

Title	Draft Implementation Checklist under the HCCH 2000 Protection of Adults Convention
Document	Prel. Doc. No 3 of December 2023 (second revised version – track-changes version)
Author	PB
Agenda item	VII.4.
Mandate(s)	C&R No 34 of the 2019 CGAP; C&D No 31 of the 2020 CGAP; C&D No 31 of the 2023 CGAP
Objective	To obtain the approval of HCCH Members on the Implementation Checklist under the 2000 Protection of Adults Convention to be included in the future Practical Handbook on the Operation of the 2000 Protection of Adults Convention. Changes highlighted in yellow show changes made to the first revised version of the document. In the absence of any objection within six weeks of its circulation, the Implementation Checklist will be taken to be approved.
Action to be taken	For Approval <input checked="" type="checkbox"/> For Decision <input type="checkbox"/> For Information <input type="checkbox"/> For Comments <input type="checkbox"/>
Annexes	Annex I – A summary of provisions in the Convention that may require implementing measures, e.g. changes to legislation, prior to the Convention entering into force. Annex II – A summary of information to be communicated to the depositary (the Minister of Foreign Affairs of the Kingdom of the Netherlands), and the Permanent Bureau of the HCCH. Annex III – A summary of the functions performed by Central Authorities, competent authorities and other authorities under the Convention. Annex IV – List of available resources from States that may be of assistance to other States.
Related documents	Prel. Doc. 10 of December 2019 – CGAP – Report on the planning for a first meeting of the Special Commission to review the practical operation of the HCCH 2000 Adults Convention

DRAFT IMPLEMENTATION CHECKLIST

INTRODUCTION

A “Checklist” of matters that may need to be examined in implementing the Convention

The purpose of this Checklist is to highlight issues which may need to be considered by current and prospective Contracting Parties ~~States~~ when implementing the Convention. The Checklist is intended as a guide, and is not binding.

The Checklist does not seek to prescribe the method by which the Convention should be implemented in Contracting ~~States~~ Parties. Rather, it indicates some questions that may arise prior to, or upon implementation of, the Convention. The list is not exhaustive and there ~~undoubtedly~~ will undoubtedly be other issues specific to States that will require consideration.

The Checklist includes “Preliminary Matters” for consideration that relate to the Convention generally, while “Specific Measures of Implementation” and the annexes to the Checklist may assist a State when considering particular aspects of the Convention. The annexes cover the following matters:

Annex I

A summary checklist of provisions in the Convention that may require implementing measures, e.g., changes to domestic legislation, ~~prior with regards~~ to the Convention entering into force in a particular State.

Annex II

A summary of li information to be communicated to the depositary (the Minister ~~ryer~~ of Foreign Affairs of the Kingdom of the Netherlands), and the Permanent Bureau of the HCCH.

Annex III

A summary of the Ff functions performed by Central Authorities, competent authorities and other authorities under the Convention.

Annex IV

List of available resources from States that may be of assistance to other States.

PRELIMINARY MATTERS

Contemplating Becoming a State-Contracting Party

- Consult with the Permanent Bureau of the HCCH and other Contracting States-Parties about the benefits of the Convention.
- Identify and consult stakeholders and experts in your State, e.g., government and non-government agencies, judiciary, welfare services and the legal profession, to:
 - determine the implications of becoming a State-Contracting Party;
 - decide whether to become a State-Contracting Party;
 - identify the best methods to implement the Convention; and
 - develop a plan for the implementation and operation of the Convention.

Methods of Implementation

- Consider the method by which the Convention will be implemented in your State.
 - In your State's legal system, is the Convention automatically incorporated in domestic law once the Convention enters into force?
 - or
 - In your State's legal system, is it necessary to incorporate or transform the Convention into domestic law? If so, by what means will this be achieved?

Regardless of whether incorporation or transformation is required in-under the domestic legal system of your State's ~~legal system~~, some implementing measures may~~will~~ be needed to assist with the effective implementation and operation of the Convention.

