



Joint Position and Red Lines for Trilogue on the Proposed Regulation on Protection of Adults in Cross-Border Situations

March 2026

This document was prepared jointly by the [European Disability Forum](#), the [European Network on Independent Living](#), [Inclusion Europe](#), [Mental Health Europe](#) and [AGE Platform Europe](#). It is also endorsed by the [European Council of Autistic People](#).

It provides our position and red line for the trilogue negotiations on the Regulation.

Executive Summary

Our organisations have recognised the importance of conflict of laws legislation as a means to provide legal certainty, avoid gaps and promote the uniform application of substantive international law, including in the EU, while **deeply regretting that the Commission’s proposal for a [Regulation on Protection of Adults in Cross-Border Situations](#) included provisions which did not align with international human rights law and would lead to violations of the rights older people and persons with disabilities living in the EU.**

We welcome the efforts of the European Parliament and the Council of the EU to better align the text with the [UN Convention on the Rights of Persons with Disabilities](#) (CRPD), ratified by the EU and all its Member States.

In particular, we welcome the agreement between the European Parliament and the Council to incorporate supported decision-making measures and power of representation within the scope of the Regulation and the decision and not to pursue the introduction of protection registers any further. There is agreement to delete article 3(12) and articles 45, 46, 47 and 48 from the Regulation. A centralised electronic storage of “measures” concerning the institutionalization or deprivation of legal capacity of individuals would have led to a serious breach of the principle of data

minimization expressed in the General Data Protection Regulation and the obligation to protect the privacy of persons with disabilities established in the CRPD. Our recommendations for trilogue's negotiations aim to ensure that the final text of the Regulation protects the rights of autonomy and legal capacity of all adults concerned, and ensure and promote compliance with the CRPD, supporting EU Member States in its implementation.

We call on the EU institutions and all EU Member States to promote and protect the rights of all, in line with the CRPD, recalling their commitments made in the [Council Conclusions on the Protection of Vulnerable Adults across the European Union](#) adopted in 2021.

We call on the negotiators to:

1. Ensure the protection of people's rights by recognising and focusing on supported decision-making measures and mechanisms

- Amend **article 2 on the scope** to ensure the concepts of the 2000 Hague Convention are adjusted to the CPRD-based legal order of the European Union to focus cross-border recognition of supported decision-making measures and powers of representation.
- Amend **article 3 on definition**, including introducing definitions of support **(2a new)** and of protection **(2b new)** which are becoming key terms that so far remain undefined under article 3 in the texts proposed by both the Parliament and the Council. Revise the definition, for “powers of representation” to reflect the concept contained in the CRPD.
- Include **articles 7a, 8a and 12a on support measures**, as proposed by the European Parliament, to ensure better compliance with the CRPD and EU Charter on Fundamental Rights.
- Amend **article 10 on grounds for refusal of recognition** to ensure high level of protection of the autonomy of adults by allowing Member States to refuse the recognition of the measures when adults did not have a genuine and effective opportunity to be heard or if it is known or suspected that their will and preference were not respected, as proposed by the European Parliament.
- Amend **articles 34, 35, 37 and 38** related to the certificate of representation to focus on support and representation, and ensure that the adults concerned can request the certificate and that it is available in an accessible format, as proposed by the Council and the European Parliament.

2. Guarantee that cross-border placements measures are only possible when they are based on the choice, autonomy and support of the persons and that they do not apply to placement of persons with disabilities in institutions

- Amend **article 21 on placement** which currently violates the fundamental rights of persons with disabilities, so as to only allow placement measures that comply with the rights and autonomy of the persons concerned, in line with the Parliament's position. To be in line with the objective to comply with the CRPD (as set out in the recitals) cross-border coordination on placements must never be applied to persons with disabilities. Cross-border coordination must exclusively take place when it comes to living and support arrangements, such as personal assistance.

3. Ensuring the privacy of citizens covered by the Regulation

- **Maintain the deletion of Chapter VIII (articles 45, 46, 47 and 48)** on the establishment of protection registers which violate the privacy of citizens and give disproportionate means of control to authorities, in line with the Council and Parliament's positions.
- Amend **article 3** on definition to delete reference to 'system of interconnection' and 'protection register', in line with the Council and Parliament's positions.
- Include an **article 29a on cooperation for pre-authorized data sharing of information** related to support in decision-making or power of representation, at the request of the person receiving support or the representative/support person to facilitate efficient cross-border collaboration.

