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NOTE

From: General Secretariat of the Council
To: Delegations

Subject: Proposal for a Regulation of the European Parliament and of the Council on jurisdiction, applicable law, recognition and enforcement of measures and cooperation in matters relating to the protection of adults
- Redraft of Chapters I to V by the Belgian Presidency and Chapters VI to XII by the Hungarian Presidency

Delegations will find below a full redraft of the text of the proposal. Chapters I to V (including relevant recitals) were prepared by the Belgian Presidency while Chapters VI to XII (including relevant recitals) were prepared by the Hungarian Presidency.

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on jurisdiction, applicable law, recognition and enforcement of measures and cooperation in matters relating to the protection of adults

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 81(2) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee¹,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) The purpose of this Regulation is to lay down rules, in cross-border cases, for the protection of adults who, by reason of an impairment or insufficiency of their personal faculties, are not in a position to protect their interests. In particular, this Regulation lays down rules on jurisdiction, applicable law, recognition and enforcement of measures, acceptance of authentic instruments and cooperation between Member States' **courts**, competent authorities and Central Authorities.

¹ Opinion of 13 December 2023 (OJ C/2024/1581).

- (2) The Union has set itself the objective of creating, maintaining and developing the Union as an area of freedom, security and justice in full respect of fundamental rights in which the free movement of persons is ensured. For the gradual establishment of such an area, the Union is to adopt, among others, measures relating to judicial cooperation in civil matters, particularly when necessary for the proper functioning of the internal market.
- (3) In accordance with Article 81(2) of the Treaty on the Functioning of the European Union ('TFEU'), such measures may include those aimed at ensuring the compatibility of the rules applicable in the Member States concerning conflict of laws and jurisdiction and the mutual recognition and enforcement between Member States of judgments and of decisions in extrajudicial cases.
- (4) The Union has adopted a number of legislative acts in the area of judicial cooperation in civil matters having cross-border implications. With the exception of a rule on the capacity of natural persons in the context of cross-border contractual obligations in civil and commercial matters laid down in Article 13 of the Regulation (EC) No 593/2008 of the European Parliament and the Council², none of those Union legislative acts governs the cross-border aspects of legal capacity of natural persons. Similarly, no legal act of the Union governs the civil aspects of the cross-border protection of adults who, by reason of barriers faced in the interaction between an impairment or insufficiency of their personal faculties and a range of personal factors and factors linked to their living environment, are not in a position to protect their interests, or who may require that the support and safeguards in the exercise of their legal capacity provided to them in one Member State continues across the Union.

² Regulation (EC) No 593/2008 of the European Parliament and of the Council of 17 June 2008 on the law applicable to contractual obligations (Rome I) (OJ L 177, 4.7.2008, p.6).

- (5) In the absence of such common rules, various difficulties may arise for the adults who are not in a position to protect their interests in cross-border situations, including where those adults move to another Member State or where they own real property or other assets in another Member State. Difficulties may arise for instance where measures taken in one Member State with a view to protecting the adults, including support measures provided to exercise their legal capacity, need to be invoked in other Member States, or where powers of representation granted by the adults to be exercised by their representatives when the adults are not in a position to protect their interests need to be ~~later~~ invoked abroad. Those difficulties can have serious adverse consequences on legal certainty in cross-border dealings and on the rights and wellbeing of the adults and on respect for their dignity. In particular, fundamental rights of the adults, such as access to justice, the right to autonomy, ~~and~~ the right to property and to free movement, may be negatively affected.
- (6) Uniform private international law rules governing cross-border situations are thus necessary to enhance the protection of fundamental rights of adults with an impairment or insufficiency of their personal faculties. At international level, the Convention of 13 January 2000 on the International Protection of Adults ('HCCH 2000 Protection of Adults Convention') provides for rules on jurisdiction, applicable law, recognition and enforcement of measures for the protection of those adults, on applicable law for powers of representation and rules on cooperation among ~~competent authorities or Central Authorities~~ of its contracting Parties.
- (7) The HCCH 2000 Protection of Adults Convention does not prevent its contracting Parties from furthering their cooperation in the field of the protection of adults beyond the provisions of that Convention itself or even departing from its rules in their mutual relations. In compliance with Article 49 ~~(2) and (3)~~ of the HCCH 2000 Protection of Adults Convention, ~~this Regulation establishes rules in the matters covered by that Convention in respect of adults having habitual residence in a Member State. The~~ rules established by this Regulation should not affect, in the relationship of the Member States with third States that are contracting Parties to the HCCH 2000 Protection of Adults Convention, the application of that Convention.

- (8) This Regulation should incorporate some rules from the HCCH 2000 Protection of Adults Convention, in particular on international jurisdiction and applicable law, and makes them directly applicable in relations between Member States. However, it is appropriate that in relations between Member States, the Union further improves the protection of adults in cross-border situations within the Union, building on the principle of mutual trust between Member States and on the experience from other areas of judicial cooperation in civil matters. This Regulation should thus complement the rules of the HCCH 2000 Protection of Adults Convention by laying down rules aimed to simplify, streamline and modernise the procedures and the cooperation among ~~competent authorities of~~ Member States. In particular, it should be possible to foster the right to autonomy of adults and their right to exercise their legal capacity on an equal basis with others, by facilitating the use, in a cross-border context, of powers of representation, whereby adults have organised in advance their **representation or support** ~~protection~~ for a time when they will not be in a position to look after their own interests, and giving full and immediate effect to choices made by the adults.
- (9) Given the complementarity of this Regulation and the HCCH 2000 Protection of Adults Convention, as well as the need to ensure continued protection of adults in cross-border situations involving Member States and third ~~countries~~ **States**, the interpretation of the rules laid down in this Regulation and those included in the HCCH 2000 Protection of Adults Convention should be aligned, where possible.
- (10) In addition, the interpretation of the rules laid down in this Regulation should be guided by its objectives that are to enhance the protection of fundamental rights and freedoms and other rights of adults in cross-border situations, including their right to autonomy, access to justice, right to property, right to be heard, right to free movement and equality **before the law**.

(10a) In this regard, this Regulation builds on the Charter of Fundamental Rights of the European Union ('Charter') and on international human rights law in this area. In particular, a significant part of adults to which this Regulation applies are persons with disabilities. Their rights, including the right to equality before the law, integrity, access to justice and respect for their inherent dignity and individual autonomy, are guaranteed by the United Nations Convention on the Rights of Persons with Disabilities³ ('UNCRPD'), to which both the Union and its Member States are parties. The rights safeguarded in the UNCRPD are to be protected both in national and cross-border cases, and where measures are taken in relation to persons with disabilities, those measures are to be in line with the UNCRPD. This Regulation, laying down private international law rules for cross-border cases, should be applied consistently with the human rights obligations under the UNCRPD, in particular with its Articles 3, 9, 12 and 19. As contracting Parties to the UNCRPD, Member States are to ensure that their national substantive and procedural laws on the treatment of adults are consistent with the human rights obligations provided by the UNCRPD. In particular, Member States are to respect the equality of adults before the law and their right to enjoy legal capacity on equal basis with others in all aspects of life, with the support that they may require, as well as the autonomy and integrity of the adults in accordance with Article 12 of the UNCRPD. **When taking measures concerning an adult, courts of Member States should give due weight to the views, will and preferences of the adult concerned**⁴.

³ OJ L 23, 27.1.2010, p. 37.

⁴ The intention is to include the relevant aspects of the compliance with the UNCRPD in this general recital. Hence, this sentence was added with a reference to the wills and preferences of the adult. It might be considered whether it should be further elaborated, also in the light of General comment No. 1 (2014), Committee on the Rights of Persons with Disabilities (p. 21), stating that best efforts should be made to respect the wills and preferences of the adult, and if these are not known (ex. coma, advanced dementia), best interpretation of wills and preferences should be given.

- (11) Besides the protection, in cross-border situations, of fundamental rights and freedoms and other rights of adults, ~~including the respect for their will and preferences~~, this Regulation also aims to improve the effectiveness and speed of judicial and administrative proceedings concerning the protection of adults by simplifying and streamlining the mechanisms for cooperation in cross-border proceedings. It further aims to strengthen legal certainty and predictability in cross-border dealings, both for adults and their representatives and for other parties, whether they are public or private entities. Providing greater legal certainty and simpler, streamlined and digitalised procedures should also encourage individuals to exercise their right to free movement.
- (12) This Regulation should cover civil matters ~~concerning~~ ~~involving~~ the protection of adults, in particular related to measures, authentic instruments and powers of representation, aimed at the protection of an adult. ~~The~~ ~~is~~ protection, **including support to adults in decision-making or exercising their legal capacity, co-decision making⁵ and representation⁶**, ~~is~~ ~~may be~~ ~~in particular~~ required due to an insufficiency or an impairment of the personal faculties of the adult, which can be permanent or temporary and, among others, of physical or psychosocial nature, or in connection with **a health condition or a age-related disease**, such as Alzheimer's disease; ~~or resulting from a health condition, such as a coma~~. The **support or other** protection is in particular required where barriers in the interaction with a range of environmental and personal factors hinder their participation in society on equal basis with others, in particular where the insufficiency or impairment of the personal faculties of the adult is such as to **partially or completely** prevent that adult from looking after his or her own interests, such as property interests and personal or health interests. Serious neglect of the personal or property interests of the relatives for whom the adult is responsible may also reveal an impairment or insufficiency of the adult's personal faculties.

⁵ Based on comment (e.g. IE) that this recital seemingly interprets 'impairment or insufficiency' in a narrow way as to possibly exclude certain concepts of national adult's protection system in situations where the adult only needs support but still can make their own decisions, i.e. the impairment is not 'absolute'.

Since the intention was not to exclude the 'less severe' form of impairments (where assistance in decision-making or co-decision making suffices) from the scope, the clarification was made.

⁶ It seems appropriate to refer to both 'represent' and 'support' to make it very clear that we mean both. However, it is possible to have a broad definition of a 'representative' and 'powers of representation' that include both 'represent the adult' and 'to support the adult'. Hence, we have proposed to use 'represent or support' throughout the text.

- (13) Where measures have been taken for the protection of a child, and are to remain in force or take effect after that child reaches the age of majority, they should fall within the scope of this Regulation as soon as the child has reached 18 years of age.
- (14) **This Regulation should, amongst others, provide for the rules on jurisdiction and recognition of measures directed to the protection of adults that are taken by courts of Member States, whatever the measures may be called.** The terminology used for ~~protective~~ measures **of protection** differs in the legal systems of each Member State and these differences in terminology should not affect the recognition of those ~~protective~~ measures **of protection** in other Member States⁷.
- (15) Irrespective of the legal terminology used in each Member State, measures directed to the protection of adults and taken in compliance with the fundamental rights of the adults concerned should circulate without obstacles in the Union. To this end, this Regulation should be interpreted in accordance with the Charter and the UNCRPD. To protect the right to autonomy, safeguards should be provided in this Regulation and make it possible to refuse recognition **or enforcement** of measures which are **manifestly contrary to public policy, or which are** taken without providing the adult with the opportunity to be heard, except in justified exceptional circumstances related to the urgency of the situation **or where the adult is unable to express his or her views due to a medical condition**, ~~or which are manifestly contrary to public policy.~~ Where assessing whether a measure taken by the ~~courts~~ ~~authorities~~ of another Member State is not manifestly contrary to public policy, the **courts or enforcement** authorities of a Member State where the recognition **or enforcement** is sought should assess whether that measure ensures the fundamental rights of the adult, in light of Articles 3, 9 12 and 19 of the UNCRPD.

⁷ To be further considered: whether the notion of measure should include decisions where a court decided that no measure is to be taken.

- (16) To ensure a uniform interpretation of this Regulation, this Regulation should define in particular the notions of adults, representatives and courts authorities, which may have divergent meanings in the Member States legal systems. For the purposes of this Regulation, an adult is a person who has reached the age of 18 years. Depending on the context, this should refer for example to adults who, by reason of an impairment or insufficiency of their personal faculties, are not in a position to protect their interests, or adults who granted powers of representation to be exercised when those adults are not in a position to protect their interests.
- (17) ~~References to a 'representative' in this Regulation should be construed as referring to one or more representative(s), as appropriate.⁸ (18) For the purposes of this Regulation, and in line with the terminology used in the HCCH 2000 Protection of Adults Convention,⁹ The concept of 'court authority' in this Regulation should be interpreted, in line with the terminology of 'authority' used in Chapters II and III of the HCCH 2000 Protection of Adults Convention as a referring to the judicial or administrative authorities^y taking measures directed to the protection of the person or the property of an adult. ~~More broadly, a 'competent authority' should be interpreted as referring to a public authority of a Member State with responsibilities in matters of protection of adults. This includes authorities taking measures, authorities drawing up authentic acts and authorities issuing attestations, forms or the European Certificate of Representation. It further includes other authorities, or entities acting in an official capacity in matters related to the protection of adults, such as those that are responsible for the supervision or implementation of measures.~~~~

⁸ Not needed since "representative" is now included among the definitions.

⁹ Recital 16 speaks of definitions of adult, representative and court. Given this reference, it is more logical to have recital on 'court' first, before getting to the notion of powers of representation and confirmed powers of representation. The new recital on the powers was thus moved after the one on courts.