- Conduct a comprehensive review of domestic laws, rules, regulations, orders, policies and practices in your State to ensure that existing provisions are not contrary to the Convention.
- If there are any existing provisions, policies and practices that create obstacles or impediments to the effective implementation and operation of the Convention, identify the course of action to be taken at the domestic level to overcome such obstacles or impediments~~what amendments are required~~.
- Consider the appropriate form to handle matters:
 - Legislation, e.g.:
 - i. rules of jurisdiction to take measures of protection, including provisions to transfer or assume jurisdiction;¹
 - ii. recognition and enforcement of measures of protection taken in other Contracting Parties~~other States'~~ decisions;²
 - iii. providing powers for the Central Authority and competent authorities to perform their functions.³

¹ Arts ~~56~~ to 11.

² Arts 22 and 25.

³ Chapter V of the 2000 Convention, in particular Art. ~~2938~~.

- Rules, regulations and orders, e.g.:
 - i. rules of Court on findings of fact in recognition proceedings;⁴
 - ii. providing information to other States to assist in proceedings;⁵
 - iii. exemption on legalisation of documents forwarded or delivered under the Convention.⁶
- Administrative acts, e.g.:
 - i. appointment of a Central Authority;⁷
 - ii. non-disclosure of sensitive information.⁸

Becoming a **State Contracting** Party – Signature and Ratification, or Accession

Any State may become a Party to the Convention. The following describe the different ways in which a State may do this.

□ Signature followed by ratification

- A State which was a Member of the HCCH on 2 October 1999 may sign and ratify the Convention.⁹
- By signing the Convention, a State expresses its intention to become a Party. *It does not oblige a State to ratify the Convention.*¹⁰ The State will need to ratify the Convention for it to enter into force.
- The Convention enters into force three months after ratification.¹¹

□ Accession

- Other States wishing to become a Party may accede to the Convention.¹²
- For an acceding State, the Convention will enter into force nine months after the date of accession.¹³
- Within the first six months of this nine-month period, any other Contracting **State Party** may raise an objection to the accession.¹⁴ The Convention will not enter into force between the acceding State and any State which raised an objection, until such an objection is withdrawn.

⁴ Art. 24.

⁵ Art. 32.

⁶ Art. 41.

⁷ Art. 28.

⁸ Art. 35.

⁹ Art. 53.

¹⁰ However, Art. 18 of the *Vienna Convention on the Law of Treaties*, obliges States, once an expression of consent to be bound by the treaty has been made, not to defeat the object and purpose of the treaty prior to its entry into force.

¹¹ Art. 57(2)(a).

¹² Art. 54(1).

¹³ Art. 57(2)(b).

¹⁴ Art. 54(3).

- The Convention, nevertheless, will enter into force between the acceding State and all other Contracting States-Parties which have not raised an objection.
- Ratification or accession requires the deposit by a State of the appropriate instrument with the Ministry of Foreign Affairs of the Kingdom of the Netherlands, as depositary of the Convention.¹⁵

Developing a Timetable

Determine the date on which the Convention should come into force in your State. The following should be completed in line with that date.

- Ensure the appropriate implementing measures are put in place, or enacted and in force, before the Convention enters into force in your State.
- Ensure the necessary instrument and information are deposited with the depositary and communicated to the Permanent Bureau (see *Annex II*).
- Ensure all key stakeholders (e.g., government departments, welfare agencies, courts, the legal profession) are informed of when the Convention will come into force, any changes to current law and procedure, and their respective roles under the Convention.
- Ensure that adequate training is provided to individuals involved in the application of the Convention (e.g., government departments, welfare agencies, courts, the legal profession).
- Disseminate information on the Convention to the public.

Designations, Declarations and Reservations

The following are some obligatory designations to be made under the Convention, as well as optional declarations and reservations that States may consider necessary.

- Ensure that the designation of a Central Authority or Authorities is made at the time of ratification / accession (or at least before the Convention enters into force).¹⁶
- Ensure that the contact details of each Central Authority, and the language(s) of communication, are communicated to the Permanent Bureau and are kept up to date.
- Ensure that the designation of an authority competent to draw up an international certificate under Article 38 is made at the time of ratification / accession (or at least before the Convention enters into force or as soon as possible thereafter)~~Consider designating an authority competent to draw up an international certificate under Article 38.~~¹⁷

¹⁵ Arts 53(2) and 54(2).

¹⁶ Arts 28 and 43.

¹⁷ This certificate indicates the capacity and powers of a person who is entrusted with protection of the adult's person or property. "Conclusions and Recommendations (C&R) adopted at the First meeting of the Special Commission (SC) on the practical operation of the 2000 Protection of Adults Convention (9-11 November 2022)". C&R No 48 (C&R of the First Meeting of the SC) (available on the HCCH website at www.hcch.net under "Protection of Adults" then "Special Commission meetings").