Recitals of the proposal should accordingly be revised based on the CRPD and how it should be interpreted in relation to the 2000 Convention on the international protection of adults and the Regulation.

This document focuses on **key articles** and our **red lines** for the negotiations. It does not include proposed text for the recitals.

Elements highlighted in yellow constitute proposals of compromise and additions to strengthen the text, that we wish to particularly bring to the attention of the negotiators.

Contents

Joint Position and Red Lines for Trilogue on the Proposed Regulation on Protection of Adults in Cross-Border Situations 1

 Executive Summary 1

Four-columns table with joint position 5

 Article 2: Scope 5

 Article 3: Definitions..... 9

 Article 7a: Support measures 12

 Article 8a: Support measures 14

 Article 10: Grounds for refusal of recognition..... 16

 Article 12a: Support measures..... 19

 Article 21: Placement 20

 Article 29a: Cooperation for pre-authorized data sharing 22

 Article 34: Creation of a European Certificate of Representation..... 24

 Article 35: Purpose of the Certificate 25

 Article 37: Application for a Certificate..... 26

 Article 38: Issuance of the Certificate 28

Chapter VIII: ESTABLISHMENT AND INTERCONNECTION OF PROTECTION REGISTERS..... 29

Four-columns table with joint position

Article 2: Scope

Joint position

We support the proposals of the European Parliament and the Council to include measures that support the exercise of legal capacity into the scope of the Regulation. These measures need to be included in the forefront of this article.

We also strongly support the proposal of the European Parliament to remove guardianship and analogous regimes from the scope of the Regulation. We proposed compromised amendments, including new wording in paragraph 1 and new paragraph 4b.

| Commission proposal COM/2023/280 | EP amendments, 1 July 2025 | Council General Approach , 13 February 2026 | Joint position / proposed amendments |
|--|---|--|---|
| 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. | 1. This Regulation shall apply in civil matters to concerning 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 require support and safeguards in the exercise of their legal capacity on a temporary or permanent basis. |
| 3. The matters referred to in paragraph (1) may, in particular, include: | 3. The matters referred to in paragraph (1) may, in particular, include: | 3. The matters referred to in paragraph (1) may, in particular, include: | 3. The matters referred to in paragraph (1) may, in particular, include: |

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| <p>(a) the determination of the incapacity of an adult and the institution of a protective regime;</p> <p>(b) the placing of the adult under the protection of a judicial or administrative authority;</p> <p>(c) guardianship, curatorship and analogous institutions;</p> <p>(d) the designation and functions of any person or body having charge of the adult's person or property, representing, or assisting the adult;</p> <p>(e) decisions concerning the placement of the adult in an establishment or other place where protection can be provided;</p> <p>(f) the administration, conservation or disposal of the adult's property;</p> <p>(g) the authorisation of a specific intervention for the protection of the person or property of the adult.</p> | <p>(a) determining the extent to which an adult is able to act on their own behalf and the institution of a protective regime;</p> <p>(aa) measures to provide access by adults to the support they may require in exercising their legal capacity;</p> <p>(ab) powers of representation granted by adults for their support or representation, to be exercised when those adults require support in protecting their interests;</p> <p>(b) the placing of the adult under the protection of a judicial or administrative authority;</p> <p>(c) guardianship, curatorship and analogous institutions;</p> <p>(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;</p> <p>(da) the designation and functions of any person or body that is</p> | <p>(aa) measures to support an adult in exercising his or her legal capacity;</p> <p>(ab) powers of representation granted by an adult;</p> <p>(a) the determination of the incapacity of an adult and the institution of a protective regime;</p> <p>(b) the placing of the adult under the protection of a judicial or administrative authority;</p> <p>(c) guardianship, curatorship and analogous institutions;</p> <p>(d) the designation and functions of any person or body having charge of the adult's person or property, representing, or assisting the adult;</p> <p>(e) decisions concerning the placement of the adult in an establishment or other place where protection can be provided;</p> <p>(f) the administration, conservation or disposal of the adult's property;</p> | <p>(aa) measures to support an adult in exercising his or her legal capacity;</p> <p>(ab) powers of representation granted by an adult;</p> <p>(a) determining the extent to which an adult expresses their will and preferences and the institution of 'support in decision-making'</p> <p>(b) the placing of the adult under the protection of a judicial or administrative authority;</p> <p>(c) guardianship, curatorship and analogous institutions;</p> <p>(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;</p> <p>(da) the designation and functions of any person or body that is granted the powers of representation;</p> |
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| | <p><i>granted the powers of representation;</i></p> <p><i>(db) the designation and functions of any person or body that is granted the powers of representation;</i></p> <p><i>(e) decisions concerning the placement of the adult in an establishment or other place where protection can be provided;</i></p> <p><i>(f) the administration, conservation or disposal of the adult's property;</i></p> <p><i>(g) the authorisation of a specific intervention for the protection of the person or property of the adult.</i></p> | <p>(g) the authorisation of a specific intervention for the protection of the person or property of the adult.</p> | <p><i>(db) the designation and functions of any person or body that is granted the powers of representation;</i></p> <p><i>(e) decisions concerning the placement of the adult in an establishment or other place where protection can be provided;</i></p> <p><i>(f) the administration, conservation or disposal of the adult's property;</i></p> <p><i>(g) the authorisation of a specific intervention for the protection of the person or property of the adult.</i></p> |
| <p>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.</p> | <p>5. Paragraph (4) does not affect, in respect of the matters referred to therein, the entitlement of a person to provide the adult support in decision making, nor the executing powers of representation.</p> | <p>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.</p> | <p>56. Paragraph (45) does not affect, in respect of the matters referred to therein, the entitlement of a person to provide the adult support in decision making, nor the executing powers of representation.</p> |
| <p>Justification:</p> | | | |