(18) Powers of representation enable adults to plan, in anticipation of the impairment or insufficiency of their personal faculties, by whom and possibly how they envisage to be supported or represented in the exercise of their legal capacity and autonomy. These powers of representation should include various types of powers provided for by Member States' laws, such as powers granted by an adult to one or more representatives to support the adult in their decision-making or to represent the adult in one or more contexts. This Regulation should not oblige Member States to introduce 'powers of representation' or 'confirmed powers of representation' in their national laws. 'Confirmed powers of representation' are to be understood as a type of powers of representation in respect of which a court or a competent authority has confirmed that the representative vested with these powers can exercise them. While this Regulation should not prescribe a particular process for confirming powers of representation, the concept of 'confirmed powers of representation' is to be interpreted in line with its main purpose in this Regulation, that is to serve as a basis for the issuance of the European Certificate of Representation. Since third parties should be able to rely on the legal presumption that a representative is entitled to exercise the powers as described in that Certificate, the confirmation of powers of representation by a court or a competent authority must give every guarantee of reliability in that regard and must at least ensure that the powers of representation are valid, in force and in conformity with the law applicable¹⁰.

¹⁰ Based on MS requests to provide more clarity on the concept of powers of representation / confirmed powers of representation. It includes the sentence stating that MS don't need to introduce these powers in their national laws if these powers do not already exist.

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

(19a) In accordance with the jurisdiction rules in Articles 5 and 6 of the HCCH 2000 Protection of Adults Convention, primary jurisdiction to take measures should lie with the courts of the State of the habitual residence of the adult. For adults who are refugees and those who, due to disturbances occurring in their State, are internationally displaced, the primary jurisdiction should be with the courts of the State on the territory of which the adult is present.

(20) It is appropriate to supplement the system of international jurisdiction established by the HCCH 2000 Protection of Adults Convention to give due weight to the choice of ~~jurisdiction~~ ~~court~~ made by adults in the Union. To better protect the right to autonomy of the adults, the choice of ~~court~~ ~~jurisdiction~~ made by adults when making arrangements for their future ~~protection~~ ~~representation~~ should be respected without the need for additional proceedings in particular for the approval by the ~~courts~~ ~~authorities~~ of the Member States of the habitual residence of the adults. The choice of court should have been made when the adult was in a position to protect his or her interests at that time, which should be assessed on a case by case basis under the law of the Member State of the chosen court. ~~Nevertheless,~~

- (20a)** Taking into consideration that the personal or financial circumstances of an adult may evolve between the time when the choice of **court jurisdiction** is made and the time when the adult is in need of protection, the courts chosen should have the possibility to assess whether the choice made by the adult is **not contrary to** ~~still in~~ the interests of that adult at the time ~~it is~~~~they are~~ **seised**. This assessment should be made primarily with regard to the views of that adult, and the significance of the changes in his or her living conditions and assets since the time when the choice of **court jurisdiction** was made.
- (21) The establishment of an additional ground of jurisdiction based on the choice of **court by** the adult should not disrupt the mechanism established by the HCCH 2000 Protection of Adults Convention, nor affect the effectiveness of communication between **courts authorities**, and should avoid positive and negative conflicts of jurisdiction. The mechanisms established by Articles 7, 9, 10 and 11 of the HCCH 2000 Protection of Adults Convention giving priority to certain grounds of jurisdiction, limiting the effects of certain measures, and setting up an exchange of information between the **courts authorities with primary jurisdiction** and the **courts authorities** with subsidiary or concurrent jurisdiction, should therefore also apply in the Union to **courts authorities** exercising their jurisdiction according to the choice made by the adults. Thus, those provisions should apply in respect of the **courts authorities** chosen by an adult in the same way as they apply in respect to the **courts authorities** of the habitual residence.

(22) The **court** authorities contemplating the exercise of ~~its~~ ~~their~~ jurisdiction according to the choice made by the adult should not exercise ~~its~~ ~~their~~ jurisdiction where the **courts** authorities **having primary jurisdiction** of the habitual residence of the adult¹¹ have already exercised their jurisdiction, in particular where those **courts** authorities have taken a measure, **even if this measure related only to some aspects of protection of the person or property of the adult**¹², or have decided that no measure should be taken, or where proceedings are pending before them.

(22a) If the validity of a legal act undertaken or to be undertaken on behalf of an adult in succession proceedings before a court of a Member State requires permission or approval by a court, a court in that Member State should be able to decide whether to permit or approve such a legal act even if it does not have jurisdiction under this Regulation. The term 'legal act' should include, for example, the acceptance or rejection of inheritance or an agreement between the parties on the sharing-out or the distribution of the estate.

¹¹ Change made for consistency to cover also situations under Article 6 HC, not only Article 5 HC.

¹² Change made to cover the situation where a court is considering taking a measure of protection in respect of an adult but finds, after making its inquiries, that another MS has already taken a measure that provides partial protection (for example measure concerning the management of some of the adult's property). In that case, the court could transfer its jurisdiction to this other MS on the basis of Article 8 HC.

(23) **The law applicable in matters of protection of adults should be determined in accordance with the provisions of Chapter III of the HCCH 2000 Protection of Adults Convention. Accordingly, when taking measures, Member States' courts should apply the applicable law rules of the HCCH 2000 Protection of Adults Convention. In this context, the reference in Article 13(1) of the HCCH 2000 Protection of Adults Convention to 'the provisions of Chapter II' of that Convention should be understood as referring to the provisions of this Regulation¹³. In addition, the cross-border legal effects of powers of representation should be governed by the applicable law rules in the HCCH 2000 Protection of Adults Convention¹⁴.** This Regulation should fully incorporate the rules on applicable law laid down by the HCCH 2000 Protection of Adults Convention. To ensure consistent application of this Regulation, the reference to Chapter III of the HCCH 2000 Protection of Adults on applicable law should be read as referring to the whole chapter¹, including the rules laid down by Article 16 of the Convention regarding the modification or termination of powers of representation¹.

¹³ The HC says 'in exercising their jurisdiction under the provisions of Chapter II, the authorities shall apply...'. Some MS (FI, CZ, FR) commented that it may not be clear whether this includes the article on the choice of jurisdiction in the Regulation.

¹⁴ Added for visibility.

- (24) Mutual trust in the administration of justice in the Union justifies the principle that measures directed to the protection of adults ~~taken~~ given in a Member State should be recognised in all Member States without any special procedure being required. This should not preclude any interested natural or legal¹⁵ person from invoking a measure either as an incidental question before a court or by applying for a decision that there are no grounds for refusal of recognition or that the recognition is to be refused ~~or that there are no grounds for refusal of recognition~~. It should be for the national law of the Member State where such application is made to determine who should be considered as an interested person entitled to make such application. To safeguard the right of the adults to access to justice and provide them with sufficient remedies, and irrespective of the nature and the extent of the measure, adults should have the right to apply for a decision that there are no grounds for refusal of recognition or that the recognition is to be refused ~~or that there are no grounds for refusal~~.
- (25) The recognition and enforcement of measures in the Union should be based on the principle of mutual trust. Therefore, the grounds for refusal of recognition ~~non-recognition~~ should be kept to the minimum in the light of the underlying aim of this Regulation which is to facilitate recognition and enforcement of measures ~~and the circulation of powers of representation~~ and to effectively safeguard the rights of the adults. In particular, the jurisdiction of the courts ~~authorities~~ of the Member State of origin should not be reviewed and measures taken by those courts should not be reviewed as to their substance in the Member States in which recognition or enforcement are sought. Nevertheless, this should not prevent courts having jurisdiction under this Regulation from modifying or terminating an earlier measure or replacing it by a subsequent one, in the event of new circumstances.

¹⁵ Added to answer FI and SK comments.

(26) It should only be possible to refuse the recognition of a measure **taken in another Member State** if one or more of the grounds for refusal of recognition **in this Regulation** are present. To uphold the principle of mutual trust, the list of grounds for refusal of recognition in this Regulation should be exhaustive.

(26a) Measures directed to the protection of adults may be long-term ones and involve successive adjustments. The rules applicable to refusal of recognition of measures should take account of those changes over time. Therefore, a later measure, taken in a third ~~State~~ country which would have had jurisdiction under the rules of this Regulation, should supersede an earlier measure to the extent that they are irreconcilable. To avoid that incompatible measures are taken in the Member States, the closed system of jurisdiction and the mechanism of mutual information between **courts**, competent authorities and Central Authorities should be established by this Regulation.

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

- (28) The question of the procedure and the method ~~for~~ of the hearing of the adult should be left to national law, with due respect for the rights of adults to accessibility. When a hearing is required in a cross-border context, Member States' courts ~~authorities~~ should use the specific instruments of international judicial cooperation, including, where appropriate, those provided for by Regulation (EU) 2020/1783 of the European Parliament and of the Council¹⁶. Where one of the parties or their representative is present in another Member State at the time of the hearing, they should be able to participate in the hearing through videoconferencing or other distance communication technology provided for in Regulation (EU) 2023/2844 of the European Parliament and of the Council¹⁷, taking into account their procedural rights.

¹⁶ Regulation (EU) 2020/1783 of the European Parliament and of the Council of 25 November 2020 on cooperation between the courts of the Member States in the taking of evidence in civil or commercial matters (taking of evidence) (OJ L 405, 2.12.2020, p. 1–39).

¹⁷ Regulation (EU) 2023/2844 of the European Parliament and of the Council of 13 December 2023 on the digitalisation of judicial cooperation and access to justice in cross-border civil, commercial and criminal matters, and amending certain acts in the field of judicial cooperation (OJ L 2023/2844).

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

(29a) The 'authenticity' of an authentic instrument should be an autonomous concept covering elements such as the genuineness of the instrument, the formal prerequisites of the instrument, the powers of the authority drawing up the instrument and the procedure under which the instrument is drawn up. It should also cover the factual elements recorded in the authentic instrument by the authority concerned, such as the fact that the adult indicated appeared before that authority on the date indicated and that this adult made the declarations indicated¹⁸.

¹⁸ To further explain the authenticity of an authentic instrument. Inspired by Recital 62 of Succession Regulation.

- (30) To facilitate the circulation of measures and authentic instruments in the Union, **this Regulation should** ~~it is necessary to~~ provide for attestations to accompany them where they need to be recognised, enforced, or, as the case may be, accepted abroad. The procedures for rectifying, withdrawing and challenging attestations used for the recognition and enforcement of measures and the acceptance of authentic instruments should be left to national law. In light of the case-law of the Court of Justice, ~~authorities~~ **courts** exercise judicial functions when issuing ~~the~~ attestations **for measures** and **this** issuance of forms part of the continuity of the previous judicial proceedings. Therefore, adequate and effective remedies in the context of this issuance should be made available by Member States.
- (31) Central Authorities should be designated in all Member States. Central Authorities should in particular assist **courts and** competent authorities in cross-border proceedings, and cooperate both in general matters and in specific cases. In individual cases, the cooperation should not be limited to a specific part of the judicial or administrative procedure, and should be initiated and continued where a cross-border element exists and there is a need for cooperation.
- (32) To avoid unnecessary intermediaries and foster ~~expedite~~ **prompt** communication, **courts and** competent authorities should be able to request information or assistance directly from the Central Authority, **or courts, or competent authorities** of the requested Member State, but should also have the possibility, where appropriate, to send their request through the Central Authority of their Member State.

(32a) Among others, the Central Authorities should be tasked with assisting courts [or competent authorities] of other Member States with locating an adult or a natural or legal person who is likely to provide protection to the adult where those persons appear to be present within the territory of the requested Member State. The person likely to provide protection to the adult may include for instance a family member of the adult present in another Member State who is not aware of the ongoing proceedings. Where a court [or competent authorities] presumes that this person is likely to provide protection to the adult, including on the basis of the information provided by the adult himself or herself, but does not possess his or her contact details, it may request another Member State to assist it in determining the whereabouts of that person. Upon such request, the Central Authority of the requested Member State should take appropriate steps to provide that assistance either directly or through any competent authorities or other bodies. The assistance may include, for instance, a search in databases under their responsibilities and should be provided in accordance with the national law and procedure of the requested Member State. National law of the requested Member State should also govern the possibility that a person who, based on the request from the other Member State, is likely to provide protection to the adult, refuses to be identified and to have their whereabouts transmitted to the requesting court [or competent authority].

(33) According to Article 19 of the UNCRPD, persons with disabilities are to have the opportunity to choose their place of residence and where and with whom they live, on an equal basis as others, and not to be obliged to live in a particular living arrangement. For the purposes of this Regulation, situations may arise where the courts authorities of a Member State need to take a measure concerning the place of residence or temporary placement of an adult. Examples of such situations are cases where courts authorities provide assistance to the adult in making a decision on his or her place of residence or where an adult is not in a position to express his or her views and has not granted powers to make a decision concerning his or her place of residence to a representative, and an admission to a care facility is required. Where such placement is to be implemented in another Member State, **the measure of placement should not be taken unless the Central Authority of the Member State in which the placement would be implemented gives consent with the placement.** a consultation procedure for obtaining consent of the Central Authority of the Member State of implementation should be carried out prior to taking that measure. The request for consent made by the ~~authority~~ **court of the requesting Member State** of origin should include **a report on the adult together with** the reasons for the proposed measure, **information on the considered funding** and, **where possible,** the views expressed by the adult concerned ~~where possible,~~ in light of Article 19 of the UNCRPD. **Best efforts should be made to ensure that decisions in the context of the contemplated placement are adopted in a manner that respects the will and preferences of the adult.** **The report from the court of the requesting Member State may also include any other information that the court considers pertinent, such as the expected duration of the placement and envisaged supervision of that measure.** The Central Authority of the **requested** Member State of implementation should be able to decide promptly whether to grant the consent or to refuse it. The absence of a reply within **two months** ~~six weeks~~ should not be understood as consent and without consent the measure should not be implemented. The consultation **for obtaining consent** should not be carried out when the placement is with a **natural person** ~~individual~~ and does not require the supervision of any **competent** public authority of the **requested** Member State of implementation.

