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A10-0128/ 001-139

AMENDMENTS 001-139

by the Committee on Legal Affairs

Report

Jana Toom

A10-0128/2025

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

Proposal for a regulation (COM(2023)0280 – C9-0192/2023 – 2023/0169(COD))

Amendment 1

Proposal for a regulation

Citation 3 a (new)

Text proposed by the Commission

Amendment

***Having regard to the opinion of the
European Economic and Social
Committee^{1a},***

^{1a} ***OJ C, C/2024/1581, 5.3.2024, ELI:
<http://data.europa.eu/eli/C/2024/1581/oj>.***

Amendment 2

Proposal for a regulation

Recital 1

Text proposed by the Commission

Amendment

(1) The purpose of this Regulation is to

(1) The purpose of this 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. In particular, this Regulation 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.

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 ***or require support and safeguards in decision-making***. In particular, this Regulation lays down rules on jurisdiction, applicable law, recognition and enforcement of measures, ***verification of their implementation***, acceptance ***recognition*** of authentic instruments and cooperation between Member States' competent authorities and Central Authorities.

Amendment 3

Proposal for a regulation Recital 3

Text proposed by the Commission

(3) In accordance with Article 81(2) of the Treaty on the Functioning of the European Union ('TFEU'), such measures may include those aimed at ensuring the compatibility of the rules applicable in the Member States concerning conflict of laws and jurisdiction and the mutual recognition and enforcement between Member States of judgments and of decisions in extrajudicial cases.

Amendment

(3) In accordance with Article 81(2) of the Treaty on the Functioning of the European Union ('TFEU'), such measures may include those aimed at ensuring the compatibility of the rules applicable in the Member States concerning conflict of laws and jurisdiction and the mutual recognition and enforcement between Member States of judgments and of decisions in extrajudicial cases, ***effective access to justice, the elimination of obstacles to the proper functioning of civil proceedings and support for the training of the judiciary and judicial staff***.

Amendment 4

Proposal for a regulation Recital 5

(5) In the absence of such common rules, various difficulties may arise for the adults who are not in a position to protect their interests ***in cross-border*** situations, ***including*** where those adults move to another Member State or where they own real property or other assets in another Member State. Difficulties may arise for instance where measures taken in one Member State with a view to protecting the adults, including support measures provided to exercise their legal capacity, need to be invoked in other Member States, or where powers of representation granted by the adults to be exercised by their representatives when the adults ***are not in a position to protect*** their interests need to be later invoked abroad. Those difficulties can have serious adverse consequences on legal certainty in cross-border dealings and on the rights and wellbeing of the adults and on respect for their dignity. In particular, fundamental rights of the adults, such as access to justice, the right to autonomy, and the right to property and to free movement, may be negatively affected.

(5) In the absence of such common rules, various difficulties may arise for the adults who, ***in cross-border situations, require support and safeguards in decision-making and, for the purpose of the application of the Convention of the Hague Conference on Private International Law of 13 January 2000 on the International Protection of Adults ('HCCH 2000 Protection of Adults Convention')*** to be interpreted in the light of the United Nations Convention on Rights of Persons with Disabilities ('UNCRPD'), are not in a position to protect their interests. ***This includes*** situations where those adults move to another Member State or where they own real property or other assets in another Member State. Difficulties may arise for instance where measures taken in one Member State with a view to protecting the adults, including support measures provided to exercise their legal capacity, need to be invoked in other Member States, or where powers of representation granted by the adults to be exercised by their representatives when the adults ***require support in decision-making and in the protection of*** their interests need to be later invoked abroad. Those difficulties can have serious adverse consequences on legal certainty in cross-border dealings and on the rights and wellbeing of the adults and on respect for their dignity. In particular, fundamental rights of the adults, such as access to justice, the right to autonomy, and the right to property and to free movement, may be negatively ***and, sometimes, irreversibly*** affected.

Amendment 5

Proposal for a regulation

Recital 10

Text proposed by the Commission

(10) In addition, the interpretation of the rules laid down in this Regulation should be guided by its objectives that are to enhance the protection of fundamental rights and freedoms and other rights of adults in cross-border situations, including their right to autonomy, access to justice, right to property, right to be heard, right to free movement and equality. In this regard, this Regulation builds on the Charter of Fundamental Rights of the European Union ('Charter') and on international human rights law in this area. In particular, a significant part of adults to which this Regulation applies are persons with disabilities. Their rights, including the right to equality before the law, integrity, access to justice and respect for their inherent dignity and individual autonomy, are guaranteed by the United Nations Convention on the Rights of Persons with Disabilities¹¹ ('UNCRPD'), to which both the Union and its Member States are parties. The rights safeguarded in the UNCRPD are to be protected both in national and cross-border cases, and where measures are taken in relation to persons with disabilities, those measures are to be in line with the UNCRPD. This Regulation, laying down private international law rules for cross-border cases, should be applied consistently with the human rights obligations under the UNCRPD, in particular with its Articles 3, 9, 12 and 19. As contracting Parties to the UNCRPD, Member States are to ensure that their national substantive and procedural laws on the treatment of adults are consistent with the human rights obligations provided by the UNCRPD. In particular, Member States are to respect the

Amendment

(10) In addition, the interpretation of the rules laid down in this Regulation should be guided by its objectives that are to enhance the protection of fundamental rights and freedoms and other rights of adults in cross-border situations, including their right to autonomy, access to justice, right to property, right to be heard, right to free movement, **non-discrimination** and equality. In this regard, this Regulation builds on the Charter of Fundamental Rights of the European Union ('Charter') and on international human rights law in this area. In particular, a significant part of adults to which this Regulation applies are persons with disabilities. Their rights, including the right to equality before the law, integrity, access to justice and respect for their inherent dignity and individual autonomy, are guaranteed by the United Nations Convention on the Rights of Persons with Disabilities¹¹ ('UNCRPD'), to which both the Union and its Member States are parties. The rights safeguarded in the UNCRPD are to be protected both in national and cross-border cases, and where measures are taken in relation to persons with disabilities, those measures are to be in line with the UNCRPD. This Regulation, laying down private international law rules for cross-border cases, should be applied consistently with the human rights obligations under the UNCRPD, in particular with its Articles 3, 9, 12 and 19. As contracting Parties to the UNCRPD, Member States are to ensure that their national substantive and procedural laws on the treatment of adults are consistent with the human rights obligations provided by the UNCRPD. In particular, Member States are to respect the

equality of adults before the law and their right to enjoy legal capacity on equal basis with others in all aspects of life, with the support that they may require, as well as the autonomy and integrity of the adults in accordance with Article 12 of the UNCRPD.

¹¹ OJ L 23, 27.1.2010, p. 37

Amendment 6

Proposal for a regulation Recital 10 a (new)

Text proposed by the Commission

equality of adults before the law and their right to enjoy legal capacity on equal basis with others in all aspects of life, with the support that they may require, as well as the autonomy and integrity of the adults in accordance with Article 12 of the UNCRPD. ***To ensure, in line with the UNCRPD, that all persons with disabilities enjoy legal capacity on an equal basis with others, courts should prioritise supported decision-making over substituted decision-making, where appropriate, ensuring that the views, will and preferences of the adult concerned are central to any protective intervention.***

¹¹ OJ L 23, 27.1.2010, p. 37

Amendment

(10a) This Regulation is aimed at supporting the application of the HCCH 2000 Protection of Adults Convention with measures that are focused on full respect of the autonomy of adults concerned and the establishment of supported decision-making regimes and advance planning across the Union. The UNCRPD entered into force for the Union on 22 January 2011. The objective was for the Union to support the Member States in its implementation within its competences. In line with European Court of Justice jurisprudence^{1a}, it has consistently been held that international conventions which are an integral part of the legal order of the Union and are binding on it, have primacy over secondary legislation. Therefore,

secondary legislation is to be interpreted as far as possible in accordance with those conventions. In line with the UNCRPD, every person has the inherent right to dignity, autonomy, and equality before the law, including the right to make their own decisions. The protection of adults should not be based on restricting their legal capacity by, for example, having a third person or authority make decisions on their behalf. Protection, instead, must be based on the provision of support to the adult to ensure that they can make autonomous decisions about their lives. The implementation of supported decision-making may take various forms which may include facilitating for the adult to choose one or more trusted support persons to assist them in exercising their legal capacity, implementing accessibility measures such as understandable formats, and advance planning mechanisms in which a person plans in advance how their will and preferences shall be addressed in times of certain decision-making. Supported decision-making must be voluntary, initiated and terminated only at the person's request, with full control over the choice and dismissal of support persons. Protection, as interpreted by the UNCRPD, means empowering individuals to exercise their rights – not limiting them – and ensuring that their choices guide all decisions affecting their lives.

^{1a} Opinion of AG Szpunar, C-641/18, LG v Rina SpA, 14 January 2020; Judgement of the ECJ, C-15/17, Bosphorus Queen Shipping Ltd Corp. v Rajavartiolaitos, 11 July 2018.

Proposal for a regulation

Recital 11

Text proposed by the Commission

(11) Besides the protection, in cross-border situations, of fundamental rights and freedoms and other rights of adults, including the respect for their will and preferences, this Regulation also aims to improve the effectiveness and speed of judicial and administrative proceedings concerning the protection of adults **by simplifying and streamlining the** mechanisms for cooperation in cross-border proceedings. It further aims to strengthen legal certainty and predictability in cross-border dealings, both for adults and their representatives and for other parties, whether they are public or private entities. Providing greater legal certainty and simpler, streamlined and digitalised procedures should also encourage individuals to exercise their right to free movement.

Amendment 8

Proposal for a regulation

Recital 12

Text proposed by the Commission

(12) This Regulation should cover civil matters involving the protection of adults, in particular related to measures, authentic instruments and powers of representation, aimed at the protection of an adult. The protection is required due to an insufficiency or an impairment of the personal faculties of the adult, which can be permanent or temporary and, among others, of physical or psychosocial nature, or in connection with an age-related disease, such as Alzheimer's disease, or

Amendment

(11) Besides the protection, in cross-border situations, of fundamental rights and freedoms and other rights of adults, including the respect for their will and preferences, this Regulation also aims to improve the effectiveness and speed of judicial and administrative proceedings concerning the protection of adults **establishing clear, simpler and functional** mechanisms for cooperation in cross-border proceedings. It further aims to strengthen legal certainty and predictability in cross-border dealings, both for adults and their representatives and for other parties, whether they are public or private entities. Providing greater legal certainty and simpler, streamlined and digitalised procedures should also encourage individuals to exercise their right to free movement.

Amendment

(12) This Regulation should cover civil matters involving the **support and** protection of adults, in particular related to measures, authentic instruments and powers of representation, aimed at the **support and** protection of an adult. The **support and** protection is required due to an insufficiency or an impairment of the personal faculties of the adult, which can be permanent or temporary and, among others, of physical or psychosocial nature, or in connection with an age-related

resulting from a health condition, such as a coma. The protection *is* in particular required where barriers in the interaction with a range of environmental and personal factors hinder their participation in society on equal basis with others, in particular where the insufficiency or impairment of the personal faculties of the adult is such as to prevent that adult from looking after *his or her* own interests, such as property interests and personal or health interests. Serious neglect of the personal or property interests of the relatives for whom the adult is responsible may also reveal an impairment or insufficiency of the adult's personal faculties.

disease, such as Alzheimer's disease, or resulting from a health condition, such as a coma. The *personal faculties of the adult can be affected in full or in part and the adult can require varying degrees of support and assistance in exercising their legal capacity. More intensive forms of protection can* in particular *be* required where barriers in the interaction with a range of environmental and personal factors hinder their participation in society on equal basis with others, in particular where the insufficiency or impairment of the personal faculties of the adult is such as to prevent that adult from looking after *their* own interests, such as property interests and personal or health interests. *In such situations, protection should still be provided with full respect for the will and preferences of the adult. Examples of appropriate support of the adult in such situations include inferring the will and preferences of the adult from the adult's social circle, previous declared wishes or other sources of information that can reveal preferences.* Serious neglect of the personal or property interests of the relatives for whom the adult is responsible may also reveal an impairment or insufficiency of the adult's personal faculties.