The proposed amendments by the European Parliament, and to some extent from the Council, reflect requirements for the implementation of Article 12 CRPD and [General Comment no. 1. to the CRPD](#).

The 2000 Hague Convention is a document employing concepts which have been substantially redefined by the CRPD, which was adopted by the UN General Assembly in 2006 and entered into force in the EU in 2011. Since then, a CRPD-guided evolution of legislation has taken place in the EU Member States. This modernisation entailed a shift from substituted to supported decision-making. Legal theory postulates a distinction between the procedural and manifest content of the law. However, the real-world effects of the ratification of a pre-CRPD document employing outdated concepts would seriously undermine the progress achieved since 2006.

We reiterate our proposal to reframe paragraph 1 of this article to also better align with the CRPD.

Paragraph 1

Article 12 CRPD recognises that all persons with disabilities have legal capacity on an equal basis with others. The existence of legal capacity is, therefore, presumed. In order to align the present draft Regulation with these requirements, the notion that adults are not in the position to protect their interests should be erased. Instead, and with the purpose of determining the scope of the draft Regulation, the words “require support in decision making.”

Paragraph 6

It is proposed that the provision of non-application on certain matters does not exclude the possibility of providing support in decision making on these matters.

Article 3: Definitions

Joint position

We support the position of the European Parliament to ensure that the definitions used in the Regulation also refer to the support of the adult rather than only their ‘protection’.

We call on the negotiators to include a definition of protection and support as **new points 2a and 2ab**.

We support the proposal from the Council to add a definition of representative (**new point 7**). We however recommend to better align the language with the CRPD.

We support the removal of ‘system of interconnection (point 10) and ‘protection register’ (point 12).

| Commission proposal COM/2023/280 | EP amendments, 1 July 2025 | Council General Approach , 13 February 2026 | Joint position / proposed amendments |
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| <p>For the purposes of this Regulation, the following definitions apply:</p> <p>(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;</p> | <p>For the purposes of this Regulation, the following definitions apply:</p> <p>(2) ‘measure’ means any measure taken by ana competent authority of a Member State, whatever it may be called, directed to the support or protection of an adult or their property;</p> | <p>1. For the purposes of this Regulation, the following definitions apply:</p> <p>(2) ‘measure’ means any measure taken by an authority of a Member State a court, whatever it may be called, directed to the protection of the person or the property of an adult;</p> | <p>For the purposes of this Regulation, the following definitions apply:</p> <p>(2) ‘measure’ means any measure taken by ana competent authority of a Member State, whatever it may be called, directed to the support or protection of an adult or their property;</p> |
| | | | <p>(2a new) Support refers to ‘support in decision-making’, ‘supported decision-making’ or ‘support in the exercise of legal capacity’ which has</p> |