- (34) In situations where an adult has substantive connections with a Member State other than the one whose ~~courts~~ ~~authorities have~~ **are exercising** jurisdiction under this Regulation, for example **connections** based on **adult's** his or her regular presence, or complex financial assets in that **Member** State, the appointment of a representative in that other Member State may be required. In those situations, geographical proximity of the representative and good knowledge of the legislation may be necessary to ensure **a smooth implementation of a measure, and of the** the continuity of the **support for** protection of the adult **across borders**. In cases where **the court exercising jurisdiction contemplates designating a competent authority [or a professional representative] from another Member State as a representative of the adult, it should inform the Central Authority of the requested Member State that it contemplates such designation. It may also include any other information deemed relevant, for instance the proposed arrangements concerning the nature and limits of the tasks of the representative, their future supervision or expected duration of the representation or support to be provided. In accordance with its national law and procedure, the Central Authority may transmit the request further to court or other authority competent to deal with that request and may also notify the intended representative about the request. Where the requested Member State requires that the expenses to be incurred by the representative as a result of such designation are recovered, the requesting court should ensure such recovery. The national law of the Member State of the requesting court should govern whether and to which extent these costs should be covered by the parties to the proceeding, including the adult.** that representative in another Member State should be appointed from a competent authority, it should be possible to request the designation of such a representative to the authorities of that other Member State to which the adult has substantive connections, and it should be possible to recover the expenses incurred.

(34a) For the purposes of this Regulation, courts and competent authorities should be able to communicate and exchange information with courts and competent authorities of other Member States, either directly or through their Central Authorities, subject to applicable rules on protection of personal data and confidentiality of information. For instance, a court in a Member State contemplating a measure may request a court or a competent authority of another Member State to communicate information relevant to the protection of an adult, if the situation of the adult so requires. In addition, where courts or competent authorities determine that an adult present in another Member State is exposed to a serious danger, they should inform the courts or competent authorities of that Member State. Furthermore, to enhance judicial harmony and consistency of decisions across Member States and ensure that national records and registers are up-to-date, a court that modifies, replaces or terminates a measure taken by a court of another Member State should endeavour to inform the court which took the measure about such modification, replacement or termination.

(34b) Nevertheless, Central Authorities, courts or competent authorities should not disclose or confirm any information gathered or transmitted for the purposes of this Regulation if they determine that to do so could jeopardise the health, safety or liberty of the adult or another person or place the property of the adult in danger. For example¹⁹, **in circumstances where domestic violence has occurred and a court ordered the new address of the adult not to be disclosed, they may decide to refuse providing contact details of the adult. Where appropriate, it should however be possible for a request under this Regulation to be processed by Central Authorities, courts and competent authorities without them transmitting, disclosing or confirming the information that could jeopardise the health, safety or liberty of the adult or another person or place the property of the adult in danger.**

¹⁹ Recital 88 of Brussels IIb is used as inspiration here, further examples could be added.

- (35) Representatives of adults who, by reason of an impairment or insufficiency of their personal faculties, are not in a position to protect their interests, should be able to invoke their powers to represent **or support** those adults and to protect the interests of those adults without obstacles within the Union. Therefore, representatives should be able to demonstrate easily their status and powers in another Member State, for instance in a Member State in which adult's real property or other assets are located. To enable them to do so, a European Certificate of Representation ('the Certificate') should be created. That Certificate should be a uniform certificate to be issued for use in another Member State. In order to respect the principle of subsidiarity, the Certificate should not take the place of internal documents, which may exist for similar purposes in the Member States.
- (36) The Certificate can be requested by the adult's representative on the basis of an existing measure or confirmed powers of representation (~~the 'source measure' and 'source confirmed powers of representation'~~). It should thus only be issued in situations where an adult is effectively not, **either partially or completely**, in a position to protect his or her interests and the representative is entitled to actively represent **or support** that adult in one or more specific matters.
- (36a)** The Certificate should include information on **the matters in which the representative is entitled to represent or support the adult and on** the extent of the powers which the representative is entitled to exercise. **Where applicable, the Certificate should include information** ~~on behalf of an adult and, where relevant,~~ on the matters where the representative is not entitled to act or is entitled to act under certain conditions **or with certain limitations. Such conditions or limitations may, depending on the circumstances, include requirements for a prior authorisation by a court or supervisory authority before certain transactions can be performed, the obligation for multiple representatives to act or make decisions jointly, or the stipulation that the representative acts solely in support of the adult.**

- (37) The use of the Certificate should not be mandatory. This means that a representative of an adult entitled to apply for a Certificate should be under no obligation to do so but should be free to use national documents or other instruments available under this Regulation (a measure or an authentic instrument) when invoking his or her powers in another Member State. Persons acting on their own behalf should not be required to present a Certificate, so the Certificate should be issued only for representatives who need to demonstrate their powers to act in support or on behalf of an adult.
- (38) To expedite the issuance of the Certificate and to ensure that the **court or** competent authority issuing the Certificate has sufficient information about the case at hand, the competence to issue the Certificate should be vested with the **court or** competent authority **of a Member State**, which has either taken the measure or confirmed the powers of representation, or with another **court or** competent authority that has access to information on **that measure or confirmed powers of representation** ~~source measure or the source~~ ~~powers of representation~~ ('issuing authority'). It should be for each Member State to designate its issuing authorities and to determine whether they may involve other competent **authorities** ~~bodies~~ in the issuing process. The Member States should communicate to the Commission the relevant information concerning the **issuing** authorities empowered to issue a Certificate in order for that information to be made publicly available.

(39) To ensure that the process of the issuance of the Certificate is uniform throughout the Union, this Regulation should provide rules on the issuance of the Certificate. The issuing authority should issue the Certificate upon application and after verifying **that the conditions for the issuance have been fulfilled** the elements to be certified. The process for the application for and the issuance of the Certificate should be simplified by the fact that the **issuing** authority issuing the Certificate has access to the ~~source~~-measure or ~~source~~-confirmed powers of representation **on the basis of which the Certificate is to be issued** and has knowledge concerning their continued validity and the information contained therein. **The issuing authority should also be entitled to request, from the applicant or courts and competent authorities of other Member States, additional information and documents necessary for verifying the conditions for the issuance of the Certificate.** Where feasible, the issuing authority should consult the system of interconnection of ~~protection~~ registers established in this Regulation before the issuance of the Certificate to verify whether a conflicting measure or powers of representation exist in another Member State.

(39a) The Certificate should be issued in a mandatory form set out in the annex to this Regulation. To reduce translation costs when the Certificate is presented in another Member State, the form for the Certificate set out in the annex to this Regulation should be available in all Union languages. Where the applicant indicates in the application for a Certificate that the Certificate should serve to demonstrate their powers for a specific purpose or in a specific context, the issuing authority should, as far as possible, include in the Certificate sufficiently detailed information that reflects that purpose or context.

(39b) The original of the Certificate should remain with the issuing authority. The applicant and persons demonstrating legitimate interest should have the right to receive a certified copy of the Certificate. Member States should be permitted to complement paper-based certified copies with a digital format of the Certificate, allowing the applicant or the other persons to choose the digital format, the certified copy, or both, ~~which should issue one or more certified copies of the Certificate to the applicant. The Certificate should be issued in a mandatory form set out in the annex to this Regulation. To reduce translation costs when the Certificate is presented in another Member State, the form for the Certificate set out in the annex to this Regulation should be available in all Union languages.~~

(40) To ensure that the Certificate and its certified copies remain up-to-date and based on a valid ~~source-measure or~~ ~~source-confirmed~~ powers of representation, the validity of the Certificate and of its certified copies should be limited in time. Upon the expiry of the Certificate, the issuing authority may issue a new Certificate if all the ~~conditions~~ ~~elements~~ for the issuance of the Certificate are ~~fulfilled~~ ~~verified~~. The purpose of the limited validity is to ensure that the issuing authority regularly verifies that the legal situation concerning the adult has not changed, for instance on the basis of a later measure concerning the adult or of a revocation of the representative's powers. The validity of the Certificate should be in principle limited to ~~two~~ ~~one~~ years. However, the issuing authority may determine the validity period of the Certificate differently on a case-by-case basis, in particular bearing in mind the presumption of validity of the Certificate and the effects linked to the issued Certificate, especially the protection of third parties ~~dealing~~ ~~transacting~~ with the representative. The issuing authority should consider in particular the nature and the expected duration of the protection, the validity of the ~~source-measure~~ **on the basis of which the Certificate is to be issued**, any arrangements made by the adult in the ~~source-confirmed~~ powers of representation **on the basis of which the Certificate is to be issued**, as well as the objective that the Certificate should reflect accurately the legal situation of the adult throughout the duration of validity of the Certificate. Against this background, the issuing authority may issue the Certificate for a shorter period than ~~two~~ ~~a~~-years, for instance where the ~~source-measure~~ **on the basis of which the Certificate is to be issued** is to last less than ~~two~~ ~~a~~-years. **The issuing authority may also**, ~~or~~ issue it for a longer period than ~~two~~ ~~years~~ a-year, for instance where ~~that~~ ~~source-measure~~ is to last for several years and the probability of a change of circumstances concerning the adult is minimal, **or where the confirmed powers of representation on which the Certificate is based are of unlimited duration. In any event, the validity of the Certificate should not exceed the duration of the measure or the confirmed powers of representation on which it is based, or a maximum period of five years, whichever is shorter**. The validity period of the certified copies of the Certificate should correspond to the validity period of the Certificate.

- (41) The Certificate should produce the same effects in all Member States. It should not be an enforceable title in its own right but should have an evidentiary effect and should be presumed to demonstrate accurately **the** elements included in the Certificate ~~which have been established under the law applicable to the protection of a particular adult or under any other law applicable to specific elements~~. That presumption of accuracy is strengthened by the fact that before issuing the Certificate, the issuing authority should verify, including through the system of interconnection, that the ~~source~~-measure or the ~~source~~-confirmed powers of representation **on the basis of which the Certificate is to be issued** remain valid and have not been replaced by a later measure or confirmed powers of representation. **The presumption should be rebuttable.** However, ~~the~~ evidentiary effects of the Certificate should not extend to elements which are not governed by this Regulation, such as to the question whether or not a particular asset belonged to the adult.
- (42) Any person **presented with a valid Certificate** who deals with a representative ~~indicated in a valid Certificate as being entitled to represent an adult in a specific matter~~ should be afforded appropriate guarantees if **that person** ~~he or she~~ acted in good faith relying on the accuracy of the information certified in the Certificate. **Such person should be deemed to have dealt with a representative authorised to represent or support the adult in the matters and to the extent specified in the Certificate, provided that any limitations and conditions set out in the Certificate are duly observed. This may include for instance where the** ~~e same guarantee should be afforded to any person who, relying on the information certified in a valid Certificate, gives access to the adult's representative to real property or other assets of the adult, makes payments to the representative, or buys or receives property from that representative, where the representative is indicated in a valid Certificate as being entitled to act on behalf of the adult in those matters. The protection should be ensured if certified copies which are still valid are presented.~~

- (43) To ensure access to justice and to improve the reliability of the Certificate, it is necessary to provide for **the possibility to rectify, modify or withdraw a Certificate, as well as for a redress against decisions of the issuing authority to issue or to refuse to issue a Certificate or decision to rectify, modify or withdraw a Certificate.** **In particular, it should be possible to modify or withdraw a Certificate where it is established that the Certificate or the individual elements thereof are not accurate or valid. The withdrawal should occur where the inaccuracy or invalidity cannot be corrected by modifying the Certificate, such as when the adult is no longer in need of protection, the representative identified in the Certificate is not authorized to represent or support the adult, or the powers indicated in the Certificate substantially differ from those in the measure or confirmed powers of representation on the basis of which the Certificate is issued.** Where the Certificate is rectified, modified or withdrawn, **the issuing authority should promptly inform relevant persons, especially those who have received the certified copies of the Certificate or the Certificate in a digital format,** ~~the issuing authority should inform the persons to whom certified copies have been issued so as to avoid **their** wrongful use of such copies.~~ **A withdrawn Certificate or a previous version of a modified Certificate should be deemed invalid and should not produce legal effects.**

(44) To ensure a continuous protection of adults in cross-border situations in the Union, **courts,** competent authorities and Central Authorities should have access to relevant information on the existence of measures taken by other **courts** authorities, including those measures that have been taken in another Member State. In addition, it is crucial for safeguarding of the right to autonomy and freedom to make one's own choices that the will expressed by an adult in powers of representation is respected, even in cases where those powers of representation have been granted by the adult in another Member State or confirmed by ~~competent authorities of~~ **in** another Member State. In order to improve the provision of information **in matters concerning protection of adults** to relevant ~~competent authorities and Central Authorities~~ and to prevent parallel proceedings or failure to take account of powers of representation, **Member States' registers of measures, confirmed powers of representation and other powers of representation should be interconnected. This Regulation should provide legal basis for that interconnection.**