- Consider designating an authority under Article 42 to receive requests under Articles 8 and 33.¹⁸
- Consider whether a declaration under Article 32(2) is necessary.¹⁹
- Consider whether a reservation under Article 51 is necessary.²⁰
- Consider whether a declaration under Article 55 is necessary.²¹

Ongoing Processes of Implementation

- Develop and implement mechanisms to monitor and evaluate the application and function of the Convention, e.g., consultation with courts and other responsible authorities. Regular evaluation will assist in identifying and responding to any implementation difficulties that may arise and could eventually inform discussions at a meeting of the Special Commission to review the practical operation of the Convention.²²
- Ensure that any changes to contact details of Central Authorities and other designated authorities/bodies are provided to the Permanent Bureau.
- Use the following resources for assistance:
 - Website of the HCCH < hcch.net >.
 - P. Lagarde, “Explanatory Report on the Hague Convention of 13 January 2000 on the International Protection of Adults” available at < hcch.net > then “Publications” then “Explanatory Reports”.
 - [Prel. Doc. No 4 of July 2022 – Revised draft Practical Handbook on the Operation of the 2000 Protection of Adults Convention]
 - [Prel. Doc. No 7 of October 2022 - 2000 Protection of Adults Convention Draft Country Profile]
 - List of available resources from States that may be of assistance to other States (see *Annex IV*).

¹⁸ This applies to situations when a transfer of jurisdiction to a more appropriate forum (Art. 8) or a placement abroad (Art. 33) is contemplated.

¹⁹ ~~This requires that all requests for information from a Contracting State when they are contemplating a measure of protection must be communicated through the Central Authority. A Contracting Party may declare that all incoming requests for information from competent authorities of other Contracting Parties must be communicated through its Central Authority.~~

²⁰ If your State objects to the use of French or English.

²¹ If your State has two or more territorial units in which different systems of law are applicable, you can declare to which the Convention applies. If no declaration is made, the Convention will extend to all territorial units.

²² Art. 52.

SPECIFIC MEASURES OF IMPLEMENTATION

The Convention accommodates States of different legal traditions and systems, allowing the implementation of the Convention to be adapted to specific needs. This Checklist identifies a number of issues that may arise before, or upon, implementation of the Convention, including responses offered by the Convention.

Chapter I | Scope of the Convention

- Verify what legal institutions within your law fall under the scope of the Convention, in whether the laws of your State cover the scope of the Convention, specifically that they provide for measures of the protection for persons over the age of 18 years²³ who, by reason of an impairment or insufficiency of their personal faculties, are not in a position to protect their own interests (e.g., measures of protection, powers of representation, ex lege representation, instructions given and wishes made by an adult).²⁴
- Identify what measures of protection are already available in domestic law and how they relate to the Convention. The measures listed in Article 3 are not exhaustive and there may be other measures of protection available in your State. By contrast, the list in Article 4, of matters for to which the Convention does not apply, is exhaustive.²⁵
- ☒ Consider whether current legislation adequately enables the implementation of foreign powers of representation in your State. If not, consider whether changes to the law would be necessary. Consider whether powers of representation (Arts 15 and 16) are available under the domestic law of your State, with a view to facilitate the implementation of the Convention. If not, consider whether changes to the law would be desirable.²⁶
- ☒ Identify any other legal institutions that are available under the laws of your State which would fall within the scope of the Convention, such as ex lege representation²⁷ or instructions given and wishes made by an adult in anticipation of an impairment or insufficiency of their personal faculties.²⁸ - Gathering information on such legal institutions will facilitate the exchange of information under Chapter V of the Convention and will be useful for the purpose of completing the Country Profile.

Chapter II | Jurisdiction

- Consider whether changes to legislation are required for judicial or administrative authorities in your State to have jurisdiction to take measures of protection based on the adult's *habitual residence*.²⁹

²³ Art. 2.

²⁴ Arts 1(1) and 3.

²⁵ By contrast, the list in Art. 4 of matters for which the Convention does not apply is exhaustive. See Explanatory Report, paras 29 to 46.

²⁶ See, supra, Glossary: "Powers of representation".

