

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

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The Committee on Legal Affairs adopted the report by Jana TOOM (Renew, EE) on the proposal for a regulation of the European Parliament and of the Council Jurisdiction, applicable law, recognition and enforcement of measures and cooperation in matters relating to the protection of adults.

The proposed regulation aims to establish, at European Union level, rules that ensure legal certainty and guarantee the effectiveness of protection measures for adults and their representatives in cross-border situations, building on the framework established by the 2000 Hague Convention on the Protection of Adults.

The committee responsible recommended that the European Parliament adopt its position at first reading by amending the Commission's proposal as follows:

Scope of application

This Regulation should apply in civil matters to the protection in cross-border situations of adults who, by reason of an impairment or insufficiency of their personal faculties, are not in a position to protect their interests or require support and safeguards in the exercise of their legal capacity on a temporary or permanent basis.

The subjects covered should include, in particular, the following aspects:

- determining the extent to which an adult is able to act on their own behalf and the institution of a protective regime;
- measures to provide access by adults to the support they may require in exercising their legal capacity;
- powers of representation granted by adults for their support or representation, to be exercised when those adults require support in protecting their interests;
- the designation and functions of any person or body that is granted the powers of representation.

Scope

In accordance with national procedural law, courts should ensure that the adult has access to appropriate legal support, such as **free assistance in determining the competent court**. Where appropriate, the judge should grant access to videoconferencing or other means of distance communication when an adult is heard in court proceedings.

Applicable law

Competent authorities should establish and provide, free of charge, accessible support measures, including: (i) **multilingual guidance tools** to inform adults and their representatives about the applicable law, ensuring that they understand the legal consequences of protection measures in different Member

States; (ii) dedicated **legal information services** to help adults understand and deal with conflicts of law, in particular when decisions taken in one country or territory need to be recognised elsewhere.

Recognition and execution of measures

Recognition of a measure taken in another Member State should be **refused** if the measure was taken, except in cases of urgency, in the context of judicial or administrative proceedings, without the adult having been given the genuine and effective opportunity to be heard or without respecting the will and preference of the adult. Courts and competent authorities shall designate cross-border liaison officers to assist adults and their representatives in addressing enforcement-related difficulties.

Tasks of the central authorities

Central authorities should cooperate and promote cooperation between competent authorities in their Member State in the application of the Regulation and communicate information on national legislation, procedures and services available for the protection of adults.

Accommodation location and support system

In accordance with the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD), the courts of a Member State should **obtain the free and informed consent of the adult** when a decision concerning the place of residence or temporary placement of that adult is being considered for the purpose of providing them with protection. Competent authorities should provide support to adults at all times in making decisions to the extent possible, in accordance with the best interpretation of their will and preferences.

As regards persons with disabilities, the rules applicable to this Regulation should allow for a transition from substitute decision-making regimes, such as guardianship, curatorship and similar arrangements, to **supported decision-making arrangements** that respect the rights, wishes and preferences of the individual.

Support measures

Member States should (i) appoint **cross-border liaison contact persons** specialising in adult protection issues to participate in a European network to facilitate coordination between Member States; (ii) establish **online cooperation and training platforms** to allow professionals assisting adults to exchange best practices; (iii) consider the development of AI-assisted case management tools that comply with Union fundamental rights requirements.

Adults should have **easy access to information** on available procedural safeguards and remedies and on existing support measures such as legal aid and financial and psychological support.

European certificate

The certificate should be issued to the adult for use by their representatives who, in another Member State, need to exercise their powers to support or represent the adult. The certificate should be issued free of charge and the application process should be accessible to persons with disabilities.