(44a) Member States should be required to **ensure that relevant data related to the protection of adults are registered in one or more electronic registers. To that effect, Member States should make sure that these** ~~set up and maintain one or more registers recording data related to the protection of adults. Protection registers should record mandatory information concerning measures taken by their **courts** authorities and, where their national law provides for a confirmation by a competent authority of powers of representation, mandatory information concerning those confirmed powers of representation. **Member States should, for that purpose, establish such electronic registers or should make the mandatory information available in their existing electronic registers. These registers should be made interoperable and should be interconnected at the Union level.**~~ ~~To ensure interoperability and availability of information related to the protection of adults in the Union, those Member States that have established, prior to the adoption of this Regulation, registers of protection measures, of confirmed powers of representation, or other types of powers of representation which are registered under their national law, should make the same mandatory information available in those registers.~~

- (44b) Where electronic registers exist of other powers of representation, which are not confirmed, in a Member State under the law of that Member State, these registers should be made interoperable and should be interconnected with the system of interconnection. Nevertheless, this Regulation should not oblige Member States to establish such registers of other powers of representation or to record there information on powers of representation which would otherwise not need to be registered under their law.**
- (45) **It should remain possible that the information on measures, confirmed powers of representation and other powers of representation is included in the same register or in several registers. It should not be obligatory to establish a single central register. To make sure** ensure that the information provided through the system of interconnection **remains adequate** is relevant, **Member States should ensure that the information held in their registers is accurate and up-to-date. In particular, where the information in Member States' register is no longer current, for instance where a measure was modified or replaced, Member States should endeavour to indicate that in the register. Where information included in a Member State's register is no longer relevant, for instance where powers of representation were revoked by the adult or the adult died, the retention period of information in the register should be governed by the national law of that Member State.**
- (45a) To take into account the diversity of the Member States' registers or to make accessible additional information deemed relevant for the protection of adults,** Member States should not be prevented from making available through the system of interconnection additional **data** information besides the **minimum** mandatory information. In particular, Member States should have the possibility to make available through the system of interconnection information in relation to the nature **and extent of the protection** of the ~~measure~~, the name of the representative, or historical data concerning measures and powers of representation recorded prior to the application of this Regulation.

- (46) ~~To facilitate access to the information recorded in protection registers or registers of other powers of representation for competent authorities and Central Authorities with a legitimate interest located in other Member States, those registers of measures, confirmed powers of representation, or other types of powers of representation should be interconnected. This Regulation should provide legal basis for that interconnection.~~
- (47) The interconnection of Member States' registers is an essential component of the cooperation mechanism to safeguard the rights of adults in cross-border cases and ensure legal certainty in the Union. ~~Member States should hence ensure that the information stored in their registers is up to date.~~ **Courts, competent authorities and Central Authorities, which are authorized by their Member State to access the relevant information in their Member State's registers, should have access to the system of interconnection. They should only access information that relates to a matter they are handling or responsible for. Member States should consider granting the access rights to their Central Authorities and their issuing authorities competent for the issuance of the European Certificate of Representation.** ~~The authorities of a Member State, when amending or terminating a measure taken in another Member State, should ensure that appropriate information is provided to the authorities of that other Member State, in particular so that the other Member State can update its protection register(s).~~
- (48) Modern and time-efficient means of ~~written~~ communication among Member States' **courts,** competent authorities and Central Authorities should be ensured. For the proceedings under this Regulation, ~~written~~ communication between Member States' **courts,** competent authorities and Central Authorities should, as a rule, be carried out by electronic means, via a secure and reliable decentralised IT system. The decentralised IT system should be comprised of the back-end systems of Member States and interoperable access points, including the European electronic access point, through which they should be interconnected. The access points of the decentralised IT system should be based on the e-CODEX system established by Regulation (EU) 2022/850 of the European Parliament and of the Council²⁰.

²⁰ Regulation (EU) 2022/850 of the European Parliament and of the Council of 30 May 2022 on a computerised system for the cross-border electronic exchange of data in the area of judicial cooperation in civil and criminal matters (e-CODEX system), and amending Regulation (EU) 2018/1726 (OJ L 150, 1.6.2022, p. 1).

- (48a) For the purposes of this Regulation, Member States should be able to use software developed by the Commission (reference implementation software) instead of a national IT system. That reference implementation software should be based on a modular setup, meaning that the software is packaged and delivered separately from the e-CODEX components needed to connect it to the decentralised IT system. Such a setup should enable Member States to reuse or enhance their existing national judicial communication infrastructure for the purpose of cross-border use.**
- (48b) The Commission should be responsible for the creation, development and maintenance of the reference implementation software, in accordance with the principles of data protection by design and by default, and with accessibility requirements. The Commission should design, develop and maintain the reference implementation software in compliance with the data protection requirements and principles laid down in Regulations (EU) 2018/1725 of the European Parliament and of the Council²¹ and (EU) 2016/679 of the European Parliament and of the Council²², in particular the principles of data protection by design and by default as well as a high level of cybersecurity. In particular, any natural or legal person that takes part in creating, developing or maintaining the national IT systems or the reference implementation software should be bound by those requirements and principles. The reference implementation software should also include appropriate technical measures and should allow for organisational measures, including the necessary oversight for ensuring a level of security and interoperability which is appropriate for the exchange of information in the context of cross-border judicial procedures. In order to ensure interoperability with national IT systems, the reference implementation software should be able to implement the digital procedural standards, as defined in Regulation (EU) 2022/850, for this Regulation.**

²¹ Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).

²² Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).

- (49) **Transmission through the decentralised IT system could be impossible due to a disruption of the system. Any disruption of the system should be resolved as soon as possible by the relevant Member States. The transmission could also be impossible in practice due to the physical or technical nature of what has to be transmitted, such as the transmission of physical evidence or the need to transmit the original document in paper format to assess its authenticity, or due to force majeure. Situations of force majeure, as a general rule, follow from unforeseeable and unavoidable events arising from a cause external to the court, competent authority or Central Authority.**

Transmission through the decentralised IT system could be impossible due to a disruption of the system or where the nature of what has to be transmitted makes transmission by digital means impracticable, such as the transmission of physical or material evidence. Where the decentralised IT system is not used, communication should be carried out by the most appropriate alternative means. Such alternative means should entail, inter alia, transmission being performed as swiftly as possible and in a secure manner by other secure electronic means, ~~or by postal service~~ **or by transmission in person where such transmission is possible.**

- (50) **In order to ensure swift, secure and efficient cooperation, the decentralised IT system should be used by default in the communication between courts, competent authorities and Central Authorities. However, for the purposes of ensuring** ~~To ensure the~~ flexibility of **judicial cooperation in the area of** ~~certain cross-border procedures for the~~ protection of adults, other means of communication could be more appropriate **in certain situations**. Therefore, communication through the decentralised IT system should not be obligatory for direct communication between **courts** ~~authorities~~, in particular where the **courts** ~~authorities~~ need direct personal communication. In such cases, less formal communication means, such as email, could be used. Considering that **courts** ~~authorities~~ deal with sensitive data, the security and reliability of the information exchange should always be **ensured** ~~taken into account~~ when selecting the appropriate means of communication.

(51) It is necessary to provide for a modern means of access to justice making it possible for natural and legal persons and Member States' **courts and** competent authorities to communicate electronically through the European electronic access point established on the European e-Justice Portal by Regulation (EU) **2023/2844** [...] of the European Parliament of and the Council²³[the Digitalisation Regulation].

(51a) In the context of communication by natural and legal persons with courts or competent authorities in cross-border cases, electronic communication should be used as an alternative to the existing means of communication, including national means, without affecting how natural or legal persons communicate with their national courts or competent authorities, in accordance with national law. In the case of communication by legal persons with court or competent authorities, the use by default of electronic means should be encouraged. Nevertheless, to ensure that access to justice through digital means does not contribute to a further widening of the digital divide, the choice of the means of communication between electronic communication, as provided for by this Regulation, and other means of communication should be left to the discretion of the persons concerned. This is particularly important in order to cater for the specific circumstances of persons who might lack the requisite technical means or digital skills to access digital services and persons with disabilities, as the Member States and the Union have committed themselves to taking appropriate measures in accordance with the UNCRPD.

²³ Regulation (EU) 2023/2844 of the European Parliament and of the Council of 13 December 2023 on the digitalisation of judicial cooperation and access to justice in cross-border civil, commercial and criminal matters, and amending certain acts in the field of judicial cooperation (OJ L 2023/2844.) OJ C [number], [X.X.XXXX], p. X

- (52) The European electronic access point should allow the electronic communication of natural and legal persons with Member States' **courts and** competent authorities in the context of the proceedings for a decision **that there are grounds for refusal of recognition of a measure or that there are no such grounds** on the recognition or non-recognition of a ~~measure~~, of the issuance of attestations, and of issuance, rectification, modification, withdrawal, suspension or redress procedures of the European Certificate of Representation. Member States' **courts and** competent authorities should communicate **or serve documents** through the European electronic access point only where the **natural or legal person** individual or private entity concerned **or their representative or a person acting on their behalf such as a lawyer** has given prior express consent to the use of **the European electronic access point as a** this means of communication **or method of service**.
- (52a) In order to enhance electronic cross-border communication and transmission of documents through the decentralised IT system, including through the European electronic access point, those documents should not be denied legal effect and should not be considered inadmissible in the proceedings solely on the grounds that they are in electronic form. However, that principle should be without prejudice to the assessment of the legal effects or the admissibility of those documents, which could constitute evidence in accordance with national law.**

(52b) The legal framework for conducting hearings through videoconferencing or other distance communication technology where one of the parties or their representative or a person acting on their behalf such as a lawyer is present in another Member State established by Regulation (EU) 2023/2844 should apply in proceedings pursuant to this Regulation.

(52c) Regulation (EU) No 910/2014 of the European Parliament and of the Council²⁴, as amended by Regulation (EU) 2024/1183 of the European Parliament and of the Council²⁵, sets up a common Union regulatory framework for the recognition of electronic identification means and electronic trust services ('e-IDAS trust services'), in particular electronic signatures, electronic seals, time stamps, electronic delivery services and website authentication, which are recognised across borders as having the same legal status as their physical equivalents. Therefore, this Regulation should provide for the use of the e-IDAS trust services for the purposes of electronic communication.

²⁴ Regulation (EU) No 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC (OJ L 257, 28.8.2014, p. 73–114).

²⁵ Regulation (EU) 2024/1183 of the European Parliament and of the Council of 11 April 2024 amending Regulation (EU) No 910/2014 as regards establishing the European Digital Identity Framework (OJ L, 2024/1183, 30.4.2024).

(52d) Where a document transmitted as part of electronic communication under this Regulation requires a seal or signature, a qualified electronic seal or signature as defined in Regulation (EU) No 910/2014 should be used by courts, competent authorities or Central Authorities and a qualified electronic signature or electronic identification should be used by natural or legal persons. However, this Regulation should not affect the formal requirements applicable to documents produced in support of a request, which could be electronic originals or certified copies. This Regulation should also be without prejudice to national law regarding the conversion of documents and to any requirements regarding the authenticity, accuracy, reliability, trustworthiness and appropriate legal form of documents or information, except with regard to the conditions relating to the communication by electronic means introduced by this Regulation.

(53) Any processing of personal data under this Regulation should be undertaken in accordance with Regulations (EU) 2016/679²⁶ and (EU) 2018/1725²⁷ and Directive 2002/58/EC of the European Parliament and of the Council²⁸. ~~Personal data should be processed under this Regulation only for the specific purposes set out therein, without affecting further processing for archiving purposes in the public interest in accordance with Articles 5(1)(b) and 89 of Regulation (EU) 2016/679.~~

²⁶ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).

²⁷ Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).

²⁸ Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications) (OJ L 201, 31.7.2002, p. 37).

(54) In general, personal data to be processed under this Regulation should be **personal data included in the information gathered or transmitted pursuant to this Regulation and related to** in particular ~~data contained in the documents handled by Member States' competent authorities and Central Authorities concerning adults within the scope of this Regulation and their representatives.~~ That personal data should concern in particular the **data** ~~information~~ needed to take a measure concerning adults within the scope of this Regulation and to ensure their continued protection in cross-border situations. In applying this Regulation, that personal data will be **processed** ~~handled~~ by Member States' courts, competent authorities and Central Authorities. In addition, the Commission may need to process that data for the purposes of developing and maintaining the **electronic** ~~digital~~ communication means. **Personal data should be processed under this Regulation for the purposes set out in this Regulation, without affecting further processing for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes in accordance with Regulation (EU) 2016/679.** This Regulation should not limit the storage period of information and personal data processed by ~~the Member States' competent authorities and Central Authorities,~~ since the protection of adults often needs to be ensured in a long term and the measures and authentic instruments remain relevant for an extended period of time.