²⁷ See C&R Nos 21 and 22 of the First Meeting of the SC and, supra, para 3.56 of the Practical Handbook.

²⁸ C&R Nos 23 - 26 of the First Meeting of the SC and, supra, paras XX of the Practical Handbook.

²⁹ Art. 5.

- Consider whether changes to legislation are required for judicial or administrative authorities in your State to have jurisdiction to take measures of protection based on an adult being *present* in the State.³⁰
- ~~Consider whether changes to legislation are required for judicial or administrative authorities in your State of which the adult is a national to have jurisdiction to take measures of protection, if the adult is a national of your State and if the authorities of your State based on the Contracting State are being in the betterst position placed to assess the interests of the adult (and there are no proceedings pending elsewhere).~~³¹
- Consider whether changes to legislation are required for judicial or administrative authorities in your State to have jurisdiction to take measures of protection based only on the location of the property in your State.³²
- Consider whether existing procedures in place are adequate, or whether procedures need to be put in place, to facilitate the communication between the competent authorities of a Contracting Party of which the adult is a national and authorities having jurisdiction under Articles 5, 6(2) or 8 with regard to measures taken or decisions made that no measures need to be taken.
- Consider what implementing measures may be required in your State to facilitate the transfer of jurisdiction,³³ such as:
 - Changes to legislation or rules to enable competent authorities to transfer or assume jurisdiction in the most efficient way. Authorities should be aware of the conditions under which transfer may occur, in particular, that it is in the interests of the adult.³⁴
 - Procedures for the transmittal and receipt of requests for the transfer of jurisdiction and the role, if any, of the Central Authority. States should consider how their authorities will communicate with authorities in other Contracting StatesParties, e.g., by a direct exchange between the competent authorities concerned with the proceedings or communication through the Central Authority. Consider whether a declaration under Article 42 is needed.
 - Implementation of internal procedures, including mechanisms for transferring or assuming jurisdiction and the ability for authorities to agree to requests to transfer or assume jurisdiction.
 - Procedures for parties to a matter ~~(other than Central Authorities or competent authorities)~~ to request the transfer of jurisdiction, including where one or more parties may be located in another State.
 - Consider how applications for measures of protection will come before an authority where jurisdiction has been assumed.
 - Consider how to ensure the case is no longer dealt with by the authorities of the State after jurisdiction has been transferred.

³⁰ Arts 6, 10 and 11.

³¹ Art. 7.

³² Art. 9 and 10.

³³ Art. 8.

³⁴ C&R Nos 13 and 14 of the First Meeting of the SC.

- ~~□ Consider whether changes to legislation are required for judicial or administrative authorities to have jurisdiction to take measures of protection concerning property based on the situation of the property.³⁵~~

Chapter III | Applicable Law

- Consider whether changes to legislation are required to enable:
 - authorities to *exceptionally* apply or take into account the law of another State with which where the adult situation has a “substantial connection”;³⁶
 - ~~the~~ implementation of a decision made/measure taken in another Contracting State Party governed by the law of that State;³⁷
 - ~~• implementation of measures already taken by the competent authorities of the former State of habitual residence, when a change of habitual residence occurs, by competent authorities of the new State of habitual residence;³⁸~~
 - ~~• giving effect to implementation of~~ powers of representation ~~to be~~ granted by an adult, either under an agreement or by a unilateral act, to be exercised when such adult is not in a position to protect ~~his or her~~ their interests, specifically the existence, extent, exercise, modification, and extinction of such powers;³⁹
 - ~~the existence, extent, modification and extinction of powers of representation to be governed by domestic law or foreign law;⁴⁰ and~~
 - authorities to take into consideration the law applicable to powers of representation when withdrawing or modifying them, where they are not exercised in a manner sufficient to guarantee the protection of the person or property of the adult ~~powers of representation to be withdrawn or modified in accordance with domestic law or foreign law.~~⁴¹

Chapter IV | Recognition and Enforcement

- Consider whether any implementing measures are needed to amend existing legislation or procedures that are contrary to the following provisions:
 - measures of protection taken by the authorities of a Contracting State Party must be recognised “by operation of law”;⁴²
 - recognition of measures of protection taken in another Contracting State Party may only be refused on the grounds provided in Article 22(2);⁴³

~~³⁵ Art. 9.~~

³⁶ Art. 13(2); C&Rs No 20 of the First Meeting of the SC.