Amendment 9

Proposal for a regulation Recital 12 a (new)

Text proposed by the Commission

Amendment

(12a) The extent of an insufficiency or an impairment of the personal faculties of the adult can change over time. Decisions taken to support and protect the adult should be reviewed at appropriate intervals of time in order to account for

changes in the circumstances of the adult and to confirm whether the related measures are still justified.

Amendment 10

Proposal for a regulation Recital 14

Text proposed by the Commission

(14) The terminology used for protective measures differs in the legal systems of each Member State and these differences in terminology should not affect the recognition of those protective measures in other Member States.

Amendment

deleted

Amendment 11

Proposal for a regulation Recital 16

Text proposed by the Commission

(16) To ensure a uniform interpretation of this Regulation, this Regulation should define in particular the notions of adults, representatives and **authorities**, which may have divergent meanings in the Member States legal systems. For the purposes of this Regulation, an adult is a person who has reached the age of 18 years. Depending on the context, this should refer for example to adults who, by reason of an impairment or insufficiency of their personal faculties, are not in a position to protect their interests, or adults who granted powers of representation to be exercised when those adults are not in a position to protect their interests.

Amendment

(16) To ensure a uniform interpretation of this Regulation, this Regulation should define in particular the notions of adults, representatives and **courts**, which may have divergent meanings in the Member States legal systems. For the purposes of this Regulation, an adult is a person who has reached the age of 18 years. Depending on the context, this should refer for example to adults who, by reason of an impairment or insufficiency of their personal faculties, are not in a position to protect their interests, or adults who granted powers of representation to be exercised when those adults are not in a position to protect their interests **or require support and safeguards in decision-making.**

Amendment 12

Proposal for a regulation Recital 18

Text proposed by the Commission

(18) For the purposes of this Regulation, and in line with the terminology used in the HCCH 2000 Protection of Adults Convention, the concept of ‘**authority**’ should be interpreted as referring to the judicial or administrative authorities taking measures directed to the protection of the adult. More broadly, a ‘competent authority’ should be interpreted as referring to a public **authority** of a Member State with responsibilities in matters of protection of adults. This includes authorities taking measures, authorities drawing up authentic acts and authorities issuing attestations, forms or the European Certificate of Representation. It further includes other authorities, or entities acting in an official capacity in matters related to the protection of adults, such as those that are responsible for the supervision or implementation of measures.

Amendment

(18) For the purposes of **this Regulation and according to the case-law of the Court of Justice, the term ‘court’ should be given a broad meaning so as to also cover administrative authorities, or other authorities, such as notaries, who or which exercise jurisdiction in matters covered by** this Regulation, and in line with the terminology used in the HCCH 2000 Protection of Adults Convention, the concept of ‘**court**’ should be interpreted as referring to the judicial or administrative authorities taking measures directed to the protection of the adult. More broadly, a ‘competent authority’ should be interpreted as referring to a **court or a public office holder** of a Member State with responsibilities in matters of protection of adults. This includes authorities taking measures, authorities drawing up authentic acts and authorities issuing attestations, forms or the European Certificate of Representation. It further includes other authorities, or entities acting in an official capacity in matters related to the protection of adults, such as those that are responsible for the supervision or implementation of measures.

Amendment 13

Proposal for a regulation Recital 19

Text proposed by the Commission

(19) The rules on international jurisdiction and on applicable law in respect of the protection of adults should be those set out in the HCCH 2000 Protection of Adults Convention, to avoid discrepancies and ensure, to the extent possible, that the same rules apply to a case involving Member States and third countries that are party to that Convention. Some Member States may not be contracting Parties to the HCCH 2000 Protection of Adults Convention at the time this Regulation will be applicable. To take account of all scenarios, the HCCH 2000 Protection of Adults Convention should be attached to this Regulation.

Amendment

(19) The rules on international jurisdiction and on applicable law in respect of the protection of adults should be those set out in the HCCH 2000 Protection of Adults Convention, to avoid discrepancies and ensure, to the extent possible, that the same rules apply to a case involving Member States and third countries that are party to that Convention. Some Member States may not be contracting Parties to the HCCH 2000 Protection of Adults Convention at the time this Regulation will be applicable. To take account of all scenarios ***and to ensure that this Regulation can be applied regardless of the status of ratification by Member States of the HCCH 2000 Protection of Adults Convention***, the HCCH 2000 Protection of Adults Convention should be attached to this Regulation. ***Similarly, to facilitate the interpretation of the UNCPRD that Convention should be attached to this Regulation as well.***

Amendment 14

Proposal for a regulation

Recital 21

Text proposed by the Commission

(21) The establishment of an additional ground of jurisdiction based on the choice of the adult should not disrupt the mechanism established by the HCCH 2000 Protection of Adults Convention, nor affect the effectiveness of communication between ***authorities***, and should avoid positive and negative conflicts of jurisdiction. The mechanisms established by Articles 7, 9, 10 and 11 of the HCCH 2000 Protection of Adults Convention

Amendment

(21) The establishment of an additional ground of jurisdiction based on the choice of the adult should not disrupt the mechanism established by the HCCH 2000 Protection of Adults Convention, nor affect the effectiveness of communication between ***courts***, and should avoid positive and negative conflicts of jurisdiction. The mechanisms established by Articles 7, 9, 10 and 11 of the HCCH 2000 Protection of Adults Convention giving priority to

giving priority to certain grounds of jurisdiction, limiting the effects of certain measures, and setting up an exchange of information between the **authorities** of the habitual residence and the **authorities** with subsidiary or concurrent jurisdiction, should therefore also apply in the Union to **authorities exercising** their jurisdiction according to the choice made by the adult. Thus, those provisions should apply in respect of the **authorities** chosen by an adult in the same way as they apply in respect to the **authorities** of the habitual residence.

Amendment 15

Proposal for a regulation Recital 22

Text proposed by the Commission

(22) The **authorities** contemplating the exercise of their jurisdiction according to the choice made by the adult should not exercise their jurisdiction where the **authorities of the habitual residence** of the **adult** have already exercised their jurisdiction, in particular where those **authorities** have taken a measure, or have decided that no measure should be taken, or where proceedings are pending before them.

certain grounds of jurisdiction, limiting the effects of certain measures, and setting up an exchange of information between the **courts** of the habitual residence and the **courts** with subsidiary or concurrent jurisdiction, should therefore also apply in the Union to **exercised** their jurisdiction according to the choice made by the adult. Thus, those provisions should apply in respect of the **courts** chosen by an adult in the same way as they apply in respect to the **courts** of the habitual residence.

Amendment

(22) The **courts** contemplating the exercise of their jurisdiction according to the choice made by the adult should not exercise their jurisdiction where the **courts having jurisdiction over the substance of the matter or the court where jurisdiction was transferred** have already exercised their jurisdiction, in particular where those **courts** have taken a measure, **even if this measure related only to some aspects of protection of the person or property of the adult** or have decided that no measure should be taken, or where proceedings are pending before them. **Measures concerning adults are to be subject to regular review to remain tailored to the adult's current circumstances. If, after the conclusion of initial proceedings, a new measure needs to be taken or an existing measure requires modification, replacement, or termination, jurisdiction should be verified and re-established again in accordance with the applicable**

jurisdictional rules. Adults should have the right to be heard and be meaningfully involved in proceedings affecting their legal status, including where multiple Member States could have jurisdiction. To avoid unnecessary difficulties, courts should provide for the possibility of remote participation and ensure that adults are informed about the jurisdictional criteria that apply to them. Where necessary, temporary cross-border protection measures should be available to prevent legal uncertainty while jurisdiction is being determined.

Amendment 16

Proposal for a regulation Recital 22 a (new)

Text proposed by the Commission

Amendment

(22a) To ensure that adults in cross-border situations can effectively exercise their rights and benefit from judicial protection, this Regulation introduces additional support measures that complement the framework for jurisdiction, applicable law, recognition and enforcement, authentic instruments, and cooperation. Those measures aim to facilitate access to justice, enhance procedural efficiency, and ensure continuity of protective arrangements across Member States. Information on available procedural safeguards, remedies and existing support measures should be made available in one single place, in a so-called ‘one-stop shop’, in order to provide easy access to dedicated information free of charge to adults and those representing them. It is possible that adults in cross-border situations could suffer financial repercussions and harm. Therefore, the information provided

through the ‘one-stop shop’ should cover existing support mechanisms, for example information on relevant organisations and associations which provide legal or any other form of relevant assistance or support to adults covered by this Regulation. In accordance with national procedural law, courts will ensure that the adult has access to appropriate legal support such as free assistance as regards the determination of jurisdiction, including guidance on the most appropriate forum in the event that jurisdiction is considered in multiple Member States. Where appropriate, accessible videoconferencing or other distance communication means will be granted by the judge where an adult is heard in judicial proceedings. This should be without prejudice to the the right of the adult concerned to be present in the room and protect their best interest in that case and the court should take into account the specific needs of persons with disabilities.

Amendment 17

Proposal for a regulation Recital 22 b (new)

Text proposed by the Commission

Amendment

(22b) Regarding applicable law, adults often face difficulties in understanding the legal implications of protection measures taken in different Member States. To address that problem, multilingual guidance tools should provide information free of charge in a language that the adult is expected to understand. Legal information should be made available to explain the relevant legal frameworks, particularly in cases where an adult has relied on advance planning instruments or other legal

arrangements that necessitate cross-border recognition. Courts and competent authorities shall ensure adults have easy access to information on available procedural safeguards and remedies and existing support measures, such as legal aid and financial and psychological support, notably through measures for better accessibility of the digital public services. This information should include any available information on awareness-raising campaigns, where appropriate in cooperation with relevant civil society organisations and other stakeholders. To reinforce cross-border cooperation, this Regulation provides for the possibility to create multilingual guidance tools, in particular through the use of the e-Justice Portal or the European Judicial Network, in order to inform adults and their representatives about the applicable law, ensuring they understand the legal consequences of protection measures in different Member States and dedicated legal information services for adults to understand how to deal with conflicts of law. Given the increasing role of artificial intelligence (AI) in legal and administrative processes, this Regulation provides for the responsible use of AI-assisted tools to support adults in cross-border situations with full transparency regarding the criteria on the basis of which automated decisions are taken. The support measures provided for in this Regulation should complement and strengthen the judicial cooperation framework established by this Regulation, ensuring that adults receive practical assistance while safeguarding their autonomy, dignity, and fundamental rights.

Proposal for a regulation
Recital 24

Text proposed by the Commission

(24) Mutual trust in the administration of justice in the Union justifies the principle that measures directed to the protection of adults given in a Member State should be recognised in all Member States without any special procedure being required. This should not preclude any interested person from applying for a decision that there are or that there are no grounds for refusal of recognition. It should be for the national law of the Member State where such application is made to determine who should be considered as an interested person entitled to make such application. To safeguard the right of the adults to access to justice and provide them with sufficient remedies, and irrespective of the nature and the extent of the measure, adults should have the right to apply for a decision that there are or that there are no grounds for refusal.