- (55) Besides the above-described data processing, personal data should also be processed under this Regulation **also** for the purposes of establishing the system for the interconnection of **Member States'** protection registers and other registers of powers of representation and of ensuring the maintenance and proper functioning of that system. This additional processing is **necessary to enable courts, competent authorities and Central Authorities to access information on whether the adult concerned by the matter they are handling or responsible for is under protection in another Member State or has expressed, in powers of representation, will and preferences concerning his or her future protection. This will in turn contribute to ensuring** justified by the need that Member States competent authorities and Central Authorities with a legitimate interest have access to information on whether a particular adult is protected in another Member State, with a view to ensuring continued protection of that adult in cross-border situations and to increasing legal certainty and predictability. Member States should be responsible for the technical management, maintenance, and security of their registers and, as far as their national law provides, for the correctness and reliability of the data included therein. Data relating to data subjects should be primarily stored in the registers maintained by Member States. In addition, the Commission may need to process data for the purposes of developing and maintaining the system of interconnection and temporarily store data that are accessed through the system of interconnection.
- (56) Member States' **courts,** competent authorities and Central Authorities should process personal data in accordance with applicable data protection legislation, in particular Regulation (EU) 2016/679. This Regulation should provide for the legal basis for the processing of personal data by ~~Member States' competent authorities and Central Authorities~~ pursuant to Article 6(1) and (3) of Regulation (EU) 2016/679. This Regulation should also provide for the legal basis for processing of personal data by the Commission pursuant to Article 5(1) and (2) of Regulation (EU) 2018/1725.

(57) In addition, data concerning adults processed under this Regulation may also include personal data concerning health of ~~these~~ adults. Those health-related personal data may either be explicitly included in the **information gathered or transmitted** ~~documents~~ ~~processed~~ under this Regulation or they may be indirectly deduced from the fact that an adult is not, by reason of an impairment or insufficiency of his or her personal faculties, in a position to protect his or her interests. Pursuant to Article 9 of Regulation (EU) 2016/679, personal data concerning health should be treated as special category of personal data. This Regulation should provide conditions and safeguards for the processing of those special categories of personal data by Member States' **courts**, competent authorities and Central Authorities in line with Article 9(2) of Regulation (EU) 2016/679. **Personal d** Data will be processed by Member States' **courts** ~~authorities~~ in their judicial capacity in conformity with point (f) of that Article, or the processing will be, in conformity with point (g) of that Article, necessary for reasons of substantial public interest on the basis of this Regulation, which aims to enhance the protection of fundamental rights and freedoms and other rights of adults in cross-border situations, to improve the effectiveness and speed of judicial and administrative proceedings concerning the protection of adults and to strengthen legal certainty and predictability in cross-border dealings. Similarly, this Regulation should provide conditions and safeguards for the processing of those special categories of personal data by the Commission in line with Article 10(2) of Regulation (EU) 2018/1725. That processing of data ~~will be necessary for the establishment, exercise or defence of legal claims in conformity with point (f) of that Article, or the processing~~ will be necessary for reasons of substantial public interest on the basis of this Regulation, in conformity with point (g) of that Article.

(58) Appropriate safeguards should exist for such processing of special categories of personal data and such data should be processed under this Regulation only where it is necessary for and proportionate to the purposes of processing identified under this Regulation. For instance, several safeguards should be introduced when establishing the system of interconnection. The data processed through the system of interconnection should be limited to what is necessary for accessing information about the measures and powers of representation concerning a particular adult. **This Regulation should only require that minimum information including only minimum personal data is shared through the system of interconnection** ~~Data processed through the system of interconnection should thus be limited to the personal data included in the mandatory information defined in this Regulation, unless Member States give access through the system of interconnection to additional data, such as on registered powers of representation, or on the name of a representative and the extent of the representation. The system of interconnection should not store any personal data except for a temporary storage needed to ensure access to them. Access to data through the system of interconnection should not be public. Only the **courts, competent authorities and Central Authorities that have access to their Member State's register** ~~are permitted, under their national law, to access the national registers should have access to the system of interconnection~~ **information in the system of interconnection**, as long as **the information relates to a matter they are handling or responsible for**. ~~Implementing acts should provide further data protection safeguards regarding the digital communication and the interconnection of registers.~~~~

- (59) The European Data Protection Supervisor was consulted in accordance with Article 42 of Regulation (EU) 2018/1725 of the European Parliament and of the Council²⁹ and delivered an opinion on **18 July 2023**~~[date]~~³⁰.
- (60)³¹ In order to ensure uniform conditions for the implementation of this Regulation as regards the establishment of the decentralised IT system and the decentralised system of interconnection provided for in this Regulation, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council³². **The implementing act should enable Member States to adapt their relevant national IT systems for the purpose of connection to the decentralised IT system.**

²⁹ Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).

³⁰ ~~OJ C [number], [X.X.XXXX], p. X.~~

³¹ The order of recitals is to be rearranged according to the order of provisions, once the final text is stable.

³² Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

- (61) The forms and information provided to the public, and the communication between competent authorities and natural persons pursuant to this Regulation should be **available in clear, user-friendly and accessible manner**, in accordance with **the relevant accessibility requirements for services as set out in Annex I of Directive (EU) 2019/882 of the European Parliament and of the Council³³ and Directive (EU) 2016/2102 of the European Parliament and of the Council³⁴**. The accessibility requirement should be assessed and implemented taking account of the nature and the legal effects of the information or the communication. In particular, the attestations and the European Certificate of Representation **technical means of electronic payment of fees referred to in this Regulation should also comply with the applicable rules on accessibility as set out in Directive (EU) 2019/882. At the same time, the European electronic access point which can be used by natural and legal persons for communication under this Regulation** should reflect accurately and in detail the content of the measure taken or the powers of representation granted and should not be simplified. **comply with the web accessibility requirements set out in Directive (EU) 2016/2102.**
- (62) In order to ensure that the attestations provided for in Articles [15](#) and [17](#) and the European Certificate of Representation provided for in Chapter [VII](#) of this Regulation **and other forms** are kept up to date, the power to adopt acts in accordance with Article 290 of the **TFEU** Treaty on the Functioning of the European Union should be delegated to the Commission to amend Annexes I to X to this Regulation. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making³⁵. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

³³ Directive (EU) 2019/882 of the European Parliament and of the Council of the European Union of 17 April 2019 on the accessibility requirements for products and services (OJ L 151, 7.6.2019, p. 70).

³⁴ Directive (EU) 2016/2102 of the European Parliament and of the Council of 26 October 2016 on the accessibility of the websites and mobile applications of public sector bodies (OJ L 327, 2.12.2016, p. 1).

³⁵ Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission on Better Law-Making (OJ L 123, 12.5.2016, p. 1).

(63) In accordance with the principle of mutual trust and to facilitate cross-border procedures, administrative formalities relating to the circulation of public documents should be simplified in matters relating to the protection of adults. Therefore, public documents submitted for the purposes of this Regulation should be exempted from legalisation or similar formality, such as an apostille. That exemption should cover the public documents which are issued by a Member State's public authority and submitted to a public authority of another Member State. That exemption should in particular apply in the context of judicial proceedings with a cross-border element or in procedures established by this Regulation, and should cover public documents directly relating to the protection of adults and other supporting documents.

[(63a) Respect for international commitments entered into by the Member States means that this Regulation should not affect the application of international conventions to which one or more Member States are party at the time when this Regulation is adopted. Without prejudice to the obligations of the Member States under the Treaties, this Regulation should not affect the application of conventions between a third State and a Member State concluded before the date of entry into force of this Regulation which concern matters governed by this Regulation. Consistency with the general objectives of this Regulation, however, requires that this Regulation takes precedence, as between Member States, over conventions concluded between two or more Member States in so far as such conventions concern matters governed by this Regulation.]

(64) In relations between Member States, this Regulation should take precedence over the HCCH 2000 Protection of Adults Convention. However, to ensure that the HCCH 2000 Protection of Adults is applied in relation to third countries that are contracting parties to that Convention and to which this Regulation does not apply, in certain specific circumstances, where the adult has his or her habitual residence in the Union and where the cross-border element of the case at hand involves that third country, this Regulation should not apply. In addition, the cooperation between competent authorities and Central Authorities of a Member State and those of a contracting Party to the HCCH 2000 Protection of Adults Convention should be governed by the relevant provisions of the Convention. **It should be ensured that the Regulation does not affect, in accordance with Article 49 of the HCCH 2000 Protection of Adults Convention, the application of the provisions of that Convention in relations between Member States and third States that are contracting Parties to that Convention. The Regulation should thus take precedence over the HCCH 2000 Protection of Adults Convention only in relations between Member States, for instance as regards the recognition in one Member State of a measure taken in another Member State, as regards cooperation between Member States, and, as regards jurisdiction of courts in the Union, as long as the habitual residence of the adult is in the Union. In contrast, the HCCH 2000 Protection of Adults Convention should continue to govern matters such as the cooperation between a Member State and a third State that is a contracting Party to that Convention, or certain aspects of jurisdiction where the cross-border element of the case at hand involves that third State. For instance, Article 8 of the Convention should apply to a transfer of jurisdiction from a court of a Member State to a court of that third State, and Article 7 of the Convention should apply with respect to an adult who is a national of that third State, even if the adult has his or her habitual residence in the Union.**

- (65) This Regulation should not apply to children below the age of 18 even in cases where they have acquired **legal** capacity before that age. This should avoid an overlap with the scope of the Council Regulation (EU) 2019/1111³⁶ and of the HCCH Convention of 19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Cooperation in Respect of Parental Responsibility and Measures for the Protection of Children³⁷. This should also prevent that certain persons are not covered neither by this Regulation nor by those two instruments.
- (66) In accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, Denmark is not taking part in the adoption of this Regulation and is not bound by it or subject to its application.
- (67) [In accordance with Articles 1 and 2 of Protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the Treaty on the European Union and to the Treaty on the Functioning of the European Union, and without prejudice to Article 4 of that Protocol, Ireland is not taking part in the adoption of this Regulation and is not bound by it or subject to its application.] OR
- (68) [In accordance with Article 3 of Protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the Treaty on the European Union and to the Treaty on the Functioning of the European Union, Ireland has notified [by letter of ...,] its wish to take part in the adoption and application of this Regulation.]

³⁶ Council Regulation (EU) 2019/1111 of 25 June 2019 on jurisdiction, the recognition and enforcement of decisions in matrimonial matters and the matters of parental responsibility, and on international child abduction (OJ L 178, 2.7.2019, p. 1).

³⁷ OJ L 151, 11.6.2008, p. 39.

(69) Since the objectives of this Regulation, namely to enhance the protection of the rights of adults in cross-border situations in the Union, to improve the effectiveness and speed of cross-border proceedings concerning the protection of adults and to increase legal certainty and predictability in those situations, cannot be sufficiently achieved by the Member States, but can rather, by reason of the direct applicability and binding nature of this Regulation, be better achieved at Union level, the Union may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives,

HAVE ADOPTED THIS REGULATION:

Chapter I

SCOPE AND DEFINITIONS

Article 1

Subject matter

This Regulation lays down the rules which:

- (a) determine the Member State whose courts authorities have jurisdiction to take measures directed to the protection of the person or property of the adult;
- (b) determine which law is to be applied by such courts authorities in exercising their jurisdiction;
- (c) determine the law applicable to the representation of the adult;
- (d) provide for the recognition and enforcement of such measures in all Member States;
- (e) provide for the acceptance of authentic instruments in all Member States;
- (f) establish cooperation between the courts, competent authorities and Central Authorities of the Member States to achieve the purposes of this Regulation;
- (hg) **create a European Certificate of Representation;**
- (h) establish a system of interconnection of the Member States' ~~protection~~ registers **of measures, confirmed powers of representation and of other powers of representation**³⁸;

³⁸ Consistency amendment to Chapter VIII to cover the 3 different types of registers.

- (i) ~~digitalise the~~ **establish a uniform legal framework for the use of electronic** communications between **courts**, competent authorities and Central Authorities, and ~~provide digital means of~~ **for the use of electronic** communication between natural ~~and~~ **or** legal persons and **courts or** competent authorities³⁹;

Article 2

Scope

1. This Regulation shall apply in civil matters **concerning** ~~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.
2. This Regulation shall also apply to measures **taken in a Member State** in respect of an adult who had not reached the age of 18 years at the time the measures were taken.
3. The matters referred to in paragraph (1) may, in particular, include:
 - (a) the determination of the incapacity of an adult and the institution of a protective regime;
 - (b) the placing of the adult under the protection of a judicial or administrative authority;
 - (c) guardianship, curatorship and analogous institutions;
 - (d) the designation and functions of any person or body having charge of the adult's person or property, representing, or assisting the adult;
 - (e) ~~decisions concerning~~ the placement of the adult in an establishment or other place where protection can be provided;
 - (f) the administration, conservation or disposal of the adult's property;
 - (g) the authorisation of a specific intervention for the protection of the person or property of the adult.

³⁹ Copied from Article 1 of the Digitalisation Regulation.

4. This Regulation does not apply to:
- (a) maintenance obligations;
 - (b) the formation, annulment and dissolution of marriage or any similar relationship, as well as legal separation;
 - (c) property regimes in respect of marriage or any similar relationship;
 - (d) trusts or succession;
 - (e) social security;
 - (f) public measures of a general nature in matters of health;
 - (g) measures taken in respect of a person as a result of penal offences committed by that person;
 - (h) decisions on the right of asylum and on immigration;
 - (i) measures directed solely to public safety.
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.