³⁷ Art. 14; C&Rs No 19 and 20 of the First Meeting of the SC.

~~³⁸ C&R No 20.~~

³⁹ Art. 15.; C&R Nos 23 – 25. See, also, para 98 of the ER.

~~⁴⁰ Art. 15.~~

⁴¹ Art. 16.

⁴² Art. 22(1).

~~⁴³ C&R No 30.~~

- any “interested person” may request a decision on the recognition or non-recognition of a measure taken in another Contracting StateParty,⁴⁴ even if the interested person is located outside the requested State;
 - the procedure for the declaration of enforceability or registration of measures of protection must be “simple and rapid”, for instance by providing stipulated time frames, appointing specialised judges or registrars and concentrating jurisdiction for procedures in certain courts;⁴⁵
 - enforcement of a measure takes place in accordance with the law of the requested State to the extent provided by such law.⁴⁶
- With a view to facilitate recognition and enforcement under Article 22(2)(b), consider whether any implementing measures (including court practice), is necessary to incorporate, in decisions—measures of protection taken by competent authorities regarding the recognition and enforcement of measures—in your State, a record of whether or not the adult was heard.⁴⁷
 - Examine any existing laws outside the Convention that apply to the recognition, declaration of enforceability or registration for enforcement of foreign measures of protection taken by another State and consider how these laws relate to the Convention.

Chapter V | Co-operation

a) **Central Authorities**

Central Authorities play an important role in the effective operation of the Convention. They should be established and managed to provide a point of contact between Contracting StatesParties, and provide and facilitate services related to the Convention. Central Authorities have a general obligation, under Article 29, to cooperate with each other and promote co-operation among competent authorities in their States to achieve the purposes of the Convention.⁴⁸

- When planning to establish a Central Authority, consider:
 - Which authority is best placed to perform the functions of a Central Authority. This could will most likely be an authority with responsibilities that are closely related to the subject matter of the Convention. The Central Authority should also be in a position to promote co-operation amongst the national authorities responsible for the different aspects of protection of adults, as well as to co-operate with other Contracting StatesParties. It might be, e.g., a government authority such as a ministry of justice.
 - Whether it is necessary for your State, if a multi-unit State, will to appoint more than one Central Authority.⁴⁹

⁴⁴ Art. 23.

⁴⁵ Art. 25; C&R No 32 of the First Meeting of the SC.

⁴⁶ Art. 27.

⁴⁷ C&R No 30 of the First Meeting of the SC.

⁴⁸ C&R Nos 39 - 41 of the First Meeting of the SC.

⁴⁹ Art. 28(2).

- The functions that Central Authorities will perform, and the functions that other authorities will perform (See *Annex III*).
 - The measures needed to ensure each Central Authority has a sufficiently broad mandate, the necessary qualified personnel powers and resources, including modern means of communication, to effectively perform their functions under the Convention.⁵⁰
 - Whether specific internal procedures are needed to ensure that requests are transmitted and processed efficiently and rapidly, bearing in mind the need for confidentiality,⁵¹ e.g.;
 - i. communication between Central Authorities, competent authorities and other authorities *within* the State;⁵² ~~and~~
 - ii. communication with authorities in other States (including joint meetings to solve a common problem),⁵² ~~and~~
 - iii. communications with the PB, with a view to relaying Central Authority contact details and other relevant information as well as any changes thereto.⁵³
- Consider what means will be used to provide assistance in discovering the whereabouts of an adult, where it appears that they may be present and in need of protection within the territory of your State. Ensure that the authorities within your State will be able to share information to that effect.
 - Consider describing the laws and services of your State pertaining to the protection of adults in the Country Profile, including but not limited to measures of protection, powers of representation, ex lege representation and voluntary anticipatory acts containing the instructions given and wishes made by an adult.⁵⁴
 - Consider how mediation, conciliation or similar means can be used to achieve agreed solutions in situations where the Convention applies,⁵⁵ including identifying what services are available to enable and support parties to achieve this.
 - Consider whether “reasonable charges” will be imposed for the provision of services, noting the general obligation on Contracting States Parties to bear their own costs, in applying the co-operation provisions of the -Convention.⁵⁶
- b) Cross-border Placement of Adults**
- Consider whether implementing measures or amendments to existing legislation are necessary in respect of the cross-border placement of an adult in an establishment or other place where protection can be provided including in another Contracting State Party.⁵⁷
 - Consider which authorities are best placed to:

⁵⁰ C&R Nos 36 and 38 of the First Meeting of the SC.