Amendment

(24) Mutual trust in the administration of justice in the Union justifies the principle that measures directed to the protection of adults given in a Member State should be recognised in all Member States without any special procedure being required. This should not preclude any interested person from ***invoking a measure either as an incidental question before a court or by*** applying for a decision that there are or that there are no grounds for refusal of recognition. It should be for the national law of the Member State where such application is made to determine who should be considered as an interested person entitled to make such application. To safeguard the right of the adults to access to justice and provide them with sufficient remedies, and irrespective of the nature and the extent of the measure, adults should have the right to apply for a decision that there are or that there are no grounds for refusal.

Amendment 19

Proposal for a regulation
Recital 25

Text proposed by the Commission

(25) The recognition and enforcement of measures should be based on the principle of mutual trust. Therefore, the grounds for non-recognition should be kept to the minimum in the light of the underlying aim of this Regulation which is to facilitate recognition and enforcement of measures and the circulation of powers of representation and to effectively safeguard

Amendment

(25) The recognition and enforcement of measures should be based on the principle of mutual trust. Therefore, the grounds for non-recognition should be kept to the minimum in the light of the underlying aim of this Regulation which is to facilitate recognition and enforcement of measures and the circulation of powers of representation and to effectively safeguard

the rights of the adults. In particular, the jurisdiction of the *authorities* of the Member State of origin should not be reviewed.

the rights of the adults, *in particular with the rights and principles enshrined in the UNCRPD, particularly those relating to respect for autonomy, dignity, and legal capacity*. In particular, the jurisdiction of the *courts* of the Member State of origin should not be reviewed.

Amendment 20

Proposal for a regulation

Recital 27

Text proposed by the Commission

(27) Proceedings directed to the protection of an adult should, as a basic principle, be guided by the views expressed by the adult. Adults should thus be given an effective and genuine opportunity to express their views freely in accordance with Articles 20, 25, 26, and 47 of the Charter and Articles 3, 9, 12, 13 and 19 of the UNCRPD. The opportunity for the adult to express *his or her* views should be given, except in cases of urgency, including cases where the adult is absolutely unable to express *his or her* views. A measure taken without the adult having had an opportunity to be heard, apart from the exceptional circumstances of urgency and the demonstrated incapacity to express *himself or herself*, may not be recognised. The fact that the adult has had an opportunity to be heard should be assessed uniformly in the Union, and should not be assessed against the fundamental procedural principles of the Member State where recognition is sought. An example of a case of urgency is a situation where the adult needs to undergo urgent surgery and is not, because of *his or her* medical condition, in a position to express *his or her* views.

Amendment

(27) Proceedings directed to the protection of an adult should, as a basic principle, be guided by the views expressed by the adult. Adults should thus be given an effective and genuine opportunity to express their views freely in accordance with Articles 20, 25, 26, and 47 of the Charter and Articles 3, 9, 12, 13 and 19 of the UNCRPD. The opportunity for the adult to express *their* views should be given, *including through the opportunity to participate by means of technical equipment, remotely*, except in cases of urgency, including cases where the adult is absolutely unable to express *their* views. A measure taken without the adult having had an opportunity to be heard, apart from the exceptional circumstances of urgency and the demonstrated incapacity to express *themselves*, may not be recognised. The fact that the adult has had an opportunity to be heard should be assessed uniformly in the Union, and should not be assessed against the fundamental procedural principles of the Member State where recognition is sought. An example of a case of urgency is a situation where the adult needs to undergo urgent surgery and is not, because of *their* medical condition, in a position to express *their* views.

Amendment 21

Proposal for a regulation Recital 28

Text proposed by the Commission

(28) The question of the procedure and the method of the hearing of the adult should be left to national law, with due respect for the rights of adults to accessibility. When a hearing is required in a cross-border context, Member States authorities should use the specific instruments of international judicial cooperation, including, where appropriate, those provided for by Regulation (EU) 2020/1783¹².

¹² Regulation (EU) 2020/1783 of the European Parliament and of the Council of 25 November 2020 on cooperation between the courts of the Member States in the taking of evidence in civil or commercial matters (taking of evidence) (OJ L 405, 2.12.2020, p. 1–39).

Amendment

(28) The question of the procedure and the method of the hearing of the adult should be left to national law, with due respect for the rights of adults to accessibility. When a hearing is required in a cross-border context, Member States authorities should use the specific instruments of international judicial cooperation, including, where appropriate, those provided for by Regulation (EU) 2020/1783¹² **and Regulation (EU) 2023/2844^{12a}. This should be without prejudice to the right of the adult concerned to be present in the room and protect their best interest in that case and the court should take into account the specific needs of persons with disabilities.**

¹² Regulation (EU) 2020/1783 of the European Parliament and of the Council of 25 November 2020 on cooperation between the courts of the Member States in the taking of evidence in civil or commercial matters (taking of evidence) (OJ L 405, 2.12.2020, p. 1–39).

^{12a} Regulation (EU) 2023/2844 of the European Parliament and of the Council of 13 December 2023 on the digitalisation of judicial cooperation and access to justice in cross-border civil, commercial and criminal matters, and amending certain acts in the field of judicial cooperation

Amendment 22

Proposal for a regulation
Recital 29

Text proposed by the Commission

(29) In order to take account of the different systems for dealing with the protection of adults in Member States, authentic instruments directed to the protection of adults and their interests should be ***accepted*** in all Member States. An authentic instrument directed to the protection of an adult or his or her interests drawn up by ***an authority*** of a Member State may in particular record powers of representation granted by an adult for a time when that adult will not be in a position to protect his or her interests, or advance directives recording wishes and preferences of the adult or giving direct instructions in some matters including health, welfare or appointment of a representative by an authority. Those authentic instruments should have the same evidentiary effects in another Member State as they have in the Member State of origin, or the most comparable effects. When determining the evidentiary effects of a given authentic instrument in another Member State or the most comparable effects, reference should be made to the nature and the scope of the evidentiary effects of the authentic instrument in the law of the Member State of origin.

Amendment 23

Proposal for a regulation
Recital 30

Text proposed by the Commission

(30) To facilitate the circulation of measures and authentic instruments in the

Amendment

(29) In order to take account of the different systems for dealing with the protection of adults in Member States, authentic instruments directed to the protection of adults and their interests should be ***recognised*** in all Member States. An authentic instrument directed to the protection of an adult or his or her interests drawn up by ***a court*** of a Member State may in particular record powers of representation granted by an adult for a time when that adult will not be in a position to protect his or her interests, or advance directives recording wishes and preferences of the adult or giving direct instructions in some matters including health, welfare or appointment of a representative by an authority. Those authentic instruments should have the same evidentiary effects in another Member State as they have in the Member State of origin, or the most comparable effects. When determining the evidentiary effects of a given authentic instrument in another Member State or the most comparable effects, reference should be made to the nature and the scope of the evidentiary effects of the authentic instrument in the law of the Member State of origin.

(30) To facilitate the circulation of measures and authentic instruments in the

Union, it is necessary to provide for attestations to accompany them where they need to be recognised, enforced, or, as the case may be, accepted abroad. The procedures for rectifying, withdrawing and challenging attestations used for the recognition and enforcement of measures and the acceptance of authentic instruments should be left to national law. In light of the case-law of the Court of Justice, **authorities** exercise judicial functions when issuing the attestations and issuance of forms part of the continuity of the previous judicial proceedings. Therefore, adequate and effective remedies in the context of this issuance should be made available by Member States.

Union, it is necessary to provide for attestations to accompany them where they need to be recognised, enforced, or, as the case may be, accepted abroad. The procedures for rectifying, withdrawing and challenging attestations used for the recognition and enforcement of measures and the acceptance of authentic instruments should be left to national law. In light of the case-law of the Court of Justice **courts** exercise judicial functions when issuing the attestations and **the** issuance of **attestation** forms part of the continuity of the previous judicial proceedings. Therefore, adequate and effective remedies in the context of this issuance should be made available by Member States.

Amendment 24

Proposal for a regulation Recital 31

Text proposed by the Commission

(31) Central Authorities should be designated in all Member States. Central Authorities should in particular assist competent authorities in cross-border proceedings, and cooperate both in general matters and in specific cases. In individual cases, the cooperation should not be limited to a specific part of the judicial or administrative procedure, and should be initiated and continued where a cross-border element exists and there is a need for cooperation.

Amendment

(31) Central Authorities should be designated in all Member States. Central Authorities should in particular assist competent authorities in cross-border proceedings, and cooperate both in general matters and in specific cases. In individual cases, the cooperation should not be limited to a specific part of the judicial or administrative procedure, and should be initiated and continued where a cross-border element exists and there is a need for cooperation. ***This should be the case, for example, where the receiving Member State considers that alternative measures, consistent with the will, preferences, and autonomy of the adult concerned in line with the UNCPRD, could be applied, thereby prompting a consultation with the Member State of origin on the best legal and practical means to ensure respect for***

the adult's rights and supported decision-making needs in that particular cross border case.

Amendment 25

Proposal for a regulation Recital 33

Text proposed by the Commission

(33) According to Article 19 of the UNCRPD, persons with disabilities are to have the opportunity to choose their place of residence and where and with whom they live, on an equal basis as others, and not to be obliged to live in a particular living arrangement. For the purposes of this Regulation, situations may arise where the authorities of a Member State need to take a measure concerning the place of residence or temporary placement of *an* adult. *Examples of such situations are cases where* authorities provide *assistance to the adult in making a decision on his or her place of residence or where an adult is not in a position to express his or her views and has not granted powers to make a decision concerning his or her place of residence to a representative, and an admission to a care facility is required.* Where such *placement* is to be implemented in another Member State, a consultation procedure for obtaining consent of the Central Authority of the Member State of implementation should be carried out prior to *taking that measure*. The request for consent made by the authority of origin should include the reasons for the proposed measure, and the views expressed by the adult concerned where possible, in light of Article 19 of the UNCRPD. The Central Authority of the Member State of implementation should be able to decide promptly whether to grant

Amendment

(33) According to Article 19 of the UNCRPD, persons with disabilities are to have the opportunity to choose their place of residence and where and with whom they live, on an equal basis as others, and not to be obliged to live in a particular living arrangement. For the purposes of this Regulation, situations may arise where the authorities of a Member State need to take a measure concerning *formal support and living arrangements. In line with Article 19 of the UNCRPD, the courts of a Member State should obtain free and informed consent of the adult where a decision concerning* the place of residence or temporary placement of *that* adult *is contemplated in order to provide protection. Competent authorities should provide support at all times for adults to make decisions whenever possible in line with the best interpretation of their will and preferences.* Where such *formal support and living arrangements* is to be implemented in another Member State, a consultation procedure for obtaining consent of the Central Authority of the Member State of implementation should be carried out prior to *implementing those measures*. The request for consent made by the authority of origin should include the reasons for the proposed measure, and the views expressed by the adult concerned where possible, in light of Article 19 of the UNCRPD. The Central Authority of the

the consent or to refuse it. The absence of a reply within six weeks should not be understood as consent and without consent the measure should not be implemented. The consultation should not be carried out when the placement is with an individual and does not require the supervision of any public authority of the Member State of implementation.

Member State of implementation should be able to decide promptly whether to grant the consent or to refuse it. The absence of a reply within six weeks should not be understood as consent and without consent the measure should not be implemented. The consultation should not be carried out when the placement is with an individual and does not require the supervision of any public authority of the Member State of implementation.

Amendment 26

Proposal for a regulation Recital 35

Text proposed by the Commission

(35) Representatives of adults who, by reason of an impairment or insufficiency of their personal faculties, are not in a position to protect their interests, should be able to invoke their powers to represent those adults and to protect the interests of those adults without obstacles within the Union. Therefore, representatives should be able to demonstrate easily their status and powers in another Member State, for instance in a Member State in which adult's real property or other assets are located. To enable them to do so, a European Certificate of Representation ('the Certificate') should be created. That Certificate should be a uniform certificate to be issued for use in another Member State. In order to respect the principle of subsidiarity, the Certificate should not take the place of internal documents, which may exist for similar purposes in the Member States.