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| | | | <i>to be initiated according to the will and preferences of the person receiving support. and that can be terminated at any time by persons receiving support.</i> |
| | | | (2ab new) Protection entails the initialisation or recognition of support in decision-making arrangements. |
| (3) ‘powers of representation’ means powers granted by an adult, either under an agreement or by a unilateral act, to be exercised when that adult is not in a position to protect his or her interests; | (3) ‘powers of representation’ means powers granted by an adult, either under an agreement or by a unilateral act, to be exercised when that adult is not in a position to protect his or her interests; | (3) ‘powers of representation’ means powers granted by an adult to a representative , either under an agreement or by a unilateral act, to be exercised by the representative when that adult is not in a position to protect his or her interests; | (3) ‘powers of representation’ means powers granted by an adult to a representative , either under an agreement or by a unilateral act, to be exercised by the representative when that adult is not in a position to protect his or her interests to provide support and safeguard in the exercise of their legal capacity on a temporary or permanent basis; |
| (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 | (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 | (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 | (5) authentic instrument’ means a document in a matter of support or protection which has been formally drawn up or registered as an authentic instrument in a Member |

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| State and the authenticity of which: (...) | instrument in a Member State and the authenticity of which: (...) | State and the authenticity of which: (...) | State and the authenticity of which: (...) |
| | | <i>(7) 'representative' means one or more natural or legal person(s) appointed by a court or designated by the adult, or authorised by law, to represent or support the adult in protecting his or her interests;</i> | <i>(7) 'representative' means one or more natural or legal person(s) appointed by a court or designated by the adult, or authorised by law, to represent or support the adult in exercising his or her legal capacity and protecting his or her interests based on their will and preference;</i> |
| (10) 'system of interconnection' means a system for the interconnection of protection registers and registers of other powers of representation; | Delete | Delete | Delete |
| b(12) 'protection register' means a register where measures directed to the protection of an adult or confirmed powers of representation have been registered. | Delete | Delete | Delete |

Article 7a: Support measures

Joint position:

We support the inclusion of article 7a on support measures proposed by the European Parliament.

| Commission proposal COM/2023/280 | EP amendments, 1 July 2025 | Council General Approach, 13 February 2026 | Joint position / proposed amendments |
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| | <p>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:</p> <p>(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;</p> <p>(b) providing, where appropriate, accessible videoconferencing or other distance communication means, in accordance with Article</p> | | <p><i>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:</i></p> <p><i>(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</i></p> |

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.

an adult is heard in judicial proceedings.

The first paragraph, point (b), is 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 shall take into account the specific needs of persons with disabilities.

Justification:

We strongly support this addition that will ensure that the Regulation is applied in a way that aligns with the CRPD. In line with Articles 12 and 13 CRPD, Member States must recognise that persons with disabilities enjoy legal capacity on an equal basis with others and must ensure effective access to justice, including through the provision of appropriate procedural and age-appropriate accommodations.

Ensuring that adults have access to free assistance in determining jurisdiction and to accessible communication tools such as videoconferencing directly implements these obligations, also under the requirements of Regulation (EU) 2023/2844 on the digitalisation of judicial cooperation and access to justice in cross-border civil, commercial and criminal matters. It promotes equal participation and effective communication in judicial processes, thereby preventing discrimination and procedural barriers that may otherwise hinder adults, especially those with disabilities, from exercising their rights.

Exercising one's rights before the law might require support in taking decisions when dealing with the law. Decision-making support specialised in legal proceedings might be required to enable full choice and control when involved in legal proceedings. Such services should be offered free of charge if that is the wish of the person receiving support.

Moreover, this measure is consistent with Articles 21 (non-discrimination), 24 (equality before the law), and 47 (right to an effective remedy and fair trial) of the Charter of Fundamental Rights of the European Union. By enabling accessible and supportive procedures, courts uphold the right to an effective remedy and a fair hearing, regardless of a person’s disability or place of residence.

The provision also respects the autonomy and dignity of adults, in accordance with Article 1 of the Charter, and recognises their right to be heard in person where they wish to do so.