⁵¹ C&R No 39 of the First Meeting of the SC.

⁵² C&R No 40 of the First Meeting of the SC.

⁵³ C&R No 37 of the First Meeting of the SC.

⁵⁴ Art. 29(2).

⁵⁵ Art. 31.

⁵⁶ Art. 36.

⁵⁷ Art. 33.

- consult on proposed placements;
 - ~~prepare~~ provide reports on the adult; and
 - receive and transmit requests.
- Consider what safeguards and standards should apply before the Central Authority or other competent authority gives consent to a cross-border placement.
 - A designation under Article 42 may be ~~necessary~~ desirable (Contracting ~~States~~ Parties may designate the authorities to which requests under Art. 33 are directed).
 - Ensure that communication procedures are implemented within the State and with other Contracting ~~States~~ Parties, to avoid placements being made without the consent of the receiving State.

Chapter VI | General Provisions

- ~~□ Consider whether existing domestic laws allow judicial or administrative authorities, public bodies or professionals to confirm powers of representation,⁵⁸ through a process which gives “every guarantee of reliability”.⁵⁹~~
- ~~□ Consider whether existing domestic laws provide for a procedure to confirm powers of representation which gives “every guarantee of reliability”.⁶⁰~~
- ~~□ Consider whether existing domestic laws provide for the delivery of certificates under Article 38.⁶¹~~
- Consider whether existing domestic laws are sufficient to protect the confidentiality of information that is gathered or transmitted under the Convention.⁶²
- ~~□ Consider whether there are sufficient resources allocated for the translation of any communications sent to the Central Authority or other authority of another Contracting Party in accordance with Article 51.⁶³~~
- ~~□ Consider designating one or more members of the judiciary (e.g., sitting judges, members of the judiciary bound by the same standards of independence and impartiality as a sitting judge, with authority and, ideally, experience in the area of protection of adults) for the purpose of direct judicial communications under the Convention.⁶⁴~~
- If there are existing limitations in your State on the type of information that can be released to third parties, consider whether exceptions could be made for an exchange of information where it would be consistent with the objects of the Convention, e.g., where an adult is in need of urgent protection.
- Identify any other international instruments to which your State is a Party which deal with the protection of adults, in particular the United Nations Convention on the Rights of Persons with Disabilities and consider how they will relate to the Convention. If appropriate, consider,

⁵⁸ C&R No 44 of the First Meeting of the SC.

⁵⁹ C&R Nos 42 - 45 of the First Meeting of the SC.

~~⁶⁰ C&R Nos 42 and 45.~~

⁶¹ C&R Nos 42 - 45 of the First Meeting of the SC.

⁶² Arts 39 and 40.

⁶³ C&R No 36 of the First Meeting of the SC.

⁶⁴ C&R No 57 of the First Meeting of the SC.

together with other Parties to the instruments, whether any declaration is needed to ensure compatibility with the Convention.⁶⁵

⁶⁵ Art. 49.

ANNEXES

ANNEX I

Checklist of provisions in the HCCH Convention of 13 January 2000 on the International Protection of Adults that may require changes in domestic laws or procedures.

ARTICLE	PROVISION	ISSUE
Article 5	The State of the adult's "habitual residence" has jurisdiction to take measures of protection.	Do <u>competent</u> authorities have jurisdiction to take measures based on an adult's "habitual residence"?
Articles 6, 10, 11	Contracting States <u>Competent authorities</u> may take certain measures of protection in <u>certain circumstances, in</u> respect of an adult that is not habitually resident but is present in the State.	Do <u>competent</u> authorities have jurisdiction to take measures of protection <u>in certain circumstances</u> when an adult is present in the State but not habitually resident <u>there</u> ? Can <u>competent</u> authorities take measures of protection under Article 11 that are provisional and limited in territorial effect?
Article 7	Contracting States <u>mpotent authorities</u> may take measures of protection in <u>certain circumstances in</u> respect of an adult who is a national.	<u>Do competent authorities have jurisdiction to take measures of protection, in certain circumstances, when an adult is a national of that State?</u> Are procedures in place to facilitate the communication between the <u>competent</u> authorities of a Contracting State-Party of which the adult is a national and authorities having jurisdiction under Articles 5, 6(2) or 8 with regard to measures taken or decisions that no measures be taken?
Article 8	Jurisdiction may be transferred from the between-competent authorities of one Contracting States-Party to another once certain conditions are fulfilled.	Can <u>competent</u> authorities assume or transfer jurisdiction in accordance with the Convention? Are procedures in place to facilitate the transfer of jurisdiction?
Article 15	The Convention provides for the law applicable to powers of representation.	Can powers of representation which have been granted-issued by an adult, either under an agreement or by a unilateral act, be given force of law in your State in accordance with domestic law or foreign law?
Article 22	Measures of protection shall be recognised in all Contracting States	Are measures of protection taken in another Contracting State-Party recognised in your State by operation

