Protection of adults: jurisdiction, applicable law, recognition and enforcement of measures and cooperation

2023/0169(COD) - 31/05/2023 - Legislative proposal

PURPOSE: to lay down new rules to ensure that the protection of adults is maintained in cross-border cases.

PROPOSED ACT: Regulation of the European Parliament and of the Council.

ROLE OF THE EUROPEAN PARLIAMENT: the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

BACKGROUND: currently, there are no EU laws specifically addressing the protection of adults in cross-border situations. For many years, the Commission has promoted the ratification by all Member States of the 2000 Hague Protection of Adults Convention, which is widely considered as an efficient and flexible private international law instrument that is fit for purpose at global level. Despite the Commission's efforts, many Member States have not become parties to the Convention. It currently applies among its 15 Contracting Parties, including 12 Member States. The Commission proposes to make it mandatory that Member States join this Convention.

In addition, while the Convention includes a minimum legal framework for this area suitable for international application, these rules do not achieve the potential of the EU area of justice where close cooperation among Member States and mutual trust exist.

The proposed regulation will build upon the rules of the 2000 Hague Protection of Adults Convention, and existing EU measures in other areas of cross-border civil justice. It will provide more modern and streamlined rules suitable for the EU context.

CONTENT: the aim of the draft regulation is to lay down rules, in cross-border cases, for the **protection of adults who, by reason of an impairment or insufficiency of their personal faculties, are not in a position to protect their interests**. This could be in connection with an age-related disease, such as Alzheimer's disease, or resulting from a health condition. It should also apply to measures in respect of an adult who had not reached the age of 18 years at the time the measures were taken.

In particular, the proposal lays down rules on jurisdiction, applicable law, recognition and enforcement of measures, acceptance of authentic instruments and cooperation between Member States' competent authorities and Central Authorities.

Subject matter

The proposed regulation lays down the rules which:

- determine the Member State **whose authorities have jurisdiction** to take measures directed to the protection of the person or property of the adult;

- determine which law is to be applied by such authorities in exercising their jurisdiction;

- determine the law applicable to the representation of the adult;

- provide for the recognition and enforcement of such measures in all Member States;

- provide for the acceptance of authentic instruments in all Member States;

- establish **cooperation** between the competent authorities and Central Authorities of the Member States to achieve the purposes of this Regulation;

- digitalise the communications between competent authorities and Central Authorities, and provide digital means of communication between natural and legal persons and competent authorities;

- create a **European Certificate of Representation**;

- establish a system of **interconnection** of the Member States' protection registers.