Amendment

(35) Representatives of adults who, by reason of an impairment or insufficiency of their personal faculties, are not in a position to protect their interests, should be able to invoke their powers to ***support those adults in exercising their legal capacity or*** represent those adults and to protect the interests of those adults without obstacles within the Union. Therefore, representatives should be able to demonstrate easily their status and powers in another Member State, for instance in a Member State in which adult's real property or other assets are located. To enable them to do so, a European Certificate of ***Support and*** Representation ('the Certificate') should be created. That Certificate should be a uniform certificate to be issued for use in another Member State. In order to respect the principle of subsidiarity, the Certificate should not take the place of internal documents, which may exist for similar purposes in the Member States.

Amendment 27

Proposal for a regulation Recital 36

Text proposed by the Commission

(36) The Certificate can be requested by the adult's representative on the basis of an existing measure or confirmed powers of representation (the 'source measure' and 'source confirmed powers of representation'). It should thus only be issued in situations where an adult is effectively not in a position to protect his or her interests and the representative is entitled to actively represent that adult in one or more specific matters. The Certificate should include information on the extent of the powers which the representative is entitled to exercise on behalf of an adult and, where relevant, on the matters where the representative is not entitled to act or is entitled to act under certain conditions.

Amendment

(36) The Certificate can be requested by ***the adult or, where applicable, by the*** the adult's representative on the basis of an existing measure or confirmed powers of representation (the 'source measure' and 'source confirmed powers of representation'). It should thus only be issued in situations where an adult is ***being supported in their decision-making or where they are*** effectively not in a position to protect his or her interests and the representative is entitled to actively represent that adult in one or more specific matters. The Certificate should include information on the extent of the powers which the representative is entitled to exercise on behalf of an adult and, where relevant, on the matters where the representative is not entitled to act or is entitled to act under certain conditions.

Amendment 28

Proposal for a regulation Recital 37

Text proposed by the Commission

(37) The use of the Certificate should not be mandatory. This means that a representative of ***an*** adult entitled to apply for a Certificate should be under no obligation to do so but should be free to use national documents or other instruments available under this Regulation (a measure or an authentic instrument) when invoking his or her powers in another Member State. Persons acting on their own

Amendment

(37) The use of the Certificate should not be mandatory. This means that a representative of ***a*** adult entitled to apply for a Certificate should be under no obligation to do so but should be free to use national documents or other instruments available under this Regulation (a measure or an authentic instrument) when invoking his or her powers in another Member State. Persons acting on their own

behalf should not be required to present a Certificate, *so* the Certificate should be ***issued only for*** representatives who need to demonstrate their powers to act in support or on behalf of an adult.

behalf should not be required to present a Certificate, ***but should have the possibility of choosing when*** the Certificate should be ***used by a representative. It should be possible, however, for the Certificate to be used by*** representatives who need to demonstrate their powers to act in support or on behalf of an adult.

Amendment 29

Proposal for a regulation Recital 39

Text proposed by the Commission

(39) To ensure that the process of the issuance of the Certificate is uniform throughout the Union, this Regulation should provide rules on the issuance of the Certificate. The issuing authority should issue the Certificate upon application and after verifying the elements to be certified. The process for the application for and the issuance of the Certificate should be simplified by the fact that the authority issuing the Certificate has access to the source measure or source confirmed powers of representation and has knowledge concerning their continued validity and the information contained therein. ***Where feasible, the issuing authority should consult the system of interconnection of protection registers established in this Regulation before the issuance of the Certificate to verify whether a conflicting measure or powers of representation exist in another Member State.*** Where the applicant indicates in the application for a Certificate that the Certificate should serve to demonstrate their powers for a specific purpose or in a specific context, the issuing authority should, as far as possible, include in the Certificate sufficiently detailed information

Amendment

(39) To ensure that the process of the issuance of the Certificate is uniform throughout the Union, this Regulation should provide rules on the issuance of the Certificate. The issuing authority should issue the Certificate upon application and after verifying the elements to be certified. The process for the application for and the issuance of the Certificate should be simplified by the fact that the authority issuing the Certificate has access to the source measure or source confirmed powers of representation and has knowledge concerning their continued validity and the information contained therein. Where the applicant indicates in the application for a Certificate that the Certificate should serve to demonstrate their powers for a specific purpose or in a specific context, the issuing authority should, as far as possible, include in the Certificate sufficiently detailed information that reflects that purpose or context. The original of the Certificate should remain with the issuing authority, which should issue one or more certified copies of the Certificate to the applicant. The Certificate should be issued in a mandatory form set out in the annex to this Regulation. To

that reflects that purpose or context. The original of the Certificate should remain with the issuing authority, which should issue one or more certified copies of the Certificate to the applicant. The Certificate should be issued in a mandatory form set out in the annex to this Regulation. To reduce translation costs when the Certificate is presented in another Member State, the form for the Certificate set out in the annex to this Regulation should be available in all Union languages.

Amendment 30

Proposal for a regulation Recital 41

Text proposed by the Commission

(41) The Certificate should produce the same effects in all Member States. It should not be an enforceable title in its own right but should have an evidentiary effect and should be presumed to demonstrate accurately elements included in the Certificate which have been established under the law applicable to the protection of a particular adult or under any other law applicable to specific elements. That presumption of accuracy is strengthened by the fact that before issuing the Certificate, the issuing authority should verify, ***including through the system of interconnection***, that the source measure or the source confirmed powers of representation remain valid and have not been replaced by a later measure or confirmed powers of representation. However, the evidentiary effects of the Certificate should not extend to elements which are not governed by this Regulation, such as to the question whether or not a particular asset belonged to the adult.

reduce translation costs when the Certificate is presented in another Member State, the form for the Certificate set out in the annex to this Regulation should be available in all Union languages.

Amendment

(41) The Certificate should produce the same effects in all Member States. It should not be an enforceable title in its own right but should have an evidentiary effect and should be presumed to demonstrate accurately elements included in the Certificate which have been established under the law applicable to the protection of a particular adult or under any other law applicable to specific elements. That presumption of accuracy is strengthened by the fact that before issuing the Certificate, the issuing authority should verify, that the source measure or the source confirmed powers of representation remain valid and have not been replaced by a later measure or confirmed powers of representation. However, the evidentiary effects of the Certificate should not extend to elements which are not governed by this Regulation, such as to the question whether or not a particular asset belonged to the adult.

Amendment 31

Proposal for a regulation Recital 42

Text proposed by the Commission

(42) Any person who deals with a representative indicated in a valid Certificate as being entitled to represent an adult in a specific matter should be afforded appropriate guarantees if **he or she** acted in good faith relying on the accuracy of the information certified in the Certificate. The same guarantee should be afforded to any person who, relying on the information certified in a valid Certificate, gives access to the adult's representative to real property or other assets of the adult, makes payments to the representative, or buys or receives property from that representative, where the representative is indicated in a valid Certificate as being entitled to act on behalf of the adult in those matters. The protection should be ensured if certified copies which are still valid are presented.

Amendment

(42) Any person who deals with a representative indicated in a valid Certificate as being entitled to represent an adult in a specific matter should be afforded appropriate guarantees if **they** acted in good faith relying on the accuracy of the information certified in the Certificate. The same guarantee should be afforded to any person who, relying on the information certified in a valid Certificate, gives access to the adult's representative to real property or other assets of the adult, makes payments to the representative, or buys or receives property from that representative, where the representative is indicated in a valid Certificate as being entitled to act on behalf of the adult in those matters. The protection should be ensured if certified copies which are still valid are presented.

Amendment 32

Proposal for a regulation Recital 44

Text proposed by the Commission

(44) To ensure a continuous protection of adults in cross-border situations in the Union, competent authorities and Central Authorities should have access to relevant information on the existence of measures taken by other authorities, including those measures that have been taken in another Member State. In addition, it is crucial for safeguarding of the right to autonomy and freedom to make one's own choices that the

Amendment

(44) To ensure a continuous protection of adults in cross-border situations in the Union, competent authorities and Central Authorities should have access to relevant information on the existence of measures taken by other authorities, including those measures that have been taken in another Member State. In addition, it is crucial for safeguarding of the right to autonomy and freedom to make one's own choices that the

will expressed by an adult in powers of representation is respected, even in cases where those powers of representation have been granted by the adult in another Member State or confirmed by competent authorities of another Member State. *In order to improve the provision of information to relevant competent authorities and Central Authorities and to prevent parallel proceedings or failure to take account of powers of representation, Member States should be required to set up and maintain one or more registers recording data related to the protection of adults. Protection registers should record mandatory information concerning measures taken by their authorities and, where their national law provides for a confirmation by a competent authority of powers of representation, mandatory information concerning those confirmed powers of representation. To ensure interoperability and availability of information related to the protection of adults in the Union, those Member States that have established, prior to the adoption of this Regulation, registers of protection measures, of confirmed powers of representation, or other types of powers of representation which are registered under their national law, should make the same mandatory information available in those registers.*

will expressed by an adult in powers of representation is respected, even in cases where those powers of representation have been granted by the adult in another Member State or confirmed by competent authorities of another Member State.

Amendment 33

Proposal for a regulation Recital 45

Text proposed by the Commission

(45) To ensure that the information provided through the system of interconnection is relevant, Member States should not be prevented from

Amendment

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making available through the system of interconnection additional information besides the mandatory information. In particular, Member States should have the possibility to make available through the system of interconnection information in relation to the nature of the measure, the name of the representative, or historical data concerning measures and powers of representation recorded prior to the application of this Regulation.

Amendment 34

Proposal for a regulation Recital 46

Text proposed by the Commission

Amendment

(46) To facilitate access to the information recorded in protection registers or registers of other powers of representation for competent authorities and Central Authorities with a legitimate interest located in other Member States, those registers of measures, confirmed powers of representation, or other types of powers of representation should be interconnected. This Regulation should provide legal basis for that interconnection.

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Amendment 35

Proposal for a regulation Recital 47

Text proposed by the Commission

Amendment

(47) The interconnection of Member States' registers is an essential component of the cooperation mechanism to safeguard the rights of adults in cross-border cases and ensure legal certainty in

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the Union. Member States should hence ensure that the information stored in their registers is up-to-date. The authorities of a Member State, when amending or terminating a measure taken in another Member State, should ensure that appropriate information is provided to the authorities of that other Member State, in particular so that the other Member State can update its protection register(s).

Amendment 36

Proposal for a regulation Recital 54 a (new)

Text proposed by the Commission

Amendment

(54a) In cases where a disclosure or confirmation of the relevant information could jeopardise the health, safety or liberty of the adult or another person, for example where the adult or his or her representative have been the victims of domestic violence and a court has ordered the new address of the adult not to be disclosed to the applicant, this Regulation should aim to ensure that a delicate balance is struck. While this Regulation should provide that a Central Authority, court or competent authority should not disclose or confirm to the applicant or to a third party any information gathered or transmitted for the purposes of this Regulation, where it determines that to do so could jeopardise the health, safety or liberty of the adult or another person, it should nonetheless provide that that should not impede the gathering and transmitting of information by and between Central Authorities, courts and competent authorities in so far as necessary to carry out the obligations laid down in this Regulation. This means that, where possible and appropriate, it should

be possible for an application to be processed under this Regulation without the applicant being provided with all information necessary to process it. For example, where national law so provides, a Central Authority should be able to institute proceedings on behalf of an applicant without passing on the information about the adult's whereabouts to the applicant. However, in cases where merely making the request could already jeopardise the health, safety or liberty of the adult or another person, this Regulation should prohibit such a request from being made.