Article 3

Definitions⁴⁰

- 1.** For the purposes of this Regulation, the following definitions apply:
- (1) ‘adult’ means a person who has reached the age of 18 years;
 - (2) ‘measure’ means any measure taken by a court~~an authority of a Member State~~⁴¹, whatever it may be called, directed to the protection **of the person or the property** of an adult;
 - (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 interests⁴²;
 - (~~84~~) ‘confirmed powers of representation’ means powers of representation in respect of which a **court or a** competent authority has confirmed that the representative vested with these powers can exercise them;
 - (5) ‘authentic instrument’ means a document in a matter of protection of an adult which has been formally drawn up or registered as an authentic instrument in a Member State and the authenticity of which:
 - (a) relates to the signature and the content of the authentic instrument; and
 - (b) has been established by a public authority or other authority empowered for that purpose by the Member State of origin;

⁴⁰ The order of the definitions has been changed.

⁴¹ Suggestion to delete ‘of a Member State’. This is because Article 10(c) talks about a ‘measure taken in a third country’. There would thus be a contradiction with the definition of a measure.

⁴² Change made to clarify that power of representations need to designate someone as a representative (as opposed to advance directives).

- (46) ‘Member State of origin’ means the Member State in which the measure was taken or the authentic instrument was formally drawn up;
- ~~(6) ‘authority means any judicial or administrative authority of a Member State with competence to take measures directed to the protection of an adult's person or property;⁴³~~
- (7) ‘representative’ means one or more natural or legal person(s) appointed by a court or competent authority or designated by the adult, to represent or support the adult in protecting his or her interests;**
- ~~(9) ‘competent authority’ means a public authority of a Member State with responsibilities in matters of protection of adults⁴⁴;~~
- ~~(10) ‘system of interconnection’ means a system for the interconnection of protection registers and registers of other powers of representation;~~
- (8+10) ‘decentralised IT system’ means a network of IT systems and interoperable access points as defined in point (3) of Article 2 of Regulation (EU) 2023/2844;** a network of IT systems, interoperable access points operating under the individual responsibility and management of each Member State, and the European electronic access point, which enables secure and reliable cross-border exchange of information;
- ~~(12) ‘protection register’ means a register where measures directed to the protection of an adult or confirmed powers of representation have been registered.~~

⁴³ Definition moved to para 2.

⁴⁴ This was replaced by the system of notification for each relevant article.

(913) ‘European electronic access point’ means **a portal** ~~an interoperable access point as~~ defined in point (45) of Article 2 of Regulation **(EU) 2023/2844**~~[...] [the Digitalisation Regulation]~~;

2. For the purposes of this Regulation, the term ‘court’ shall mean any judicial or administrative authority of a Member State with competence to take measures directed to the protection of the person or the property of an adult or with competence to decide on the recognition or non-recognition of a measure taken in another Member State. For the purposes of Chapters II and III of this Regulation, the term ‘authority’, used in Chapters II and III of the HCCH 2000 Protection of Adults Convention, shall also mean court⁴⁵.

Article 4

References to the HCCH 2000 Protection of Adults Convention

Where referred to in this Regulation, the HCCH Convention of 13 January 2000 on the International Protection of Adults ('the HCCH 2000 Protection of Adults Convention'), which is attached to this Regulation, shall apply *mutatis mutandis*.

⁴⁵ GSC lawyer linguist suggestion.

Chapter II

JURISDICTION

Article 5

Application of the jurisdiction rules of the HCCH 2000 Protection of Adults

Convention ~~General jurisdiction~~

Subject to Article [6](#) of this Regulation, jurisdiction shall be determined in accordance with Chapter II of the HCCH 2000 Protection of Adults Convention.

Article 6

Choice of jurisdiction court

1. Notwithstanding Article [5](#), the ~~authorities~~ courts of a Member State other than the Member State in which the adult is habitually resident shall have jurisdiction to take measures where all of the following conditions are met:
 - (a) the adult chose the ~~authorities~~ courts of that Member State, when he or she was ~~still~~ in a position to protect his or her interests;
 - (b) the exercise of jurisdiction is not contrary to ~~in~~ the interest of the adult;
 - (c) the ~~authorities~~ courts of a Member State having jurisdiction under Articles [5](#), [6\(1\)](#) and ~~8 to 8~~ 8 of the HCCH 2000 Protection of Adults Convention have not exercised their jurisdiction.

2. The choice of ~~jurisdiction~~ **court** referred to in paragraph (1) shall be expressed in writing and dated and signed by the adult. Any communication by electronic means which provides a durable record of the choice shall be deemed equivalent to writing⁴⁶.
3. ~~When exercising their jurisdiction in accordance with paragraph (1),~~ The authorities **court** of a Member State **which has taken measures under paragraph (1)** shall notify⁴⁷ **the courts of the Member State of habitual residence of the adult**, using the form set out in **Annex IV**. **This notification may be done directly or through** the Central Authority of the ~~that~~ **that** Member State, ~~of the habitual residence of the adult~~ designated pursuant to Article 18⁴⁸.
4. The references to Article 5 of the HCCH 2000 Protection of Adults Convention contained in Article 7(1), (2), and (3), Articles 9, 10, and Article 11(1) and (2) of that Convention shall be read as also including a reference to this Article. The information provided for in Article 10(4) of that Convention shall also be provided, where applicable, to the ~~authority~~ **court** having exercised ~~its~~**their** jurisdiction in accordance with paragraph (1).

⁴⁶ The order of para 2 and 3 has been changed.

⁴⁷ To be discussed within the WP whether the chosen court should advise/notify the court having the primary jurisdiction before taking a measure/at the time this court is seized once they contemplate taking a measure.

⁴⁸ To be discussed within the WP whether notification has to be made only to the courts of habitual residence or also to those having primary jurisdiction (e.g. 6(1) HC).

Article 7

Non-exclusive jurisdiction

- 1.** Jurisdiction conferred to the ~~courts~~ authorities chosen by the adult pursuant to Article 6 of this Regulation shall not be exclusive, and in particular, **courts having jurisdiction under Articles 5, 6(1) and 8 of the HCCH 2000 Protection of Adults Convention shall not be prevented from exercising it** shall not prevent the authorities having jurisdiction under Articles 5 and 6 of the HCCH 2000 Protection of Adults Convention to exercise their jurisdiction, when the ~~court~~ authorities chosen by the adult ~~has~~ have not exercised ~~its~~ their jurisdiction or when ~~it has~~ they have **declined**⁴⁹ waived such jurisdiction.
- 2.** **If the validity of a legal act undertaken or to be undertaken on behalf of an adult in succession proceedings⁵⁰ before a court of a Member State requires permission or approval by a court, a court in that Member State may decide whether to permit or approve such a legal act even if it does not have jurisdiction under this Regulation.**

⁴⁹ Declined is the word used in the Succession Regulation and may address some of the concerns expressed by MS.

⁵⁰ See new recital 22a.

Chapter III

APPLICABLE LAW

Article 8

Determination of applicable law

The law applicable to the cross-border protection of adults shall be determined in accordance with Chapter III of the HCCH 2000 Protection of Adults Convention.

Chapter IV

RECOGNITION AND ENFORCEMENT OF MEASURES

SECTION 1

RECOGNITION OF MEASURES

Article 9

Recognition of a measure

1. A measure taken by the ~~authorities~~courts of a Member State shall be recognised in the other Member States without any special procedure being required.
2. **Without prejudice to paragraph 1, a**Any interested person, including ~~the adult concerned~~the adult concerned by the measure, may request ~~apply to a~~ apply to a ~~from the authorities~~court of a Member State **for a decision** that **there are no grounds for refusal of recognition** ~~they decide on the recognition or non-recognition~~ of a measure taken in another Member State **or for a decision that the recognition is to be refused on the basis of one of those grounds**⁵¹.
3. If the outcome of proceedings before **a court** ~~the authority~~ of a Member State depends on the determination of an incidental question concerning **recognition or non-recognition of a measure** ~~a refusal or a non-refusal of recognition~~, that ~~authority~~court shall **may** have jurisdiction over that question.
4. **The procedure pursuant to paragraphs 2 or 3 shall be governed by the law of the Member State in which recognition is invoked, without prejudice to Article 10 and Section 3.**

⁵¹ Change based on the SK and LT suggestion to use the language of Article 30(3) of Brussels IIb Regulation instead of the language of the HC.
This reverses the order and puts an emphasis on the fact that recognition is automatic and any proceedings in that regard are an exception.

Article 10

Grounds for refusal of recognition

The recognition of a measure taken in another Member State may⁵² be refused in the following cases:

- (a) if the measure was taken, except in a case of urgency, **or where the adult is unable to express his or her views due to his or her medical condition** ~~in the context of a judicial or administrative proceedings,~~ without the adult having been provided the opportunity to be heard;
- (b) if such recognition is manifestly contrary to public policy of the Member State in which recognition is ~~sought~~ **invoked**;
- (c) if the measure is incompatible with a later measure taken in a third ~~State~~ **country** which would have had jurisdiction under Articles [5](#) or Article [6 of this Regulation](#), where this later measure fulfils the requirements for recognition in the ~~requested~~ Member State **in which recognition is invoked**; **or**
- (d) if the procedure provided in Article ~~21~~ [14](#) has not been complied with.

⁵² A policy decision needs to be taken whether it should stay ‘may’ or be changed to ‘shall’.

SECTION 2
ENFORCEABILITY AND ENFORCEMENT OF MEASURES

Article 11

Enforceability (abolition of exequatur)

A measure taken by the ~~authorities~~ **courts** of a Member State which is enforceable in that Member State shall be enforceable in another Member State without the need for a declaration of enforceability.

Article 12

Enforcement

1. Subject to Section [3](#), the procedure for the enforcement of measures taken in another Member State shall be governed by the law of the Member State of enforcement. A measure taken in a Member State which is enforceable in the requested Member State **of enforcement** shall be enforced in that Member State under the same conditions as a measure taken in the ~~at~~ requested Member State. **The procedure for the enforcement of measures taken in another Member State shall be governed by the law of the Member State of enforcement, without prejudice to paragraph 2 of this Article and to Section 3⁵³.**
2. **The enforcement of a measure may be refused if one or more of the grounds for refusal of recognition referred to in Article 10 is found to exist⁵⁴.** ~~Notwithstanding paragraph [\(1\)](#),~~ ~~¶~~ The grounds for refusal or suspension of enforcement under the law of the requested Member State **of enforcement** shall **also** apply in so far as they are not incompatible with the grounds referred to in Article [10](#).

⁵³ The first sentence is moved based on FR proposal.

⁵⁴ As mentioned in the WP, this sentence should logically be there. Inspiration taken from Article 41 Brussels IIb Regulation.

SECTION 3
COMMON PROVISIONS

Article 13

No review as to the substance

Under no circumstances may a measure taken by the ~~courts~~ authorities of ~~another~~ Member State be reviewed as to its substance **in the Member State in which recognition or enforcement is sought**⁵⁵.

Article 14

Procedure

- 1- A person ~~seeking or contesting recognition, seeking enforcement of or invoking~~ a measure taken in a Member State **or seeking its enforcement** before the **courts or enforcement authorities**~~authorities~~ of another Member State shall produce:
- (a) a copy of the measure that satisfies the conditions necessary to establish its authenticity;
 - (b) an attestation issued pursuant to Article [15](#).

⁵⁵ Change made in line with FR suggestion during the WP meeting, AT and SK comments and with the Maintenance Regulation. This modification is accompanied by more explanatory language in recital 25.

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

Article 15

Attestation

The ~~authority~~**court of the Member State** of origin, shall, at the request of any interested person **demonstrating a legitimate interest**, issue an attestation using the form set out in Annex I ~~reflecting the content of the measure.~~

Article 15a

Legal aid

A person applying for legal aid who, in one Member State, has benefited from complete or partial legal aid or exemption from costs or expenses shall be entitled, in any proceedings for recognition or enforcement of a measure, to benefit from the most favourable legal aid or the most extensive exemption from costs or expenses provided for by the law of the Member State in which proceedings are brought.

Chapter V

AUTHENTIC INSTRUMENTS

Article 16

Acceptance of authentic instruments

1. An authentic instrument established in a Member State shall have the same evidentiary effects in another Member State as it has in the Member State of origin, or the most comparable effects, provided that this is not manifestly contrary to public policy in the Member State **where it is presented**~~concerned~~.
2. The authentic instrument produced shall satisfy the conditions necessary to establish its authenticity in the Member State of origin.

Article 17

Attestation

A person wishing to use an authentic instrument in another Member State may ask the ~~competent~~ authority having formally drawn up or registered the authentic instrument in the Member State of origin, **to issue an attestation using** ~~to fill in~~ the form set out in **Annex II** ~~describing the~~ evidentiary effects which the authentic instrument produces in the Member State of origin.

Chapter VI
COOPERATION AND COMMUNICATION

SECTION 1
CENTRAL AUTHORITIES

Article 18

Designation of a Central Authority

1. Each Member State shall designate one or more Central Authorities to assist with the application of this Regulation and shall specify the geographical and functional competence of each.
2. Where a Member State has designated more than one Central Authority, communications shall be sent directly to the relevant Central Authority with competence. Where a communication is sent to a Central Authority without competence, the latter shall forward it to the Central Authority with competence and inform the sender accordingly.
3. [Member States shall ensure that Central Authorities have sufficient and appropriate facilities in terms of staff, resources and modern means of communication to adequately fulfil their tasks under this Regulation.]