	<u>Parties</u> “by operation of law” <u>(i.e., automatically)</u> .	of law, i.e. a measure will be recognised without the need to take proceedings?
Article 23	Any “interested person” may request a decision on the recognition or non-recognition of a measure taken in another Contracting State <u>Party (i.e., the advance recognition or non-recognition of measures)</u> .	Can an interested person seek the <u>advance</u> recognition or non-recognition of a measure of protection?
Article 25	The declaration of enforceability or registration of measures of protection <u>for the purpose of enforcement</u> shall be “a simple and rapid procedure”.	Are procedures for registration of measure of protection “simple and rapid” <u>in your State</u> ?
Articles 2 39 ³⁹ – 37	Co-operation under the Convention.	Does each authority <u>in your State</u> have the necessary powers <u>and</u> resources to effectively perform their functions under the Convention?

ANNEX II

Information to be communicated to the depositary or the Permanent Bureau by States party to the HCCH Convention of 13 January 2000 on the International Protection of Adults.

INFORMATION WHICH CONTRACTING ~~STATES-PARTIES~~ MUST PROVIDE DIRECTLY TO THE PERMANENT BUREAU OF THE HCCH⁶⁶

Article 28	<p>Contracting States-Parties shall designate a Central Authority to discharge the duties which are imposed by the Convention on such authorities. As a matter of priority, contact details of Central Authorities and the language(s) of communication should be communicated to the Permanent Bureau.</p> <p>Federal States, States with more than one system of law or States having autonomous territorial units shall be free to appoint more than one Central Authority.</p> <p>Where a State has appointed more than one Central Authority, the State shall designate the Central Authority to which any communication may be addressed for transmission to the appropriate Central Authority within that State.</p>
Article 42	<p>Contracting States-Parties may designate authorities where-to-which requests under Articles 8 and 33 are to be addressed.</p>

IT IS RECOMMENDED THAT THE FOLLOWING INFORMATION BE COMMUNICATED TO THE PERMANENT BUREAU

Article 38	<p>Each Contracting State-Party shall designate authorities to issue certificates under Article 38. The contact details and language(s) of communication of the designated authorities should be communicated to the Permanent Bureau.</p>
------------	---

NOTIFICATIONS TO BE COMMUNICATED TO THE DEPOSITARY⁶⁷

Article 53(2)	Instruments of ratification, acceptance and approval.
Article 54(2)	Instrument of accession.
Article 54(3)	Objections to accession, to be made within six months after the receipt of the notification of accession.
Article 58(2)	A Contracting State-Party may denounce the Convention by notification to the depositary.

⁶⁶ Art. 43.

⁶⁷ Ministry of Foreign Affairs of the Kingdom of the Netherlands (Art. 53(2)).

DECLARATIONS WHICH MAY BE MADE AND MUST BE COMMUNICATED TO THE DEPOSITARY

Article 43(2)	<u>A</u> Contracting States-Party may declare that authorities where requests under Article 32(24) are to be addressed <u>only to its Central Authority</u> .
Article 49(1)	The Convention does not affect any other international instrument to which Contracting States-Parties are <u>bound</u> Parties and which contain provisions on matters governed by this Convention, unless a contrary declaration is made by the States party to such instrument.
Article 55	Where a State has two or more territorial units in which different systems of law are applicable, it may declare that the Convention shall extend to all its territorial units or only to one or more of them. The declaration may be modified at any time.