Amendment 37

Proposal for a regulation Recital 55

Text proposed by the Commission

Amendment

(55) Besides the above-described data processing, personal data should also be processed under this Regulation for the purposes of establishing the system for the interconnection of protection registers and other registers of powers of representation and of ensuring the maintenance and proper functioning of that system. This additional processing is justified by the need that Member States' competent authorities and Central Authorities with a legitimate interest have access to information on whether a particular adult is protected in another Member State, with a view to ensuring continued protection of that adult in cross-border situations and to increasing legal certainty and predictability. Member States should be responsible for the technical management, maintenance, and security of their registers and, as far as their national law provides, for the

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correctness and reliability of the data included therein. Data relating to data subjects should be primarily stored in the registers maintained by Member States. In addition, the Commission may need to process data for the purposes of developing and maintaining the system of interconnection and temporarily store data that are accessed through the system of interconnection.

Amendment 38

Proposal for a regulation Recital 58

Text proposed by the Commission

(58) Appropriate safeguards should exist for such processing of special categories of personal data and such data should be processed under this Regulation only where it is necessary for and proportionate to the purposes of processing identified under this Regulation. *For instance, several safeguards should be introduced when establishing the system of interconnection. The data processed through the system of interconnection should be limited to what is necessary for accessing information about the measures and powers of representation concerning a particular adult. Data processed through the system of interconnection should thus be limited to the personal data included in the mandatory information defined in this Regulation, unless Member States give access through the system of interconnection to additional data, such as on registered powers of representation, or on the name of a representative and the extent of the representation. The system of interconnection should not store any personal data except for a temporary*

Amendment

(58) Appropriate safeguards should exist for such processing of special categories of personal data and such data should be processed under this Regulation only where it is necessary for and proportionate to the purposes of processing identified under this Regulation.

storage needed to ensure access to them. Access to data through the system of interconnection should not be public. Only the competent authorities and Central Authorities that are permitted, under their national law, to access the national registers should have access to the system of interconnection, as long as they also have a legitimate interest in accessing given data. Implementing acts should provide further data protection safeguards regarding the digital communication and the interconnection of registers.

Amendment 39

Proposal for a regulation Recital 60

Text proposed by the Commission

(60) In order to ensure uniform conditions for the implementation of this Regulation as regards the establishment of the decentralised IT system **and the decentralised system of interconnection** provided for in this Regulation, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council²⁰.

²⁰ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

Amendment

(60) In order to ensure uniform conditions for the implementation of this Regulation as regards the establishment of the decentralised IT **system** provided for in this Regulation, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council²⁰.

²⁰ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

Amendment 40

Proposal for a regulation Recital 65 a (new)

Text proposed by the Commission

Amendment

(65a) In line with UNCPRD, to which the Union and the Member States are parties, persons with disabilities must enjoy the right to legal capacity on an equal basis with others in all aspects of life. The rules applicable for this Regulation should allow a shift from substitute decision-making regimes - such as guardianship, curatorship, and analogous institutions - toward supported decision-making arrangements that respect the rights, will, and preferences of the individual. In recognition of the need to ensure legal certainty and allow sufficient time for Member States to adjust their national legislation and administrative practices, this Regulation should continue to apply to existing protective measures of a substitute nature until 2035. This transitional provision should apply strictly within the scope of this Regulation, which is limited ratione materiae to the private international law rules governing the recognition, enforcement, and applicable law of such protection measures within the Union. It should not affect the procedural autonomy of the Member States or their competence to determine the substantive and procedural frameworks applicable to protection regimes under national law. Moreover, a similar policy orientation should be envisaged for related areas, such as the placement of adults in establishments, where the principles of autonomy and supported decision-making must also be progressively applied in full respect of the national traditions which are favourable to the adults in such situations. The long-

term evolution toward support-oriented regimes should also extend to related areas, including cross-border placements of adults. In this regard, the HCCH 2000 Protection of Adults Convention remains an important international framework for cooperation in matters of international protection. However, its reference to concepts related to the adult's capacity or functional abilities should be interpreted and applied in a manner consistent with the UNCRPD, ensuring that protective measures are based on respect for autonomy, inclusion, and individual rights. This Regulation, while engaging with such terminology, aims to promote a more human rights-oriented interpretation and application of protective measures, aligned with the long-term objectives of the UNCRPD. The objective remains to encourage, over time, a coherent and rights-based transition across the Union toward support-oriented systems that affirm the autonomy of adults.

Amendment 41

Proposal for a regulation Recital 65 b (new)

Text proposed by the Commission

Amendment

(65b) In order to ensure that this Regulation remains effective and aligned with evolving human rights standards, particularly those set out in the UNCRPD, the Commission should carry out an evaluation of its application. This review should pay particular attention to the functioning and advisability of decision-making regimes applied to adults, including the determination of their ability to act on their own behalf, the institution of protective measures, and the

*placement of adults in establishments.
The evaluation should be based on
information gathered from Member States
and should assess whether further
legislative measures are necessary. To
ensure transparency and accountability,
where no legislative proposal
accompanies the report, the Commission
should publicly justify its decision within
two years of the report's publication.*

Amendment 42

Proposal for a regulation

Article 1 – paragraph 1 – point a

Text proposed by the Commission

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

Amendment

(a) determine the Member State whose **courts** have jurisdiction to take measures directed to the protection of the person or property of the adult;

Amendment 43

Proposal for a regulation

Article 1 – paragraph 1 – point b

Text proposed by the Commission

(b) determine which law is to be applied by such **authorities** in exercising their jurisdiction;

Amendment

(b) determine which law is to be applied by such **courts** in exercising their jurisdiction;

Amendment 44

Proposal for a regulation

Article 1 – paragraph 1 – point c

Text proposed by the Commission

(c) determine the law applicable to the

Amendment

(c) determine the law applicable to the

representation of the adult;

support and representation of the adult;

Amendment 45

Proposal for a regulation

Article 1 – paragraph 1 – point e

Text proposed by the Commission

(e) provide for the ***acceptance*** of authentic instruments in all Member States;

Amendment

(e) provide for the ***recognition*** of authentic instruments in all Member States ***in the matters falling under this Regulation***

Amendment 46

Proposal for a regulation

Article 1 – paragraph 1 – point f

Text proposed by the Commission

(f) establish cooperation between the competent authorities and Central Authorities of the Member States to achieve the purposes of this Regulation;

Amendment

(f) establish cooperation between the ***courts***, competent authorities and Central Authorities of the Member States to achieve the purposes of this Regulation;

Amendment 47

Proposal for a regulation

Article 1 – paragraph 1 – point g

Text proposed by the Commission

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

Amendment

(g) digitalise the communications between ***courts***, competent authorities and Central Authorities, and provide digital means of communication between natural and legal persons and ***courts and*** competent authorities;

Amendment 48

Proposal for a regulation
Article 1 – paragraph 1 – point h a (new)

Text proposed by the Commission

Amendment

(ha) establish support measures for adults in the matters falling under this Regulation (23 Rapporteur);

Amendment 49

Proposal for a regulation
Article 1 – paragraph 1 – point i

Text proposed by the Commission

Amendment

(i) establish a system of interconnection of the Member States' protection registers.

deleted

Amendment 50

Proposal for a regulation
Article 2 – paragraph 1

Text proposed by the Commission

Amendment

1. This Regulation shall 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.

1. This Regulation shall 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 (24 Rapporteur).***

Amendment 51

Proposal for a regulation
Article 2 – paragraph 3 – point a

Text proposed by the Commission

(a) ***the determination of the incapacity of an adult*** and the institution of a protective regime;

Amendment

(a) ***determining the extent to which an adult is able to act on their own behalf*** and the institution of a protective regime;

Amendment 52

Proposal for a regulation

Article 2 – paragraph 3 – point a a (new)

Text proposed by the Commission

Amendment

(aa) ***measures to provide access by adults to the support they may require in exercising their legal capacity;***

Amendment 53

Proposal for a regulation

Article 2 – paragraph 3 – point a b (new)

Text proposed by the Commission

Amendment

(ab) ***powers of representation granted by adults for their support or representation, to be exercised when those adults require support in protecting their interests;***

Amendment 54

Proposal for a regulation

Article 2 – paragraph 3 – point b

Text proposed by the Commission

Amendment

(b) ***the placing of the adult under the protection of a judicial or administrative authority;***

deleted

Amendment 55

Proposal for a regulation
Article 2 – paragraph 3 – point c

Text proposed by the Commission

Amendment

(c) guardianship, curatorship and analogous institutions;

deleted

Amendment 56

Proposal for a regulation
Article 2 – paragraph 3 – point d

Text proposed by the Commission

Amendment

(d) the designation and functions of any person or body *having charge of the adult's person or* property, *representing, or assisting the adult*;

(d) the designation and functions of any person or body *providing support in decision making to an adult with regard to* property, *or other forms of assistance*;

Amendment 57

Proposal for a regulation
Article 2 – paragraph 3 – point d a (new)

Text proposed by the Commission

Amendment

(da) *the designation and functions of any person or body that is granted the powers of representation*;

Amendment 58

Proposal for a regulation
Article 2 – paragraph 3 – point d b (new)

Text proposed by the Commission

Amendment

(db) *the designation and functions of any person or body that is granted the powers of representation*;

Amendment 59

Proposal for a regulation

Article 2 – paragraph 3 – point e

Text proposed by the Commission

Amendment

(e) decisions concerning the placement of the adult in an establishment or other place where protection can be provided;

deleted

Amendment 60

Proposal for a regulation

Article 2 – paragraph 3 – point f

Text proposed by the Commission

Amendment

(f) the administration, conservation or disposal of the adult's property;

deleted

Amendment 61

Proposal for a regulation

Article 2 – paragraph 3 – point g

Text proposed by the Commission

Amendment

(g) the authorisation of a specific intervention for the protection of the person or property of the adult.

deleted

Amendment 62

Proposal for a regulation

Article 2 – paragraph 5

Text proposed by the Commission

Amendment

5. Paragraph (4) does not affect, in respect of the matters referred to therein,

5. Paragraph (4) does not affect, in respect of the matters referred to therein,

the entitlement of a person to *act as the representative of* the adult.

the entitlement of a person to *provide* the adult *support in decision making, nor the executing powers of representation*.