Article 8a: Support measures

Joint position:

We support the inclusion of article 8a on support measures proposed by the European Parliament.

| Commission proposal COM/2023/280 | EP amendments, 1 July 2025 | Council General Approach , 13 February 2026 | Joint position / proposed amendments |
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| | <p>The competent authorities shall establish and provide accessible support measures free of charge including:</p> <p>(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</p> | | <p><i>The competent authorities shall establish and provide accessible support measures free of charge including:</i></p> <p><i>(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</i></p> |

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.

measures in different Member States;

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

Justification:

We strongly support this addition that will ensure that the Regulation is applied in a way that aligns with the CRPD, and especially Articles 12 and 13. By providing free, multilingual, and accessible guidance tools and legal information services, it enables adults to understand the applicable law and the cross-border effects of protection measures, thereby supporting informed decision-making.

The measures also implement Articles 21 (non-discrimination), 41 (right to good administration), and 47 (right to an effective remedy and to a fair trial) of the Charter of Fundamental Rights of the EU. Ensuring that adults understand the legal consequences of protection measures and the implications of cross-border recognition promotes procedural fairness and equality before the law. Furthermore, providing information in accessible formats and languages aligns with the principles of inclusion, accessibility, and respect for dignity enshrined in Articles 1 and 26 of the Charter. It prevents indirect discrimination against persons who face linguistic, cognitive, or disability-related barriers and supports the EU's broader commitment to ensuring that justice systems across Member States are inclusive, transparent, and rights-based.

Article 10: Grounds for refusal of recognition

Joint position:

We support the inclusion of respect of the will and preference of the adult as a potential ground for refusal of recognition of the measure.

| Commission proposal COM/2023/280 | EP amendments, 1 July 2025 | Council General Approach, 13 February 2026 | Joint position / proposed amendments |
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| <p>The recognition of a measure taken in another Member State may be refused in the following cases:</p> <p>(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;</p> <p>(b) if such recognition is manifestly contrary to public policy of the Member State in which recognition is sought;</p> <p>(c) if the measure is incompatible with a later measure taken in a third country which would have had jurisdiction under Article 5 or Article 6, where</p> | <p>The recognition of a measure taken in another Member State may be refused in the following cases:</p> <p>(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 genuine and effective opportunity to be heard or without respecting the will and preference of the adult;</p> <p>(b) if such recognition is manifestly contrary to public policy of the Member State in which recognition is sought;</p> <p>(c) if the measure is incompatible with a later measure taken in a third country which would have had</p> | <p>1. The recognition of a measure taken in another Member State mayshall be refused in the following cases:</p> <p>(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;</p> <p>(b)(a) if such recognition is manifestly contrary to public policy of the Member State in which recognition is sought invoked;</p> <p>(c)(b) if the measure is incompatible with a later measure taken in another Member State or a third country State which would</p> | <p>The recognition of a measure taken in another Member State may be refused in the following cases:</p> <p>(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 genuine and effective opportunity to be heard or without respecting the will and preference of the adult;</p> <p>(b) if such recognition is manifestly contrary to public policy of the Member State in which recognition is sought;</p> <p>(c) if the measure is incompatible with a later measure taken in a third country which would have had</p> |

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| <p>this later measure fulfils the requirements for recognition in the requested Member State;</p> <p>(d) if the procedure provided in Article 14 has not been complied with.</p> | <p>jurisdiction under Article 5 or Article 6, where this later measure fulfils the requirements for recognition in the requested Member State;</p> <p>(d) if the procedure provided in Article 14 has not been complied with.</p> | <p>have had jurisdiction under Article 5 or Article 6 of this Regulation, where this later measure fulfils the requirements for recognition in the requested Member State State in which recognition is invoked; or</p> <p>(d) if the procedure provided in Article 14 has not been complied with.</p> <p>(d) (c) if the procedure provided in Article 14 21 or 22 has not been complied with.</p> <p>2. The recognition of a measure taken in another Member State may be refused if the measure was taken without the adult having been provided the opportunity to be heard, except where there were serious grounds, taking into account, in particular:</p> <p>(a) the urgency of the case;</p> <p>(b) that the adult was unable to express his or her views.</p> | <p>jurisdiction under Article 5 or Article 6, where this later measure fulfils the requirements for recognition in the requested Member State;</p> <p>(d) if the procedure provided in Article 14 has not been complied with.</p> |
| <p>Justification:</p> | | | |

Ensuring the inclusion of respect of the will and preference of the adults as a ground for refusal ensure that the Regulation and Member States comply with the obligations under Article 12 of the CRPD, as interpreted in General Comment No. 1, which requires that all measures concerning adults respect their will and preferences rather than substituting them with “best interest” determinations. Recognition of foreign measures that disregard these principles would undermine the equal legal capacity of persons with disabilities and their right to autonomy and self-determination.

