parliament, on the basis of Article 65 of the EC Treaty, a legislative proposal on strengthening cooperation between Member States and improving the recognition and enforcement of decisions on the protection of adults and incapacity mandates and **lasting powers of attorney**.

This proposal should based on the following the principles and aims:

- to promote the recognition and enforcement of legal or administrative decisions regarding persons who are the subject of protection measures;
- provisions to help achieve the goal of establishing an area of justice, freedom and security by facilitating the recognition and enforcement of decisions granting a protection measure, determination of the law to be applied and cooperation between the central authorities;
- specific and appropriate measures for cooperation between the Member States should be implemented, drawing on the instruments available under the Hague Convention;
- **single Community forms** to promote information on protection decisions and the circulation, recognition and enforcement of those decisions;
- single Community form created at European Union level in the case of incapacity mandates, in order to ensure their effectiveness in all the Member States.

Other measures: the Commission is asked to:

- monitor experience with the application of the Hague Convention and its implementation in the Member States, and to submit to Parliament and the Council in due course a report summarising the problems and best practices in its practical application and containing, if necessary, proposals for Community provisions supplementing or specifying the manner in which the Convention is to be applied;
- assess the option of the accession of the Community to the Hague Convention;
- finance a study to compare Member States' legislation on vulnerable adults and protection measures with a view to ascertaining where legal issues could arise and what measures would be needed at EU or Member State level to resolve any such issues; considers that the study should also address the issue of institutionalised adults with intellectual disabilities as regards their guardianship and their ability to exercise their legal rights.

Member States are called upon to:

- ensure that protective measures are proportionate to the state of the vulnerable adults in question, so that individual EU citizens are not denied a legal right when they still have the ability to exercise that right;
- take measures to protect vulnerable adults from becoming victims of identity theft or fraud or other telephone or cyber-crimes, including legal measures to enhance the protection of and/or limit access to a vulnerable adult's personal data;

Lastly, MEPs support the **creation of secure mechanisms**, subject to robust rules for the protection of personal data and rules on the limitation of access, for the **sharing of best practices** and other information regarding protective measures currently in force between Member States, including the possibility of Member States' judicial systems sharing information as to the protection status of a vulnerable adult.