Amendment 63

Proposal for a regulation

Article 3 – paragraph 1 – point 2

Text proposed by the Commission

(2) ‘measure’ means any measure taken by *an* authority of a Member State, whatever it may be called, directed to the protection of an adult;

Amendment

(2) ‘measure’ means any measure taken by *a court or a competent* authority of a Member State, whatever it may be called, directed to the *support or* protection of an adult *or their property*;

Amendment 64

Proposal for a regulation

Article 3 – paragraph 1 – point 5 – introductory part

Text proposed by the Commission

(5) ‘authentic instrument’ means a document in a matter of protection of an adult which has been formally drawn up or registered as an authentic instrument in a Member State and the authenticity of which:

Amendment

(5) ‘authentic instrument’ means a document in a matter of *support or* protection of an adult which has been formally drawn up or registered as an authentic instrument in a Member State and the authenticity of which:

Amendment 65

Proposal for a regulation

Article 3 – paragraph 1 – point 6

Text proposed by the Commission

(6) ‘*authority*’ means any judicial or administrative authority of a Member State with *competence to take measures directed to the protection of an adult's*

Amendment

(6) ‘*court*’ means any judicial or administrative authority of a Member State with *jurisdiction in the matters falling within the scope of this Regulation*

person or property;

pursuant to Article 2;

Amendment 66

Proposal for a regulation

Article 3 – paragraph 1 – point 9

Text proposed by the Commission

(9) ‘competent authority’ means a public authority of a Member State with responsibilities in matters of protection of adults;

Amendment

(9) ‘competent authority’ means a public authority **or public office holder** of a Member State with responsibilities in matters of protection of adults;

Amendment 67

Proposal for a regulation

Article 3 – paragraph 1 – point 10

Text proposed by the Commission

(10) ‘**system of interconnection**’ means a **system for the interconnection of protection registers and registers of other powers of representation;**

Amendment

deleted

Amendment 68

Proposal for a regulation

Article 3 – paragraph 1 – point 12

Text proposed by the Commission

(12) ‘**protection register**’ means a **register where measures directed to the protection of an adult or confirmed powers of representation have been registered.**

Amendment

deleted

Amendment 69

Proposal for a regulation

Article 6 – paragraph 1 – point a

Text proposed by the Commission

(a) the adult chose the authorities of that Member State, when he or she was still in a position to protect his or her interest;

Amendment

(a) the adult chose the authorities of that Member State, ***at the time*** when he or she was still in a position to protect his or her interest;

Amendment 70

Proposal for a regulation

Article 6 – paragraph 1 – point a a (new)

Text proposed by the Commission

Amendment

(aa) the choice of court was, at the time when the choice was made, in favour of a Member State:

- i. of which the adult is a national;***
- ii. of the adult's habitual residence;***
- iii. of habitual residence of a person close to the adult prepared to undertake their support and representation ; or***
- iv. where the property of the adult is located.***

Amendment 71

Proposal for a regulation

Article 7 a (new)

Text proposed by the Commission

Amendment

Article 7a

Support measures

In proceedings concerning the protection of an adult that fall within the scope of this Regulation, courts shall ensure, in accordance with national procedural law,

that the adult has access to appropriate legal support, including:

(a) free assistance as regards the determination of jurisdiction, including guidance on the most appropriate forum in the event that multiple Member States could be competent under this Chapter;

(b) providing, where appropriate, accessible videoconferencing or other distance communication means, in accordance with Article 5 of Regulation (EU) 2023/2844, where an adult is heard in judicial proceedings.

The first paragraph, point (b), is without prejudice to the the right of the adult concerned to be present in the room and protect their best interest in that case and the court shall take into account the specific needs of persons with disabilities.

Amendment 72

Proposal for a regulation Article 7 b (new)

Text proposed by the Commission

Amendment

Article 7b

Incidental questions

If the validity of a legal act undertaken or to be undertaken on behalf of an adult in succession proceedings before an authority of a Member State requires permission or approval by a court, a court in that Member State may decide whether to permit or approve such a legal act even if it does not have jurisdiction under this Regulation.

Amendment 73

Proposal for a regulation
Article 8 a (new)

Text proposed by the Commission

Amendment

Article 8a

Support measures

The competent authorities shall establish and provide accessible support measures free of charge including:

(a) multilingual guidance tools to inform adults and their representatives about the applicable law under this Chapter, ensuring they understand the legal consequences of protection measures in different Member States;

(b) dedicated legal information services for adults to understand and deal with conflicts of law, particularly when advance planning instruments or decisions made in one jurisdiction require recognition elsewhere.

Amendment 74

Proposal for a regulation
Article 10 – paragraph 1 – introductory part

Text proposed by the Commission

Amendment

The recognition of a measure taken in another Member State **may** be refused in the following cases:

The recognition of a measure taken in another Member State **shall** be refused in the following cases:

Amendment 75

Proposal for a regulation
Article 10 – paragraph 1 – point a

Text proposed by the Commission

Amendment

(a) if the measure was taken, except in a

(a) if the measure was taken, except in a

case of urgency, in the context of a judicial or administrative proceedings, without the adult having been provided the opportunity to be heard;

case of urgency, in the context of a judicial or administrative proceedings, without the adult having been provided the ***genuine and effective*** opportunity to be heard ***or without respecting the will and preference of the adult*** ;

Amendment 76

Proposal for a regulation Article 12 a (new)

Text proposed by the Commission

Amendment

Article 12a

Support measures

Courts and competent authorities shall designate cross-border liaison officers to assist adults and their representatives in addressing enforcement-related difficulties.

Amendment 77

Proposal for a regulation Article 14 – paragraph 2

Text proposed by the Commission

Amendment

2. The authority before which a measure taken in another Member State is invoked or before which recognition or enforcement of a measure taken in another Member State is sought or contested, may, where necessary, require the applicant to provide a translation or a transliteration of the contents of the attestation referred to in paragraph (1), point (b).

2. The authority before which a measure taken in another Member State is invoked or before which recognition or enforcement of a measure taken in another Member State is sought or contested, may, where necessary, ***only*** require the applicant to provide a translation or a transliteration of the contents of the attestation referred to in paragraph (1), point (b) ***where that authority considers that the information included in the form is not sufficient for processing the application.***

Amendment 78

Proposal for a regulation Article 16 – title

Text proposed by the Commission

Acceptance of authentic instruments

Amendment

Recognition of authentic instruments

Amendment 79

Proposal for a regulation Article 18 – paragraph 2

Text proposed by the Commission

2. Where a Member State has designated more than one Central Authority, communications shall be sent directly to the relevant Central Authority with competence. Where a communication is sent to a Central Authority without competence, the latter shall forward it to the Central Authority with competence and inform the sender accordingly.

Amendment

2. Where a Member State has designated more than one Central Authority, communications shall be sent directly to the relevant Central Authority with competence. Where a communication is sent to a Central Authority without competence, the latter shall forward it, ***without undue delay***, to the Central Authority with competence and inform the sender accordingly.

Amendment 80

Proposal for a regulation Article 18 – paragraph 3

Text proposed by the Commission

3. Member States shall ensure that Central Authorities have sufficient and appropriate facilities in terms of staff, resources and modern means of communication to adequately fulfil their tasks under this Regulation.

Amendment

3. Member States shall ensure that Central Authorities have sufficient and appropriate facilities in terms of staff, resources and modern means of communication to adequately fulfil, ***without undue delays***, their tasks under this Regulation. ***The Commission shall offer technical assistance to the Member States' Central Authorities through online guides and shall respond in due time to***

requests from the Member States' Central Authorities.

Amendment 81

Proposal for a regulation Article 19 – paragraph 1

Text proposed by the Commission

1. Central Authorities shall *cooperate and promote cooperation among the competent authorities in their Member States in the application of this Regulation.*

Amendment

1. Central Authorities shall *carry out the following tasks:*

Amendment 82

Proposal for a regulation Article 19 – paragraph 1 – point a (new)

Text proposed by the Commission

Amendment

(a) cooperate and promote cooperation among the competent authorities in their Member States in the application of this Regulation;

Amendment 83

Proposal for a regulation Article 19 – paragraph 1 – point b (new)

Text proposed by the Commission

Amendment

(b) communicate information on national laws, procedures and services in matters relating to the protection of adults, take the measures that they consider appropriate for improving the application of this Regulation;

Amendment 84

Proposal for a regulation

Article 19 – paragraph – point 1 c (new)

Text proposed by the Commission

Amendment

(c) facilitate communications, by every means, between the competent authorities.

Amendment 85

Proposal for a regulation

Article 19 – paragraph 2

Text proposed by the Commission

Amendment

2. Central Authorities shall communicate information on national laws, procedures and services in matters relating to the protection of adults, take the measures that they consider appropriate for improving the application of this Regulation.

deleted

Amendment 86

Proposal for a regulation

Article 19 – paragraph 3

Text proposed by the Commission

Amendment

3. Central Authorities shall facilitate communications, by every means, between the competent authorities.

deleted

Amendment 87

Proposal for a regulation

Article 21 – title

Text proposed by the Commission

Amendment

Placement

Living and Support Arrangements

Amendment 88

**Proposal for a regulation
Article 21 – paragraph 1**

Text proposed by the Commission

Amendment

1. If an authority of a Member State contemplates the placement of the adult in another Member State in an establishment or other institution where protection can be provided, it shall **first** obtain the consent of a Central Authority of that other Member State. To that effect, it shall transmit to the Central Authority of the requested Member State a report on the adult together with the reasons for the proposed measure, using the form set out in Annex VI.

1. If an authority of a Member State contemplates **a decision on living and support arrangements, including, where applicable**, the placement of the adult in another Member State in an establishment or other institution where protection can be provided, it shall, **in accordance with national law, obtain the consent of the adult, and** obtain the consent of a Central Authority of that other Member State. To that effect, it shall transmit to the Central Authority of the requested Member State a report on the adult together with the reasons for the proposed measure, using the form set out in Annex VI.

Amendment 89

**Proposal for a regulation
Article 21 – paragraph 2**

Text proposed by the Commission

Amendment

2. Paragraph (1) shall not apply where the placement is contemplated with a private person.

2. Paragraph (1) shall not apply where the placement is **living and support arrangements are** contemplated with a private person

Amendment 90

Proposal for a regulation
Article 21 – paragraph 3

Text proposed by the Commission

3. Except where exceptional circumstances make this impossible, the decision granting or refusing consent shall be transmitted to the requesting authority no later than six weeks following the receipt of the request.

Amendment

3. Except where exceptional circumstances make this impossible, the decision ***of the Central Authority of the requested Member State*** granting or refusing consent shall be transmitted to the requesting authority no later than six weeks following the receipt of the request.

Amendment 91

Proposal for a regulation
Article 21 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. Any living and support arrangements of adults covered by this Regulation shall be based on the obligations of the Member State emanating from the United Nations Convention on the Rights of Persons with Disabilities, in particular with respect to avoiding segregation and limiting freedom of choice. Decisions on living and support must respect the will and preferences of the adult.

Amendment 92

Proposal for a regulation
Article 26 – paragraph 1

Text proposed by the Commission

Amendment

1. In the event that the adult is exposed to a serious danger, the competent authorities of the Member State where measures for the protection of the adult have been taken or are under consideration,

1. In the event that the adult is exposed to a serious danger, the competent authorities of the Member State where measures for the protection of the adult have been taken or are under consideration,

if they are informed that the adult's residence has changed to another Member State, or that the adult is present in another Member State, shall inform the competent authorities of that other Member State about the danger involved and the measures taken or under consideration.

if they are informed that the adult's residence has changed to another Member State, or that the adult is present in another Member State, shall inform ***without undue delay*** the competent authorities of that other Member State about the danger involved and the measures taken or under consideration.

Amendment 93

Proposal for a regulation Article 29 a (new)

Text proposed by the Commission

Amendment

Article 29a

Cooperation for pre-authorised data sharing

- 1. Persons or bodies providing support in decision-making or having power of representation shall be entitled to request for information on their appointment and the related decision to be transferred to an authority in another Member State. The request shall contain an explicit authorisation by that person or body to the authority in another Member State, which can be withdrawn at any point in time.***
- 2. Upon a request referred to in paragraph 1, the competent authority shall contact the authority in the country of origin to request this information.***

Amendment 94

Proposal for a regulation Article 30 – paragraph 2

Text proposed by the Commission

Amendment

- 2. Without prejudice to Article 37(2),***

- 2. Each Central Authority and each***

each Central Authority and each competent authority shall bear its own costs in applying this Regulation.

competent authority shall bear its own costs in applying this Regulation.

