



## EC-HCCH Joint Conference on the Cross-border Protection of Vulnerable Adults

Brussels, 5-7 December 2018

### Conclusions and Recommendations

From 5 to 7 December 2018, at a conference organised jointly by the European Commission and the Hague Conference on Private International Law (HCCH), experts from Argentina, Australia, Austria, Belgium, Bulgaria, Canada, Chile, China (Hong Kong SAR), Cyprus, the Czech Republic, Estonia, Finland, France, Germany, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Monaco, Montenegro, the Netherlands, Poland, Portugal, Romania, Saudi Arabia, Slovakia, Slovenia, Spain, Sweden, Switzerland, Turkey, the United Kingdom, the United States of America, Zambia, the AGE Platform Europe, Alzheimer's Disease International, the *Conseil Supérieur du Notariat*, the Council of Bars and Law Societies of Europe (CCBE), the Council of Europe (CoE), the General Secretariat of the Council of the European Union, Dementia Alliance International, the European Commission, the European Disability Forum, the European Law Institute, the European Parliament, Notaries of Europe (CNUE), the *Union Internationale du Notariat* (UINL), STEP as well as the Permanent Bureau of the HCCH, met in Brussels, Belgium, to discuss the cross-border protection of vulnerable adults.

The joint conference reached the following Conclusions and Recommendations:

1. States that are not yet Contracting Parties to the *Convention of 13 January 2000 on the International Protection of Adults* (2000 HCCH Adults Convention) are invited to assess the possibility and benefits of joining the Convention.
2. The 2000 HCCH Adults Convention and the *Convention of 13 December 2006 on the Rights of Persons with Disabilities* (2006 UNCRPD) are complementary. As stated in its preamble, the 2000 HCCH Adults Convention affirms that the interests of the adult and respect for his or her dignity and autonomy are to be primary considerations.

3. United Nations institutions concerned with the 2006 UNCRPD, the CoE, the European Union, as well as the HCCH are invited to co-operate, along with interested non-governmental organisations and practitioners, with a view to raising awareness of, and promote, the 2000 HCCH Adults Convention and their respective work to support the implementation and operation of that Convention.
4. It was noted that the implementation of the 2000 HCCH Adults Convention can be undertaken on the basis of reasonable efforts and resources. States having implemented the Convention are invited to share their experience with other interested States.
5. A number of States have shared their valuable experiences in reforming their legislative frameworks in relation to vulnerable adults; these legislative reforms were often carried out in parallel with the implementation of the 2000 HCCH Adults Convention.
6. While stressing the practical usefulness of the 2000 HCCH Adults Convention in general, some Contracting Parties also mentioned that further practical improvements, in particular in relation to the enforceability of measures, would be welcome (*e.g.*, guides to good practice, model forms and direct judicial communications).
7. It was noted that a number of States have put in place guardianship or curatorship institutions based on “supported decision-making” mechanisms.
8. Cross-border measures that the State of enforcement considers not to be in conformity with the 2006 UNCRPD could be subject to adaptation under the law of that State (Arts 13 and 14 of the 2000 HCCH Adults Convention) to ensure that international situations are treated in a manner similar to domestic ones.
9. The cross-border transportability of measures under the 2000 HCCH Adults Convention would be improved by the development of a public Country Profile for each Contracting Party providing, for example, information on the nature, substantive and formal requirements of such measures as well as their conditions for coming into effect.
10. The development of a public Country Profile under the 2000 HCCH Adults Convention would also contribute to the building of mutual trust and confidence between actors, including competent authorities from different Contracting Parties.

11. The cross-border transportability of measures and confirmed powers of representation under the 2000 HCCH Adults Convention can be facilitated by using the recommended Certificate under Article 38 indicating the capacity in which the person entrusted by the vulnerable adult is entitled to act and the powers conferred.
12. The cross-border transportability of powers of representation could be enhanced, for example, by the development and use of model forms (or model provisions), model certificates of powers of representation and access to electronic registries to verify their authenticity and integrity as provided by competent authorities. It was noted that a number of model certificates of powers of representation have been developed over the years.
13. It was further noted that electronic registry systems have been developed with a view to assisting third parties, such as financial, insurance and medical institutions, with the verification of the authenticity and integrity of powers of representation as well as, in certain cases, their coming into effect.
14. The potential of direct judicial communications in the context of vulnerable adults has been underlined.
15. The possibility to develop complementary legal norms, for example in relation to party autonomy, was discussed with the understanding that it should bring real added value and should support the operation of the 2000 HCCH Adults Convention.
16. Support was expressed for the Permanent Bureau's (*i.e.*, the Secretariat of the HCCH) plan to seek the approval of its governing body, the Council on General Affairs and Policy, to start planning and organising a first meeting of a Special Commission to review the practical operation of the 2000 HCCH Adults Convention, for example by developing a questionnaire addressed to both Contracting Parties and non-Contracting Parties.
17. A wish was conveyed to hold meetings similar to the current one on a regular basis in the future.