In addition, ensuring that adults are genuinely and effectively heard aligns with Articles 1, 21, and 47 of the Charter of Fundamental Rights of the European Union, which protect human dignity, equality, and the right to a fair hearing. This safeguard preserves trust and mutual recognition between Member States while ensuring that cross-border protection measures remain consistent with the EU’s and Member States’ human rights obligations under the CRPD.

Article 12a: Support measures

Joint position:

We support the inclusion of article 12a on support measures proposed by the European Parliament.

| Commission proposal COM/2023/280 | EP amendments, 1 July 2025 | Council General Approach , 13 February 2026 | Joint position / proposed amendments |
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| | Courts and competent authorities shall designate cross-border liaison officers to assist adults and their representatives in addressing enforcement-related difficulties. | | <i>Courts and competent authorities shall designate cross-border liaison officers to assist adults and their representatives in addressing enforcement-related difficulties.</i> |

Justification:

We strongly support this proposal by the European Parliament.

Designating liaison officers will help adults and their representatives navigate enforcement challenges between jurisdictions, ensuring that support and protection measures are practical and enforceable in other Member States.

By facilitating communication and coordination among competent authorities, this measure promotes legal certainty, equal treatment, and the procedural safeguards required by Articles 21 and 41 of the Charter.

Article 21: Placement

Joint position:

We support the proposals made by the European Parliament to restrict the scope of this articles to living and support arrangements in line with EU and Member States' obligations under the CRPD and the EU Charter on Fundamental Rights.

| Commission proposal COM/2023/280 | EP amendments, 1 July 2025 | Council General Approach , 13 February 2026 | Joint position / proposed amendments |
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| Placement | Placement Living and Support Arrangements | Cooperation in the event of contemplated placement in another Member State | Placement Cooperation in the event of living and support arrangements in another Member States |
| 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 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 | 1. If an authority of a Member State contemplates the Contemplated placement of the adult in another Member State shall be subject to the procedure set out in Article 33 of the HCCH 2000 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 of Adults Convention . To that effect, it shall transmit to the Central Authority of the requested Member State a report on the adult together with the | 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 support can be provided, it shall, in accordance with national law, first obtain the consent of the adult, and first then 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 |

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| | report on the adult together with the reasons for the proposed measure, using the form set out in Annex VI. | reasons for the proposed measure, using the form set out in Annex VI. | Member State a report on the adult together with the reasons for the proposed measure, using the form set out in Annex VI. |
| 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 | 2. Paragraph (1) shall not apply where the placement is contemplated with a private person The court of the requesting Member State shall not apply where the placement is contemplated with a private person transmit its request to the Central Authority, court or competent authority of the requested Member State using the form set out in Annex VIa. | 2. Paragraph (1) shall not apply where the placement is living and support arrangements are contemplated with a private person. |
| | 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. | | 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 ending segregation and limiting freedom of choice. Decisions on living and support must respect the will and preferences of the adult. Persons with disabilities shall not be |

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| | | | placed in establishments or other institutions. |
| <p>Justification:</p> <p>We strongly support the proposal of the European Parliament to focus solely on living arrangements and support that are in line with the CRPD. The addition of paragraph 4a is necessary to guarantee that this article is understood by Member States in compliance with the CRPD, and to remind that the decision of living and support must respect the will and preference of adults. To avoid any misinterpretations we propose an addition, stating clearly that any cooperation on placements in establishments or institutions does not extend to persons with disabilities.</p> <p>This approach prevents discriminatory or coercive practices, ensuring that measures remain compatible with human rights standards and the values of dignity, freedom of choice and freedom of movement within the EU in line with Articles 12, 18, 19 of the CRPD and Articles 1, 21, 26 and 47 of the Charter of Fundamental Rights of the EU.</p> | | | |

Article 29a: Cooperation for pre-authorized data sharing

Joint position

We supported the proposal of the European Parliament to include an article 29a on cooperation for pre-authorized data sharing of information related to support in decision-making or power of representation, at the request of the representative/support person. This will facilitate efficient cross-border collaboration.

| Commission proposal COM/2023/280 | EP amendments, 1 July 2025 | Council General Approach , 13 February 2026 | Joint position / proposed amendments |
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| | 1. Persons or bodies providing support in decision-making or having power of representation shall be entitled to request for information on their appointment | | 1. Persons receiving or persona and bodies providing support in decision-making or having power of representation shall be entitled to request for |

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.