INFORMATION TO BE PROVIDED TO THE DEPOSITARY REGARDING AGREEMENTS BETWEEN CONTRACTING ~~STATES~~ PARTIES

Article 37	<u>Any</u> Contracting States-Party may enter into agreements with <u>one or more</u> other Contracting States-Parties with a view to improving the operation of the Convention. A copy of any such agreement shall be transmitted to the depositary of the Convention.
------------	---

RESERVATIONS WHICH MAY BE MADE AND MUST BE COMMUNICATED TO THE DEPOSITARY⁶⁸

Article 51(2)	Contracting States-Parties may make a reservation objecting to the use of either French or English, but not both.
Article 56(2)	Any State may at any time withdraw the reservation it has made. The withdrawal shall be notified to the depositary.

⁶⁸ Art. 56(1).

ANNEX III

Functions of Central Authorities and other authorities under the HCCH Convention of 13 January 2000 on the International Protection of Adults.

DIRECT OBLIGATIONS OF CENTRAL AUTHORITIES

Article 29(1)	Central Authorities shall co-operate with each other and promote co-operation amongst the competent authorities in their State.
Article 29(2)	Central Authorities shall take appropriate steps to provide information as to the laws of, and services available in, their State relating to the protection of adults.

FUNCTIONS WHERE CONTRACTING ~~STATES-PARTIES~~ MAY DESIGNATE SPECIFIC AUTHORITIES TO WHOM REQUESTS BE DIRECTED⁶⁹

Article 8	An authority for requests to transfer jurisdiction: the authorities of a Contracting State-Party can, on their own motion or on application by the authority of another Contracting StateParty , request the authorities of a Contracting State-Party to assume jurisdiction in a particular case.
Article 33	An authority for requests regarding cross-border placement: the authorities of a Contracting State-Party contemplating the placement of the adult in another Contracting State-Party shall first consult with the Central Authority or other competent authority of the latter State. The requesting State shall transmit a report on the adult together with the reasons for the proposed placement.

OTHER FUNCTIONS WHICH MAY BE PERFORMED BY CENTRAL AUTHORITIES, COMPETENT AUTHORITIES OR OTHER PUBLIC AUTHORITIES⁷⁰

Articles 22, 23	Receipt and transmittal of requests related to the recognition or non-recognition of measures.
Article 25	Declaration of enforceability or registration for enforcement of measures of protection taken in another Contracting StateParty .
Article 27	Enforcement of measures of protection.
Article 29(2)	Completion of the Country Profile under the 2000 Convention
Article 30 a)	Facilitation of communications between competent authorities.

⁶⁹ Art. 42.

⁷⁰ *E.g.* government agencies, courts, administrative authorities / tribunals, social welfare services, health professionals, counselling services, police services, mediation professionals. States should ensure that each authority has the necessary powers and resources to effectively perform their functions under the Convention. Procedures may also be necessary to ensure that authorities are aware of the responsibilities and functions performed by different authorities in the State.

Article 30 b)	Assistance, on request, in discovering the whereabouts of an adult where it appears that the adult may be present and in need of protection within the territory of the requested State.
Article 31	Facilitation of the use of mediation, conciliation or similar means to achieve agreed solutions in situations to which the Convention applies.
Article 32(1)	Receipt and transmittal of requests for information relevant to the protection of the adult. Contracting States-Parties may declare requests under Article 32(1) are communicated only through the Central Authority. ⁷¹
Article 32(3)	Assistance in the implementation of measures of protection taken in another State.
Article 34	Communication, in cases where the adult is exposed to a serious danger, with the authorities of that other State about the danger involved and the measures taken or under consideration.
Article 38(3)	Drawing up of a certificate under Article 38(31) for measures of protection and to confirmed the powers of representation of the person entrusted with protection of the adult's person or property.

⁷¹ Art. 32(2).

ANNEX IV

Available resources from States that may be of assistance to other States.

HAGUE CONFERENCE ON PRIVATE INTERNATIONAL LAW

< www.hcch.net >

GERMANY (in English and German only)

Central Authority of Germany (*Bundesamt für Justiz*)

https://www.bundesjustizamt.de/EN/Topics/FamilyMattersInternational/AdultProtection/AdultProtection_node.html

Act to Implement the Hague Convention of 13 January 2000 on the International Protection of Adults (in English and German)

English: https://www.gesetze-im-internet.de/englisch_erws_ag/

German: https://www.gesetze-im-internet.de/erws_ag/index.html