Article 19

Tasks of Central Authorities

1. Central Authorities shall cooperate and promote cooperation **and communication** among the **courts and** competent authorities in their Member States in the application of this Regulation.
2. Central Authorities shall communicate information on national laws, procedures and services in matters relating to the protection of adults, take the **steps** measures that they consider appropriate for improving the application of this Regulation.
3. ~~Central Authorities shall facilitate communications, by every means, between the competent authorities.~~

Article 20

Location of an adult or a person likely to provide ~~support~~protection⁵⁶

The Central Authority of a Member State, either directly or through competent authorities **or other bodies**, shall provide, on the request of ~~an authority~~ **a court [or a competent authority]** of another Member State, assistance in discovering the whereabouts of:

- (a) an adult where it appears that the adult may be present and in need of protection within the territory of the requested Member State;
- (b) a person who is likely to provide ~~support~~**protection** to the adult, **for instance**, in accordance with the information provided by the adult or another **court or** competent authority, where it appears that such person may be present within the territory of the requested Member State.

⁵⁶ Change made for consistency as recital 12 specifies that protection encompasses support.

[PLACEMENT]

Option 1: keeping Art. 21 (incl. possible drafting changes to Art. 21 and recital 33).

Option 2: deleting Article 21 on placement, as well as Art. 10(d), Art. 69(1)(j), recital 33 and Annex IV. It means that measures of placement remain included in scope but there is no consent procedure of the MS where placement takes place.

[Article 21

[Cooperation in the event of contemplated placement in another Member State] / [Cooperation on measures concerning living and related protection arrangements in another Member State]

1. If ~~an authority~~ **a court** of a Member State contemplates the placement of ~~the~~ **an** adult in another Member State in an establishment or other ~~place~~ **institution** where protection **or necessary support** can be provided, it shall first obtain the consent of a Central Authority **[or court or other competent authority]** of that other Member State. To that effect, it shall transmit to ~~the~~ **at** Central Authority **[or court or other competent authority]** of the requested Member State **a request for consent, using the form set out in Annex VI, and include** a report on the adult together with the reasons for the proposed measure, **information on any considered funding, where possible, the views expressed by the adult concerned and other information that the court considers relevant** ~~using the form set out in Annex VI.~~
2. ~~Paragraph (1)~~ **This Article** shall not apply where the placement is contemplated with a **natural** ~~private~~ person **and does not require any supervision of a competent authority of the requested Member State.**

3. The decision on placement in a requested Member State shall not be made in the requesting Member State without a consent given by the Central Authority [or court or other competent authority] of the requested Member State.

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

[54. Paragraphs ~~(1), (2) and (3)~~ **This Article** shall not preclude Central Authorities or competent authorities from entering or maintaining existing agreements or arrangements with Central Authorities or competent authorities of one or more other Member States simplifying the ~~consultation~~ procedure for obtaining consent in their mutual relations.]

Article 22

Designation of a representative abroad

1. Where ~~the authority~~ **a court** of a Member State contemplates the designation of a competent authority, **or a professional representative,** in another Member State as a representative of an adult to provide support for the implementation of a measure, it shall transmit its request to the Central Authority of the requested State using the **form set out in Annex VII.**
2. **The Central Authority may transmit the request referred to in paragraph 1 to a court or other authority in the requested Member State competent to deal with that request.**
3. **Except where exceptional circumstances make this impossible, the decision granting or refusing the designation of the representative shall be transmitted to the requesting court no later than two months following the receipt of the request.**

34. The requested Central Authority, **court or other authority dealing, pursuant to paragraph 2, with the request in the requested Member State** may, before **consenting to** ~~executing~~ the request, **require that the requesting court ensures that the following will be reimbursed:**

(a) the fee paid to the representative; and

(b) the costs occasioned by the implementation of the measure in its Member State.

It may ask the requesting ~~authority~~**court** for an adequate deposit or advance payment towards the requested costs.

5. Where it is required, in accordance with paragraph 4, that the fee or costs are reimbursed or that a deposit or advance payment towards these costs is paid, the requesting court shall ensure that the payments are made.

46. The duty for the parties **to the proceedings before the requesting court, including the adult,** to bear the fees and costs **and to make the deposit or advance payment** pursuant to paragraph ~~(42)~~, shall be governed by the law of the Member State of the requesting ~~court~~**authority**.

Article 23

Meetings of Central Authorities

1. In order to facilitate the application of this Regulation, Central Authorities shall meet regularly.
2. The meeting of Central Authorities shall be convened, in particular, by the Commission within the framework of the European Judicial Network in civil and commercial matters in compliance with Council Decision 2001/470/EC⁵⁷.

⁵⁷ Council Decision 2001/470/EC of 28 May 2001 establishing a European Judicial Network in civil and commercial matters (OJ L 174, 27.6.2001, p.25).

SECTION 2
COURTS AND COMPETENT AUTHORITIES

Article 24

Implementation of measures

The **courts and** competent authorities of a Member State may request, **directly or through the Central Authority of the requested Member State,** the **courts and** competent authorities of another Member State to assist in the implementation of measures.

Article 25

Exchange [and use] of information between ~~authorities~~ courts or competent authorities

1. Where a measure is contemplated **[or to be implemented]**, the ~~authorities~~ **courts** of a Member State, if the situation of the adult so requires, may request any **court or competent authority** authority of another Member State which has information relevant to the protection of the adult to communicate such information.
2. **Where feasible, a court that modifies, replaces or terminates a measure taken by a court of another Member State, shall endeavour to notify without delay the court which took that measure.**
3. The **communication** request referred to in **this Article** paragraph ~~(1)~~ shall be **sent either** transmitted directly or through **a** the Central Authority of the requested Member State.

4. [Courts, competent authorities and Central Authorities to whom information has been transmitted in the context of this Regulation may only use it for the purposes of this Regulation.]

Article 26

Serious danger

1. In the event that the adult is exposed to a serious danger, the **courts or** competent authorities of the Member State where measures ~~for the protection of the adult~~ have been taken or are under consideration, if they are informed that the adult's residence has changed to another Member State, or that the adult is present in another Member State, shall inform the **courts or** competent authorities of that other Member State about the danger involved and, **where relevant, about** the measures taken or under consideration.
2. The information referred to in paragraph (1) shall be transmitted directly or through the Central Authority of the requested Member State.

Direct communication and cooperation between ~~authorities~~ courts

1. — For the purposes of this Regulation, the ~~authorities~~ courts of Member States may cooperate and communicate directly with, ~~or request information directly from,~~ each other **by means that they consider appropriate,** provided that such communication respects the procedural rights of the parties to the proceedings and the confidentiality of information.
2. — The cooperation referred to in paragraph ~~may be implemented by any means that the authority considers appropriate, and may in particular concern the communications for the purposes of:~~
 - (a) — ~~Article;~~
 - (b) — ~~this Chapter.~~
3. — For the purposes of the communication pursuant to Article 8 of the HCCH 2000 Protection of Adults Convention, the ~~authorities of Member States may use the form set out in Annex VIII to this Regulation.~~
4. — For the purposes of the information of the ~~authorities of another Member State pursuant to Article 7, 10 and 11 of the HCCH 2000 Protection of Adults Convention, the authorities of Member States may use the form set out in Annex IX to this Regulation.~~

SECTION 3
GENERAL PROVISIONS

Article 28

Mediation and alternative dispute resolution

Central Authorities, **courts** and ~~courts~~ competent authorities of Member States shall encourage, **to the extent that the specific circumstances of the case allow,** either directly or through other bodies, the use of mediation or other means of alternative dispute resolution, to achieve agreed solutions for the protection of the person or property of an adult in situations to which this Regulation applies.

Article 29

Non-disclosure of information

Central Authorities, **courts** and competent authorities of Member States shall not disclose or confirm information gathered or transmitted for the purposes of this Regulation if they determine that to do so could:

- (a) jeopardise the health, safety or liberty of the adult or another person;
- (b) place the property of the adult in danger.

Article 30

Costs of Central Authorities and competent authorities

- ~~1. The assistance provided by the Central Authorities and the competent authorities pursuant to this Regulation shall be free of charge.~~
- ~~2. Without prejudice to Article 37(2), each Central Authorities and each competent authority shall bear its own costs in applying this Regulation.~~
- 1. Each Central Authority shall bear its own costs in applying this Regulation.**
- 2. The assistance provided by Central Authorities pursuant to this Regulation shall be free of charge.**
- 3. Without prejudice to Article 22(4) and (5) and Article 37(2) and the possibility of imposing reasonable charges for the provision of services, each competent authority shall bear its own costs in applying this Regulation.**
- 4. [This Article shall not preclude Member States from entering or maintaining existing agreements or arrangements with one or more other Member States concerning the allocation of charges.]**

Article 31

Languages

- ~~1. The requests or applications made under this chapter shall be completed in the official language of the requested Member State or, if there are several official languages in that Member State, in the official language or one of the official languages of the place of the Central Authority or the competent authority concerned, or in any other official language of the Union which that Member State has indicated it can accept, unless the Central Authority or the competent authority of that Member State dispenses with translation.~~
- ~~2. The documents accompanying the request or application form shall not be translated into the language determined in accordance with paragraph (1) unless a translation is necessary in order to provide the assistance requested.~~

Article 32

Forms

- 1. Courts, c**ompetent authorities and Central Authorities may use the forms set out in Annexes V and X to this Regulation to send and acknowledge receipt of a request made under this Chapter.
- 2. For the purposes of the communication pursuant to Article 8 of the HCCH 2000 Protection of Adults Convention, the courts of Member States shall ~~may~~ use the form set out in Annex VIII to this Regulation.**
- 3. For the purposes of the information of the courts of another Member State pursuant to Article 7, 10 and 11 of the HCCH 2000 Protection of Adults Convention, the courts of Member States ~~may~~ shall use the form set out in Annex IX to this Regulation.**

Legal aid

~~An applicant who, in the Member State of origin, has benefited from complete or partial legal aid or exemption from costs or expenses shall be entitled to benefit from the most favourable legal aid or the most extensive exemption from costs or expenses provided for by the law of the requested Member State:~~

- ~~(a) — in any proceedings for recognition or enforcement of a measure;~~
- ~~(b) — in the service of a judicial or extrajudicial document in another Member State;~~
- ~~(c) — in proceedings established pursuant to this Chapter.~~

⁵⁸ Moved to Article 15a.

Chapter VII

EUROPEAN CERTIFICATE OF REPRESENTATION

Article 34

Creation of a European Certificate of 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](#).
2. The use of the Certificate shall not be mandatory.
3. The Certificate shall not take the place of internal documents used for similar purposes in the Member States. However, once issued for use in another Member State, the Certificate shall also produce the effects listed in Article [40](#) in the Member State whose **courts or** competent authorities issued it in accordance with this Chapter.

Article 35

Purpose of the Certificate

1. The Certificate shall be issued for use by representatives, who, in another Member State, need to ~~invoke their powers~~ 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.

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 **for** **instance in particular** in one or more of the following matters:
- (a) the control, management and disposition of the adult's real property or other assets;
 - (b) the acquisition of real property or other assets **by the adult**, in the adult's name or on the adult's behalf;
 - (c) the carrying out of a contract entered into by the adult;
 - (d) the carrying on, **by the adult or** on the adult's behalf, of any trade or business;
 - (e) discharge of the adult's responsibilities and legal obligations;
 - (f) the conduct of legal proceedings **and transactions** in the adult's name or on the adult's behalf, **or in support of the adult**;
 - (g) medical decisions, including giving and refusing consent to the carrying out of a medical treatment;
 - (h) decisions concerning the adult's personal welfare and place of residence;
 - [(i) setting aside a transaction made by the adult.]**

Article 36

Competence to issue the Certificate

1. The Certificate shall be issued in the Member State in which a measure was taken or powers of representation were confirmed concerning an adult.

2. The issuing authority of the Member State referred to in paragraph 1 to be designated by each Member State shall be:
- (a) the courts or competent authorities that ~~has~~ has taken a measure appointing a representative or ~~or the court or the competent authority that has~~ confirmed the powers of representation concerning the adult; or
 - (b) another court or competent authority, ~~as designated by the Member State,~~ that has access to the information concerning the measure taken or the confirmed powers of representation.

Article 37

Application for a Certificate

1. The Certificate shall be issued upon an application by a representative (hereinafter referred to as: 'the applicant') 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').~~
2. The application for a Certificate shall contain the following:
- (a) an indication of the intended use of the Certificate in another Member State and, where applicable, specifying the elements that the representative requests to have certified;
 - (b) a declaration by the applicant confirming, to the applicant's best knowledge, that no dispute is pending regarding the measure, the confirmed powers of representation or the elements to be certified, or, if a dispute is pending, specifying whether the measure or the confirmed powers of representation are provisionally applicable;
 - (c) an indication of the requested format for the Certificate, in accordance with Article 41(1);

(d) any additional information and documents required by the Member State of the issuing authority, as notified in accordance with Article 69(1)(n).

23. Member States shall ensure that the fees for obtaining the Certificate, if any, does not exceed the production cost of the Certificate are not prohibitively excessive so as to prevent or discourage applicants from requesting the Certificate.