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.

Justification:

This provision facilitates cross-border cooperation between competent authorities while respecting the principles of autonomy and consent set out in Article 12 of the CRPD. Allowing persons or bodies providing support or representation to request the transfer of relevant information, subject to the adult’s explicit authorisation, ensures transparency and continuity of support across Member States.

The possibility to withdraw authorisation at any time safeguards the adult’s right to control their personal information and the exercise of their legal capacity. This approach aligns with Articles 7, 8, 21, and 47 of the Charter of Fundamental Rights of the European Union, which protect privacy, data protection, non-discrimination, and effective access to justice, and strengthens mutual trust in cross-border protection systems.

Article 34: Creation of a European Certificate of Representation

Joint position

We support the position of the European Parliament and the Council that the certificate becomes a certificate of support and representation.

| Commission proposal COM/2023/280 | EP amendments, 1 July 2025 | Council General Approach , 13 February 2026 | Joint position / proposed amendments |
|---|--|--|--|
| Article 34: Creation of a European Certificate of Representation | Article 34: Creation of a European Certificate of Support and Representation | Article 34: Creation of a European Certificate of Support and Representation | Article 34: Creation of a European Certificate of Support and Representation |
| 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. | 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. | 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. | 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. |
| <p>Justification:</p> <p>The inclusion of <i>support</i> alongside representation in the European Certificate reflects the obligations under Article 12 CRPD and the amendments to Article 2 on the scope of the Regulation in order to include support measures and powers of representation.</p> | | | |

Article 35: Purpose of the Certificate

Joint position

We support amendments of the European Parliament and the Council to include support of the adult within the purpose of the certificate.

| Commission proposal COM/2023/280 | EP amendments, 1 July 2025 | Council General Approach , 13 February 2026 | Joint position / proposed amendments |
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| <p>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.</p> | <p>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 adults who, by reason of an impairment or insufficiency of their personal faculties, are not in a position to protect their intereststhe adult.</p> | <p>1. The Certificate shall be issued for use by representatives, who, in another Member State, need to invoke their powersin order to represent or support adults who, by reason of an impairment or insufficiency of their personal faculties, are not in a position to protect their interests.</p> | <p>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 adults who, by reason of an impairment or insufficiency of their personal faculties, are not in a position to protect their intereststhe adult.</p> |
| <p>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: (...)</p> | <p>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: (...)</p> | <p>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 or support the adult in particular in one or more of the following matters: (...).</p> | <p>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: (...)</p> |

Article 37: Application for a Certificate

Joint position

We support amendments of the European Parliament and the Council to include support, and ensure the adults concerned can directly apply for the certificate.

We also support the proposal of the European Parliament that it is issued free of charge, and that the application process must be accessible to persons with disabilities.

| Commission proposal COM/2023/280 | EP amendments, 1 July 2025 | Council General Approach , 13 February 2026 | Joint position / proposed amendments |
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| 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'). | 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'). | 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 or support the adult (hereinafter referred to as: 'the applicant'). | 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 or support the adult (hereinafter referred to as: 'the applicant'). |
| | | <p>2. The application for a Certificate shall contain the following:</p> <p>(a) a declaration of the intended use of the Certificate in another Member State;</p> <p>(b) a declaration on whether there is, to the applicant's best knowledge, a dispute regarding</p> | <p>2. <i>The application for a Certificate shall contain the following:</i></p> <p><i>(a) a declaration of the intended use of the Certificate in another Member State;</i></p> <p><i>(b) a declaration on whether there is, to the applicant's best knowledge, a dispute regarding</i></p> |