Amendment 95

Proposal for a regulation Article 33 a (new)

Text proposed by the Commission

Amendment

Article 33a

Support measures

1. Member states shall:

(a) appoint cross-border liaison contact persons specialising in adult protection and supported decision-making matters to participate in a European Network for the purpose of facilitating coordination between Member States;

(b) establish online cooperation and training platforms to allow professionals assisting adults such as legal representatives, social workers or medical experts to exchange best practices;

(c) consider the establishment of AI-assisted case management tools, where appropriate and in line with Regulation (EU) 2024/1689 of the European Parliament and of the Council^{1a}, to streamline communication between courts and competent authorities handling protection measures across jurisdictions. Such tools shall comply with EU fundamental rights, data protection, and transparency requirements and any decision-making based on such tools shall remain human-led.

2. Where appropriate, and in line with Regulation (EU) 2024/1689, competent authorities may use AI-driven tools to enhance access to justice and support

adults and their legal representatives in cross-border situations, provided such tools comply with EU fundamental rights, data protection, and transparency requirements. Such tools may be considered within the cooperation framework of the European Judicial Network and include cross border specific projects such as:

(a) AI supported toolkits to provide, where appropriate, legal assistance to adults with accessible explanations of jurisdiction, applicable law, and recognition procedures in their preferred language;

(b) cross-border jurisprudence references on the e-Justice portal , enabling adults and their representatives to follow the progress of jurisdictional, recognition, or enforcement proceedings across Member States;

3. Competent authorities shall ensure adults have easy access to information on available procedural safeguards and remedies and existing support measures such as legal aid and financial and psychological support. The information referred to in the first subparagraph shall include any available information on awareness-raising campaigns, where appropriate in cooperation with relevant civil society organisations and other stakeholders.

Such information shall be provided in one single place in an easily accessible format via an appropriate channel, such as an information centre, an existing focal point or an electronic gateway, including the European e-Justice Portal.

^{1a} Regulation (EU) 2024/1689 of the European Parliament and of the Council of 13 June 2024 laying down harmonised rules on artificial intelligence and

amending Regulations (EC) No 300/2008, (EU) No 167/2013, (EU) No 168/2013, (EU) 2018/858, (EU) 2018/1139 and (EU) 2019/2144 and Directives 2014/90/EU, (EU) 2016/797 and (EU) 2020/1828 (Artificial Intelligence Act) (OJ L, 2024/1689, 12.7.2024, ELI:<http://data.europa.eu/eli/reg/2024/1689/oj>).

Amendment 96

Proposal for a regulation Chapter VII – title

Text proposed by the Commission

EUROPEAN CERTIFICATE OF
REPRESENTATION

Amendment

EUROPEAN CERTIFICATE OF
SUPPORT AND REPRESENTATION

Amendment 97

Proposal for a regulation Article 34 – title

Text proposed by the Commission

Creation of a European Certificate of
Representation

Amendment

Creation of a European Certificate of
Support and Representation

Amendment 98

Proposal for a regulation Article 34 – paragraph 1

Text proposed by the Commission

1. This Regulation creates a European Certificate of Representation (‘the Certificate’) which shall be issued for use in another Member State and shall produce the effects listed in Article 40.

Amendment

1. This Regulation creates a European Certificate of **Support and** Representation (‘the Certificate’) which shall be issued for use in another Member State and shall produce the effects listed in Article 40.

Amendment 99

Proposal for a regulation Article 35 – paragraph 1

Text proposed by the Commission

1. The Certificate shall be issued for use by representatives, who, in another Member State, need to invoke their powers to represent ***adults who, by reason of an impairment or insufficiency of their personal faculties, are not in a position to protect their interests.***

Amendment

1. The Certificate shall be issued ***to the adult*** for use by ***her or his*** representatives, who, in another Member State, need to invoke their powers to ***support or*** represent ***the adult.***

Amendment 100

Proposal for a regulation Article 35 – paragraph 2 – introductory part

Text proposed by the Commission

2. The Certificate may be used to demonstrate that the representative is authorised, on the basis of a measure or confirmed power of representation, to represent the adult in particular in one or more of the following matters:

Amendment

2. The Certificate may be used to demonstrate that the representative is authorised, on the basis of a measure or confirmed power of representation, to ***support or*** represent the adult in particular in one or more of the following matters:

Amendment 101

Proposal for a regulation Article 37 – paragraph 1

Text proposed by the Commission

1. The Certificate shall be issued upon an application by a representative authorised, by means of a measure taken or powers of representation confirmed in a Member State, to represent the adult (hereinafter referred to as: 'the applicant').

Amendment

1. The Certificate shall be issued upon an application by ***the adult or*** a representative authorised, by means of a measure taken or powers of representation confirmed in a Member State, to represent the adult (hereinafter referred to as: 'the

applicant').

Amendment 102

Proposal for a regulation Article 37 – paragraph 2

Text proposed by the Commission

2. Member States shall ensure that the fee for obtaining the Certificate, ***if any, does not exceed the production cost of the Certificate.***

Amendment

2. Member States shall ensure that the fee for obtaining the Certificate ***is issued free of charge.***

Amendment 103

Proposal for a regulation Article 37 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Member States shall ensure that the application process is accessible to persons with disabilities.

Amendment 104

Proposal for a regulation Article 38 – paragraph 3

Text proposed by the Commission

Amendment

3. ***For the verification of the elements listed in paragraph (1), the issuing authority shall, where feasible, also consult the system of interconnection established in Chapter VIII.***

deleted

Amendment 105

Proposal for a regulation
Article 38 – paragraph 6 a (new)

Text proposed by the Commission

Amendment

6a. The Certificate shall be available in formats accessible to persons with disabilities.

Amendment 106

Proposal for a regulation
Article 39 – paragraph 1

Text proposed by the Commission

Amendment

1. The Certificate shall indicate which powers the representative of an adult has or, as appropriate, in a negative fashion, which powers the representative does not have. Where applicable, the Certificate shall also indicate any limitations of such powers or conditions attached to such powers.

1. The Certificate shall indicate which powers the representative of an adult has, **and the extent of those powers**, or, as appropriate, in a negative fashion, which powers the representative does not have. Where applicable, the Certificate shall also indicate any limitations of such powers or conditions attached to such powers.

Amendment 107

Proposal for a regulation
Chapter VIII – title

Text proposed by the Commission

Amendment

Establishment and inteconnection of protection registeres

deleted

Amendment 108

Proposal for a regulation
Article 45

Article 45

deleted

Establishment of protection registers

1. By [two years after the date of the start of application] at the latest, Member States shall establish and maintain in their territory one or several registers in which information is recorded concerning protection measures and, where their national law provides for the confirmation of powers of representation by a competent authority, concerning those powers of representation ('protection registers').

2. The information recorded in the registers referred to in paragraph (1) shall include the following ('mandatory information'):

(a) an indication that a measure has been taken or, where applicable, that powers of representation have been granted or confirmed;

(b) the date of the first measure as well as the date of the subsequent measures taken, or, where applicable, the date when the powers of representation were granted by an adult or were confirmed by a competent authority;

(c) where a measure or a decision on the powers of representation are provisionally applicable, the date on which the time limit for challenging the measure or the decision on the powers of representation expires;

(d) the date of expiration or reviewal of the measures or of the powers of representation, if any;

(e) the competent authority which has taken, modified or terminated the measure or registered, confirmed, modified or terminated the powers of

representation;

(f) the adult's name, place and date of birth and, where applicable, national identification number.

3. The information referred to in paragraph (1) shall be published in the protection registers as soon as possible after the following conditions are met:

(a) the authorities of the Member State have:

(i) taken, modified or terminated a measure; or

(ii) confirmed, modified or terminated powers of representation granted by an adult;

(b) the time limit for appealing the measure or the decision on the powers of representation has expired, unless the measure or the powers of representation are provisionally applicable.

4. Paragraph (1) shall not preclude Member States from including additional documents or additional information in their protection registers, such as the name of the representative or the nature and extent of the representation.

Amendment 109

Proposal for a regulation

Article 46

Text proposed by the Commission

Amendment

Article 46

deleted

Interoperability of registers of other powers of representation

By [two years after the date of start of application] at the latest, Member States where national law provides for electronic registers recording information

concerning other powers of representation which are registered by a competent authority, and where national law does not provide for the confirmation of such powers of representation, shall ensure that those registers record the mandatory information referred to in Article 45(2).

Amendment 110

Proposal for a regulation Article 47

Text proposed by the Commission

Amendment

Article 47

deleted

Interconnection of registers

1. By means of implementing acts, the Commission shall establish a decentralised system for the interconnection ('system of interconnection') that is composed of:

(a) Member States' protection registers of measures referred to in Article 45 and, where applicable, Member States' protection registers of confirmed powers of representation referred to in Article 45 and Member State's registers of other powers of representation Article 46;

(b) a central electronic access point to the information in the system.

2. The system of interconnection shall provide a search service in all the official languages of the Union in order to make available the following:

(a) the mandatory information set out in Article 45(2);

(b) any other documents or information included in the protection registers or other registers of powers of representation, which the Member States

choose to make available through the system of interconnection.

Amendment 111

Proposal for a regulation Article 48

Text proposed by the Commission

Amendment

Article 48

deleted

Condition of access to information via the system of interconnection

1. Member States shall ensure that the information referred to in Article 47(2) is available free of charge via the system of interconnection.

2. The information available through the system of interconnection shall only be available to those competent authorities or Central Authorities of a Member State which:

(a) have access to the mandatory information under their national law;

(b) have a legitimate interest in accessing this information.

3. For the purposes of paragraph (2), point (a), Member States shall provide the means to authorise those competent authorities or Central Authorities to access to the system of interconnection.

4. Upon a request made by those competent authorities or Central Authorities, the system of interconnection shall automatically make the information referred to in Article 47(2) accessible to them.

Amendment 112

Proposal for a regulation
Article 49 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. Competent and central authorities shall ensure that information transmitted pursuant to this Regulation and deemed confidential under the law of the Member State from which the information is being sent, is subject to the rules on confidentiality laid down by Union law and the national law of the sending and receiving Member States. Member States shall take appropriate measures to prevent unauthorised access.

Amendment 113

Proposal for a regulation
Article 49 – paragraph 2

Text proposed by the Commission

Amendment

2. The use of the decentralised IT system *may not be appropriate for direct communication between* authorities carried out pursuant to Article 27(1), and *any other* means of communication *may be used instead*.

2. Communication may, however, be carried out by competent authorities by alternative means where electronic communication in accordance with paragraph 1 is not possible due to:

- (a) the disruption of the decentralised IT system;**
- (b) the physical or technical nature of the transmitted material; or**
- (c) force majeure.**

For the purposes of the first subparagraph, the competent authorities shall ensure that the alternative means of communication used are the swiftest and most appropriate and that they ensure a secure and reliable exchange of information.

Amendment 114

Proposal for a regulation Article 49 – paragraph 3

Text proposed by the Commission

3. Where **electronic communication in accordance with paragraph (1) is not possible due to the disruption of the decentralised IT system, the nature of the transmitted material or exceptional circumstances, the transmission shall be carried out by the swiftest, most appropriate alternative means, taking into account the need to ensure a secure and reliable exchange of** information.

Amendment

3. Where **the use** of the decentralised IT system **referred to in paragraph 1 is not appropriate for direct communication between authorities** carried out **pursuant to Article 27(1), any other** means of communication may be used instead, provided that such means of communication respect the procedural rights of the parties to the proceedings and the confidentiality of the information communicated.

Amendment 115

Proposal for a regulation Article 50 – paragraph 1 – introductory part

Text proposed by the Commission

1. The European electronic access point established on the European e-Justice Portal pursuant to Article 4 of Regulation **EU [...] [the Digitalisation Regulation]** may be used for electronic communication between natural and legal persons and Member States' competent authorities and issuing authorities in connection with the following:

Amendment

1. The European electronic access point established on the European e-Justice Portal pursuant to Article 4 of Regulation **(EU) 2023/2844** may be used for electronic communication between natural and legal persons, **or their representatives**, and Member States' competent authorities and issuing authorities in connection with the following:

Amendment 116

Proposal for a regulation Article 50 – paragraph 2

Text proposed by the Commission

2. Article 4(3), **Article 5(2) and (3),**

Amendment

2. Article 4 of Regulation **(EU)**

and Article 6 of Regulation EU [...] [the Digitalisation Regulation] shall apply to electronic communications pursuant to paragraph (1).

