Protection of vulnerable adults

2015/2085(INL) - 03/04/2017 - Committee report tabled for plenary, single reading

The Committee on Legal Affairs adopted an own-initiative report by Joëlle BERGERON (EFD, FR) containing recommendations to the Commission on the protection of vulnerable adults in accordance with Rule 46 of the Rules of Procedure of the European Parliament.

Members firstly defined what is meant by 'vulnerable adults' within the meaning of the parliamentary report and the Commission proposal that has been called for. These are **physical persons over the age of 18 who are temporarily or permanently in the position of being unable to manage their personal affairs or their property**.

They recalled that all EU Member States have their own legal framework with different tools for the protection of vulnerable adults, and that these persons' property may be located in several Member States. There is no genuine legal framework within the European Union to ensure the adequate protection for vulnerable adults in such cross-border situations.

This may hamper the exercise by vulnerable adults of their freedom of movement and make the protection of their property more difficult.

Filling this legal gap would enable vulnerable adults to benefit fully from the EU's principles of free movement and residence instead of facing potential difficulties in protecting their personal affairs and property.

The aim here is certainly not to harmonise the protection measures that exist in each Member State, the establishment of which falls within the sole responsibility of each state, but to put in place a **set of legal rules** seeking to facilitate the **recognition and enforcement of decisions** taken in a Member State of the Union by the authorities of other Member States, and to enhance cooperation between the Member States in this field.

It is for this reason that Members have made use of Article 46 of Parliament's Rules of Procedure to call on the Commission to submit an appropriate proposal in this area, in accordance with Article 225 of the Treaty on the TFEU.

Principles and objectives of the proposal: among the main points of the future proposal, Members pointed to the following requirements:

- **improved information** on administrative and judicial decisions taken relating to vulnerable adults who are subject to protective measures as defined by the Hague Convention of 13 January 2000 on the international protection of adults and to facilitate the circulation, recognition and enforcement of such decisions;
- the **creation of national files or registers** of administrative and judicial decisions concerning measures to protect vulnerable adults and, where these exist, incapacity mandates in order to facilitate the circulation of and the prompt access by the competent administrations and judges to information relating to the legal situation of persons subject to a protection measure.
- the need to **ensure that information on the protection status of vulnerable adults is shared** among Member States in accordance with the principle of confidentiality and the rules on the protection of personal data;
- the **introduction of single EU forms** designed to provide information on administrative and judicial decisions relating to vulnerable adults;
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- the encouragement of the automatic recognition of the protective measures taken by the authorities of a Member State in the other Member States without prejudice to legal safeguards to protect public order in the States requested which States to justify non-recognition and non-enforcement of those measure may justify the non-recognition and non-enforcement of such protection measures by the Member States requested;
- the promotion of the **enforcement of protective measures** taken by the authorities of one Member State in the other Member States;
- the fostering of **consultation and coordination** among the Member States where the execution of a decision envisaged by the authorities of a Member State could have logistical and financial implications for another Member State so that the Member States concerned can reach an agreement on the sharing of the costs related to the protective measure.

Members also called for the **introduction of a single mandate in anticipation of incapacity forms** in order to facilitate the use of such mandates by the persons concerned whose well-informed consent would have to be verified by the relevant authorities, as well as the circulation, recognition and enforcement of these mandates.

Legal basis of the proposal: Members called on the Commission to submit to the European Parliament and the Council the said proposal before 31 March 2018 based on Article 81 (2) of the Treaty on the Functioning of the European Union.

In the motion for a resolution, Members remind the Commission and the Member States that not all adults who are vulnerable are necessarily vulnerable because of their advanced age but, for example, because of serious mental and / or physical disability.

Members called on Member States to pay particular attention to **the needs of the most disadvantaged vulnerable adults** and to put in place measures to ensure that they are not discriminated against as a result of their condition.

The motion for a resolution also stressed the need to inform European citizens about the legislation of the Member States concerning vulnerable adults and the protection measures affecting them.

Members regretted that the Commission had not yet acted on Parliament's request to submit a report listing the problems encountered and the best practices observed in the application of the 2000 Hague Convention on the international protection of adults. This report should normally contain proposals for Union measures supplementing or clarifying the manner of applying the Convention and mention the practical problems encountered by the Commission in obtaining information on the application of the Hague Convention.