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| | | <p>the measure or the confirmed powers of representation;</p> <p>(c) where relevant, an indication of the requested format for the Certificate, in accordance with Article 41(1);</p> <p>(d) where relevant, any additional information and documents required by the Member State of the issuing authority, as notified in accordance with Article 69(1)(n).</p> | <p><i>the measure or the confirmed powers of representation;</i></p> <p><i>(c) where relevant, an indication of the requested format for the Certificate, in accordance with Article 41(1);</i></p> <p><i>(d) where relevant, any additional information and documents required by the Member State of the issuing authority, as notified in accordance with Article 69(1)(n).</i></p> |
| <p>2. Member States shall ensure that the fee for obtaining the Certificate, if any, does not exceed the production cost of the Certificate.</p> | <p>2. Member States shall ensure that the fee for obtaining the Certificate, if any, does not exceed the production cost of the Certificate <i>is issued free of charge.</i></p> | <p>23. Member States shall ensure that the fees fees for obtaining the Certificate, if any, does not exceed the production cost of are not prohibitively excessive so as to prevent or discourage applicants from requesting the Certificate.</p> | <p>2. Member States shall ensure that the fee for obtaining the Certificate, if any, does not exceed the production cost of the Certificate <i>is issued free of charge.</i></p> |
| | <p><i>2a. Member States shall ensure that the application process is accessible to persons with disabilities.</i></p> | | <p><i>2a. Member States shall ensure that the application process is accessible to persons with disabilities in line with relevant accessibility requirements laid down in Directive (EU) 2019/882.</i></p> |

Justification:

Allowing adults concerned to apply directly for the certificate and ensuring the process is accessible for persons with disabilities strengthen their autonomy and participation in accordance with the CRPD. There should be a specific reference to the Directive (EU) 2019/882 on the accessibility requirements for products and services.

Article 38: Issuance of the Certificate

Joint position

We support the proposal of the European Parliament that the certificate shall be available in formats accessible for persons with disabilities.

| Commission proposal COM/2023/280 | EP amendments, 1 July 2025 | Council General Approach , 13 February 2026 | Joint position / proposed amendments |
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| | 6a. The Certificate shall be available in formats accessible to persons with disabilities. | | 6a. The Certificate shall be available in accessible formats to persons with disabilities. |

Justification:

Ensuring that the European Certificate is available in formats accessible to persons with disabilities gives concrete effect to Article 9 of the CRPD on accessibility and Article 21 and 26 of the Charter of Fundamental Rights of the European Union, which guarantee equality, inclusion, and participation.

This measure is also consistent with the objectives and standards set out in the European Accessibility Act (Directive (EU) 2019/882), which requires that information and communication services be accessible to persons with disabilities. Providing the Certificate in accessible formats ensures that all adults, regardless of disability, can understand and use the instrument effectively, thereby strengthening legal certainty, autonomy, and equal access to justice across the Union.

Chapter VIII: ESTABLISHMENT AND INTERCONNECTION OF PROTECTION REGISTERS

Joint position

We call on the deletion of Chapter VIII on the establishment and interconnection of protection registers, also supported by the European Parliament and the Council.

| Commission proposal COM/2023/280 | EP amendments, 1 July 2025 | Council General Approach , 13 February 2026 | Joint position / proposed amendments |
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| Chapter VIII ESTABLISHMENT AND INTERCONNECTION OF PROTECTION REGISTERS | <i>Deleted</i> | <i>Deleted</i> | <i>Delete</i> |
| <p>Justification:</p> <p>The Central Registers aim to record the “protection measures” which are sensitive and personal information about citizens. The sharing of this information through the register without the direct free and informed consent of the people who are under protection measures, and strong safeguards in place, is a breach of privacy and fundamental rights, also guaranteed under the CRPD. In addition, during the transition period from substituted to supported decision making regime, there is a risk that the central registers will be used to implement measures that are not compliant with the CRPD.</p> <p>To protect highly sensitive information such as any personal data needs to be recorded, decentralised and only be made available on a need-to-know basis. It is also important to note that the Hague Convention does not foresee the establishment of central registers. Article 22 of the Hague Convention allows implementing State Parties, to adjust the rules foreseen according to public policy interests. In addition, according to European Commission estimates the registers would only be relevant in 2,7% of cross-border situations.</p> <p>The registers do not only affect cross border cases but include all measures of protection issued/confirmed in a Member State. If such registers do not exist yet, the country would have to introduce them. If they do, an expansion would be required to cover all the data. The registers go beyond what is necessary to achieve the goals of the regulation. The introduction and interconnection of registers is disproportionate.</p> | | | |