2023/2844 shall apply to electronic communications pursuant to paragraph (1).

Amendment 117

Proposal for a regulation Article 54

Text proposed by the Commission

Amendment

- 1. Notwithstanding Article 53, processing of personal data under Chapter VIII on the establishment of protection registers and interconnection of registers shall be governed by the paragraphs 2 to 5 of this Article.*
- 2. Processing of personal data under Chapter VIII shall be limited to the extent necessary for the purposes of facilitating the cross-border provision of information about a measure or powers of representation concerning a particular adult. Without affecting Article 47(2), point (b), the processing shall be limited to the personal data included in the mandatory information set out in Article 45(2).*
- 3. Personal data shall be stored in the Member States' protection registers referred to in Article 45(1) or registers of other powers of representation referred to in Article 46. The retention period of data in the system of interconnection shall be limited to what is necessary to interconnect those registers and to enable the retrieval of and the access to the data from them.*
- 4. Member States shall be responsible, in accordance with Article 4(7) of Regulation (EU) 2016/679, for the collection and storage of data in registers referred to in Article 45 and Article 46*

deleted

and for decisions taken to make that data available in the system of interconnection referred to in Article 47.

5. *With respect to the system of interconnection referred to in Article 47, the Commission shall be regarded as controller within the meaning of Article 3(8) of Regulation (EU) 2018/1725. It shall adopt necessary technical solutions to fulfil its responsibilities within the scope of this function. The Commission shall in particular implement technical measures required to ensure the security of personal data while in transit, especially their confidentiality and integrity.*

Amendment 118

Proposal for a regulation Article 55 – paragraph 1

Text proposed by the Commission

The Commission is empowered to adopt delegated acts in accordance with Article 56 concerning the amendment of Annexes I to X in order to update or make technical changes to those Annexes.

Amendment

The Commission is empowered to adopt delegated acts in accordance with Article 56 concerning the amendment of Annexes I to **XIa new** in order to update or make technical changes to those Annexes.

Amendment 119

Proposal for a regulation Article 58 – paragraph 1

Text proposed by the Commission

1. This Regulation shall not affect the application of international conventions to which one or more Member States are party at the time of adoption of this Regulation and which concern matters covered by this Regulation.

Amendment

1. This Regulation shall not affect the application of international conventions, **in particular the UN Convention on the Rights of People with Disabilities**, to which one or more Member States are party at the time of adoption of this

Regulation and which concern matters covered by this Regulation.

Amendment 120

Proposal for a regulation

Article 59 – paragraph 1 – point b

Text proposed by the Commission

(b) even if the adult concerned has his or her habitual residence in the territory of a State, which is a Party to that Convention, and in which this Regulation does not apply, as concerns the recognition and enforcement of a measure taken, or the **acceptance** of an authentic instrument drawn up by a competent authority of a Member State in the territory of another Member State.

Amendment

(b) even if the adult concerned has his or her habitual residence in the territory of a State, which is a Party to that Convention, and in which this Regulation does not apply, as concerns the recognition and enforcement of a measure taken, or the **recognition** of an authentic instrument drawn up by a competent authority of a Member State in the territory of another Member State.

Amendment 121

Proposal for a regulation

Article 60 – paragraph 1

Text proposed by the Commission

1. The Commission shall adopt implementing acts establishing a decentralised system for the interconnection of registers referred to in Article 47 ('system of interconnection') setting out the following:

(a) the technical specification defining the methods of communication and information exchange by electronic means on the basis of the established interface specification for the system of interconnection;

(b) the technical measures ensuring the minimum information technology security standards for communication and

Amendment

deleted

distribution of information within the system of interconnection;

(c) minimum criteria for the search service provided by the system of interconnection based on the information set out in Article 45;

(d) minimum criteria for the presentation of the results of the searches in the system of interconnection based on the information set out in Article 45;

(e) the means and the technical conditions of availability of services provided by the system of interconnection;

(f) a technical semantic glossary containing a basic explanation of the Member States' of protection measures or of powers of representation;

(g) specification of the categories of data that can be accessed, including pursuant to Article 47(2), point (b); and

(h) data protection safeguards.

Amendment 122

Proposal for a regulation Article 60 – paragraph 4

Text proposed by the Commission

Amendment

4. The implementing acts establishing the system of interconnection pursuant to paragraph 1 shall be adopted by [3 years after the entry into force]. *deleted*

Amendment 123

Proposal for a regulation Article 62

Text proposed by the Commission

Amendment

Article 62

deleted

***Costs of establishing protection registers
and interconnecting Member States'
registers***

- 1. The establishment, maintenance and development of the system of interconnection established under Chapter VIII shall be financed from the general budget of the Union.***
- 2. Each Member State shall bear the costs of establishing and adjusting its registers referred to in Articles 45 and 46 to make them interoperable with the decentralised system for the interconnection of registers, as well as the costs of administering, operating and maintaining those registers. This shall not affect the possibility to apply for grants to support such activities under the Union's financial programmes.***

Amendment 124

**Proposal for a regulation
Article 65**

Text proposed by the Commission

Amendment

Article 65

deleted

Transitional provisions

- 1. This Regulation shall apply only to measures taken, to authentic instrument formally drawn up or registered, and to powers of representation confirmed after [date of application].**
- 2. Notwithstanding paragraph (1), this Regulation shall apply as from [date of application] to powers of representation previously granted by an adult under conditions corresponding to those set out**

in Article 15 of the HCCH 2000
Protection of Adults Convention.

3. Chapter VI on cooperation between
Central Authorities shall apply to requests
and application received by the Central
Authorities as from [date of application].

4. Chapter VII on the European
Certificate of Representation shall apply
to applications for the Certificate received
by the issuing authority as from [date of
application].

5. Member States shall use the
decentralised IT system referred to in
Article 49(1) to procedures instituted from
the first day of the month following the
period of two years after the adoption of
the implementing act referred to in Article
60(5).

6. Chapter VIII on the establishment
and interconnection of protection
registers and registers of other powers of
representation shall apply to the measures
taken and the powers of representation
confirmed or registered from the first day
of the month following the period of two
years after the adoption of the
implementing act referred to in Article
60(4).

Amendment 125

Proposal for a regulation Article 66 – paragraph 1

Text proposed by the Commission

1. By [**10** years after the entry into force], the Commission shall carry out an evaluation of this Regulation and present to the European Parliament, to the Council [and to the European Economic and Social Committee] a report on the evaluation of this Regulation supported by information

Amendment

1. By... [**5** years after the entry into force], the Commission shall carry out an evaluation of this Regulation and present to the European Parliament, to the Council [and to the European Economic and Social Committee] a report on the evaluation of this Regulation supported by information

supplied by the Member States and collected by the Commission. The report shall be accompanied, where necessary, by a legislative proposal.

supplied by the Member States and collected by the Commission. The report ***shall include, in particular, an evaluation of the effectiveness of decision-making regimes such as the determination of the extent to which an adult is able to act on their own behalf and the institution of a protective regime or the placement of an adult in an establishment. The report*** shall be accompanied, where necessary, by a legislative proposal. ***If the report is not accompanied by a legislative proposal, the decision not to present a legislative proposal shall be submitted with a justification no later than 2 years from the date of the publication of the evaluation report, and that justification shall be made public.***

Amendment 126

Proposal for a regulation

Article 69 – paragraph 1 – point k

Text proposed by the Commission

Amendment

(k) fees, if any, that Member States charge for the issuance of the European Certificate of Representation in accordance with Article 37(2);

deleted

Amendment 127

Proposal for a regulation

Article 69 – paragraph 1 – point m

Text proposed by the Commission

Amendment

(m) authorities referred to in Article 48(2), point (a) having access to information via the system of interconnection of registers.

deleted

Amendment 128

Proposal for a regulation Article 69 – paragraph 2

Text proposed by the Commission

2. The Member States shall communicate the information referred to in paragraph 1, points (a) to (l) by the first day of the month following a period of 15 months after the start of application at the latest, ***and the information referred to in paragraph 1, point (m), by the first day of the month following the period of two years after the date of entry into force of the implementing act referred to in Article 60(4).***

Amendment

2. The Member States shall communicate the information referred to in paragraph 1, points (a) to (l) by the first day of the month following a period of 15 months after the start of application at the latest.

Amendment 129

Proposal for a regulation Article 70 – paragraph 2

Text proposed by the Commission

2. It shall apply from [the first day of the month following a period of **18** months from the date of entry into force of this Regulation].

Amendment

2. It shall apply from [the first day of the month following a period of **12** months from the date of entry into force of this Regulation].

Amendment 130

Proposal for a regulation Article 70 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. This Regulation shall cease to apply to measures of protection taking the form of guardianship, curatorship and analogous institutions, on ... [15 years after the entry into force of this Regulation].

Amendment 131

Proposal for a regulation Article 70 – paragraph 3

Text proposed by the Commission

3. Article 49 and Article 50 shall apply from the first day of the month following the period of **two years** after the date of entry into force of the implementing act referred to in Article 60(2).

Amendment

3. Article 49 and Article 50 shall apply from the first day of the month following the period of **one year** after the date of entry into force of the implementing act referred to in Article 60(2).

Amendment 132

Proposal for a regulation Article 70 – paragraph 4

Text proposed by the Commission

4. **Articles 45 and 46 shall apply from [two years after the date of entry into application].**

Amendment

deleted

Amendment 133

Proposal for a regulation Article 70 – paragraph 5

Text proposed by the Commission

5. **Article 47 shall apply from the first day of the month following the period of two years after the date of entry into force of the implementing act referred to in Article 60(1).**

Amendment

deleted

Amendment 134

Proposal for a regulation Article 70 – paragraph 6

Text proposed by the Commission

Amendment

6. Article 38(3) shall apply from the first day of the month following the period of two years after the adoption of the implementing act referred to in Article 60(4).

deleted

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Amendment 135

**Proposal for a regulation
Article 70 – paragraph 6 a (new)**

Text proposed by the Commission

Amendment

6a. This Regulation shall apply only to measures taken, to authentic instruments formally drawn up or registered, and to powers of representation confirmed from ... [date of application of this Regulation].

Amendment 136

**Proposal for a regulation
Article 70 – paragraph 6 b (new)**

Text proposed by the Commission

Amendment

6b. Notwithstanding paragraph (6a), this Regulation shall apply from ... [date of application of this Regulation] to powers of representation previously granted by an adult under conditions corresponding to those set out in Article 15 of the HCCH 2000 Protection of Adults Convention.

Amendment 137

Proposal for a regulation
Article 70 – paragraph 6 c (new)

Text proposed by the Commission

Amendment

6c. Chapter VI shall apply to requests and applications received by the Central Authorities from ... [date of application of this Regulation].

Amendment 138

Proposal for a regulation
Article 70 – paragraph 6 d (new)

Text proposed by the Commission

Amendment

6d. Chapter VII shall apply to applications for the Certificate received by the issuing authority from ... [date of application of this Regulation].

Amendment 139

Proposal for a regulation
Annex XI a (new)

Text proposed by the Commission

Amendment

ANNEX XIa (new)
[Text of the UNCRPD^{1a}]

^{1a}

<https://social.desa.un.org/issues/disability/crpd/convention-on-the-rights-of-persons-with-disabilities-articles>