Article 38

Issuance of the Certificate

1. Upon receipt of the application for the Certificate, the issuing authority shall verify that:
 - (a) the applicant is **authorised** ~~entitled to request the Certificate,~~ in accordance with ~~the powers entrusted to the applicant in the a~~ measure taken or the powers of representation confirmed in the Member State of the issuing authority, **to represent or support the adult concerned** ('the source measure' or 'the source confirmed powers of representation')⁵⁹;
 - (b) the **intended use of the Certificate and the** elements to be certified are in conformity with the **measure or confirmed powers of representation referred to in letter (a)** ~~at source measure or those source confirmed powers of representation;~~
 - (c) ~~that the source measure or those source confirmed powers of representation~~ **referred to in letter (a)** remain valid and have not been replaced by a later measure or confirmed powers of representation;
 - (d) the measure or confirmed powers of representation referred to in letter (a) have not been challenged, or if they have, are provisionally applicable.**

⁵⁹ Source measure deleted based on request from MS for which this wording is unclear. However, it could be reconsidered to simplify the text.

2. The issuing authority shall verify **that** all the **conditions** elements listed in paragraph (1) **are fulfilled**, in particular by referring to the information and documents available to it. It may also carry out further enquiries **in that regard**, necessary to verify those elements. ~~In that regard, it~~ It may request, from the applicant **or other persons**, or from the **courts or** competent authorities of another Member State ~~or from both~~, the information or documents which it deems necessary to verify those **conditions** elements to be certified.
- 3. Courts or competent authorities of other Member States shall, at the request of the issuing authority and subject to Article 29, provide documents or information that the issuing authority requests for the verification of the conditions referred to in paragraph 1.**
34. For the verification of the **conditions** elements listed in paragraph (1), the issuing authority shall, where feasible, also consult the system of interconnection established in Chapter VIII.
- ~~4. The applicant shall, upon request, provide the issuing authority with the documents or information referred to in paragraph (1). Similarly, competent authorities of other Member States shall, upon request, provide the issuing authority with those documents or information held, where that competent authorities would be authorised, under national law, to provide another national authority with such information.~~
5. The issuing authority shall issue the Certificate without delay once **it verifies that** all ~~elements~~ **conditions** listed in paragraph (1) have been **fulfilled** successfully verified. It shall issue the Certificate even if the habitual residence of the adult has changed to another Member State or to a third **State** country. ~~It shall not issue the Certificate if the source measure or the source confirmed powers of representation or elements to be certified have been challenged, unless they are provisionally applicable.~~
6. The Certificate shall be issued using the form set out in **Annex III**.

~~7.~~ The Certificate shall be completed and issued in the language of the Member State of the issuing authority. The Certificate may also be issued in another official language of the Union requested by the applicant. This shall not create any obligation for the issuing authority issuing the Certificate to provide a translation or transliteration of the translatable content of the free text fields.

~~87.~~ **Member States may specify whether certain persons, especially the adult, shall be informed or heard either prior to or following the issuance of the Certificate, in accordance with their law.** The issuing authority shall take all necessary steps to inform the adult and any person with a legitimate interest about the issuance of a Certificate.

~~89.~~ The Certificate shall be valid for a period of ~~4~~ **two** years. **Notwithstanding this period,** ~~Where~~ justified, the issuing authority may decide that the period of validity is to be longer or shorter, in particular where the ~~source~~ measure **on the basis of which the Certificate is to be issued** has a longer or shorter duration than ~~two~~ **a** years. **In any event, the Certificate shall not be valid for a period exceeding the validity of the measure or confirmed powers of representation on the basis of which the Certificate is issued, or a maximum period of five years, whichever is shorter.**

Article 39

Contents of the Certificate

The Certificate shall indicate **in which matters and to which extent the representative is authorised to represent or support the adult, on the basis of the measure or confirmed powers of representation referred to in Article 38(1)(a)**, which powers the representative of an adult has or, as appropriate, in a negative fashion, which powers the representative does not have. Where applicable **As appropriate**, the **issuing authority** Certificate shall also indicate **in the Certificate, in accordance with its law and the measure or confirmed powers of representation**, any limitations of **the representative's** such powers, or conditions attached to such powers, **or in a negative fashion, which powers the representative does not have**.

Article 40

Effects of the Certificate

1. The Certificate shall produce its effects in all Member States, without any special procedure being required.
2. The Certificate shall be presumed to accurately demonstrate **in which matters and to which extent the representative is authorised to represent or support the adult on the basis of a measure taken or powers of representation confirmed in another Member State**, elements which have been established under the law applicable to the source measure or the source confirmed powers of representation or under any other law applicable to their specific elements. The person mentioned in the Certificate as the representative of an adult shall be presumed to have the powers mentioned in the Certificate with no conditions or restrictions being attached to those powers other than those stated in the Certificate. The presumption shall however not extend to elements which are not governed by this Regulation.

3. Any person who, acting on the basis of the information certified in a valid Certificate, deals with someone indicated in the Certificate as the adult's representative with respect to a certain matter, shall be considered to have dealt with someone with authority to represent the adult in that matter, unless the person knows that the contents of the Certificate are not accurate or valid or is unaware of such inaccuracy or invalidity due to gross negligence. **to whom a valid Certificate is presented may rely on the fact that the adult's representative indicated in the Certificate is authorised to represent or support the adult as specified in that Certificate. That person shall be considered to have dealt with an authorised representative of the adult, unless the person knows that the Certificate is not valid, or its contents is not accurate or is unaware of such inaccuracy or invalidity due to gross negligence.**
4. **Without prejudice to Articles 42 to 44, the Certificate shall also cease to produce its effects upon the death of the adult to whom it pertains.**

Article 41

Certified copies and digital format of the Certificate

1. The issuing authority shall keep the original of the Certificate and shall issue **it to the applicant in form of certified copies or, where possible under national law, in a digital format.**
2. **Upon request, the issuing authority shall also issue the Certificate in form of certified copies or, where possible under national law, in a digital format, to any person demonstrating a legitimate interest.**
23. The issuing authority shall, for the purposes of Article 42(3) and Article 44(2), keep a list of **all certified copies and Certificates issued in a digital format** that have been issued pursuant to paragraph 1 of this Article.

34. The end of validity of a certified copy shall correspond with the end of validity of the Certificate pursuant to Article 38(9), to be indicated in the certified copy by way of an expiry date. Once this period has elapsed, any person in possession of a certified copy **or the Certificate in a digital format** shall, ~~in order to be able to use the Certificate for the purposes indicated in Article 35,~~ request the issuance of a new Certificate from the issuing authority.
5. **[Member States may provide that those who have received certified copies of the Certificate shall return those copies to the issuing authority in the event that the Certificate expired, was rectified, modified or withdrawn.]**

Article 42

Rectification, modification or withdrawal of the Certificate

1. The issuing authority shall, ~~at the~~ **upon** request of any person ~~with a legitimate interest or of~~ its own motion, rectify the Certificate in the event of a clerical error.
2. The issuing authority shall, at the request of any person **demonstrating** ~~with a legitimate interest or,~~ where this is possible under national law, of its own motion, modify or withdraw the Certificate where it has been established that the Certificate or individual elements thereof are not accurate or valid.
3. The issuing authority shall without delay inform all persons **referred to in Article 41(1) and (2) and 38(7)** ~~to whom certified copies of the Certificate have been issued pursuant to Article 41(1)~~ of any rectification, modification or withdrawal thereof **of the Certificate**.

Redress procedures

1. Decisions taken by the issuing authority pursuant to Article 38 on the issuance of a Certificate or on the refusal to issue a Certificate may be challenged by any person **demonstrating** with a legitimate interest, **including the persons referred to in Article 38(7)**.

Decisions taken by the issuing authority pursuant to Article 42 and Article 44(1), point (a) may be challenged by any person **demonstrating** with a legitimate interest.

The challenge shall be lodged before a judicial authority in the Member State of the issuing authority in accordance with the law of that Member State.

- ~~2. Member States shall communicate to the Commission the judicial authorities competent to deal with the redress procedures pursuant to paragraph (1).~~

- ~~2.~~ 2. If, as a result of a challenge as referred to in paragraph 1, it is established that the Certificate issued is not accurate or valid, the competent judicial authority shall rectify, modify or withdraw the Certificate or ensure that it is rectified, modified or withdrawn by the issuing authority.

If, as a result of a challenge as referred to in paragraph 1, it is established that the refusal to issue the Certificate was unjustified, the competent judicial authority shall issue the Certificate or ensure that the issuing authority **issues the Certificate** ~~assesses the case and makes a new decision.~~

Suspension of the effects of the Certificate

1. The effects of the Certificate may be suspended by ~~one of the following competent authorities:~~
 - (a) the issuing authority, at the request of any person **demonstrating** with a legitimate interest **or of its own motion**, pending a modification or withdrawal of the Certificate pursuant to Article [42\(2\)](#), **or**;
 - (b) the judicial authority referred to in Article [43](#), at the request of any person entitled to challenge a decision taken by the issuing authority, pending such a challenge.
2. The issuing authority or, as the case may be, the judicial authority shall without delay inform all persons to whom **the Certificate was issued** ~~certified copies of the Certificate have been issued~~ pursuant to Article 41 **(1) and (2)** ~~(1)~~ of any suspension of the effects of the Certificate.

During the suspension of the effects of the Certificate no further certified copies of the Certificate may be issued.

Chapter VIII

ESTABLISHMENT AND INTERCONNECTION OF PROTECTION REGISTERS⁶⁰

Article 45

Establishment and interoperability of protection registers

1. By ~~[two years after the date of the start of application]~~ at the latest, Member States shall establish and maintain in their territory one or several **electronic** registers in which information is recorded concerning:
 - a) ~~protection measures~~ **taken by courts of their Member State;**
 - b) **powers of representation confirmed in their Member State** and, where, if their national law provides for the confirmation of powers of representation, ~~by a competent authority, concerning those powers of representation ('protection registers')~~.
2. **As regards measures, the mandatory** ~~The~~ information recorded in the registers referred to in paragraph (1) shall include, **where applicable,** the following ~~(‘mandatory information’)~~⁶¹:

⁶⁰ This redraft includes only technical drafting changes and is without prejudice to any further policy debate on this Chapter, including the assessment of the common Position of the Austrian, Estonian, Finnish, Slovenian and German Delegations on Chapter VIII (Establishment and Interconnection of Protection Registers) (ST13183/24).

⁶¹ Some MS argued that including additional information would be useful in practice and would increase the added value of the system of interconnection. Accordingly, it may be considered whether one, or more, of the following should be added:

- 1) a summary of the content of the measure;
- 2) an indication that a measure concerning the adult is contemplated by the court (in order to better prevent parallel proceedings and to comply with the information requirement under the HC)
- 3) an indication that the court seized with the case decided that no measure should be taken;
- 4) contact details of the court that took the measure;
- 3) an indication that an appeal is pending against the measure;
- 5) the court or competent authority which has registered the information in the register;
- 6) an indication whether a representative was appointed by the measure and if so, the name of the representative and the nature of the protection.

However, it should be noted that it is possible that MS add additional information in line with para 5 of this Article, this does not have to be a part of the mandatory information.

- (a) an indication that a measure has been taken **concerning a particular adult and the date when the measure was taken** or, where applicable, that powers of representation have been granted or confirmed;
- (b) **the adult's name, place and date of birth and national identification number;**
- (c) **the court which has taken the measure;**
- (d) **the date of expiration or reviewal of the measure;**
- (e) **an indication whether the measure is still subject to an appeal and whether it is provisionally applicable;**
- (f) **an indication when the time limit for challenging the measure should expire;**
- (g) **an indication that the measure was modified, replaced or terminated, in part or in whole.**
- ~~(b) the date of the first measure as well as the date of the subsequent measures taken, or, where applicable, the date when the powers of representation were granted by an adult or were confirmed by a competent authority;~~
- ~~(c) where a measure or a decision on the powers of representation are provisionally applicable, the date on which the time limit for challenging the measure or the decision on the powers of representation expires;~~
- ~~(d) the date of expiration or reviewal of the measures or of the powers of representation, if any;~~
- ~~(e) the competent authority which has taken, modified or terminated the measure or registered, confirmed, modified or terminated the powers of representation;~~
- ~~(f) the adult's name, place and date of birth and, where applicable, national identification number.~~

3. As regards confirmed powers of representation, the mandatory information recorded in the register referred to in paragraph 1 shall include the following, where applicable⁶²:

- (a) an indication that powers of representation have been granted by a particular adult and the date when they were granted and registered;**
- (b) the adult's name, place and date of birth and national identification number;**
- (c) an indication that the powers of representation have been revoked by the adult, withdrawn or modified;**
- (d) an indication that the powers of representation were confirmed and the date when they were confirmed;**
- (e) the court or competent authority which confirmed the powers of representation.**

⁶² As for the previous footnote, it may be considered whether one, or more, of the following should be added:

- 1) the name of the representative and contact details of the representative;
- 2) the nature of the protection to be provided by the representative;
- 3) the court or the competent authority which has registered the information in the register;
- 4) an indication that a court or a competent authority is seized to withdraw or modify the powers of representation;
- 5) contact details of the court or competent authority which has confirmed the powers of representation.

However, it should be noted that it is possible that MS add additional information in line with para 5 of this Article, this does not have to be a part of the mandatory information.

34. **Member States shall endeavour to keep the mandatory information in the registers referred to in paragraph 1 up-to-date.** The **mandatory** information referred to in paragraph ~~(1)~~**this Article** shall be published in the ~~protection~~-registers as soon as possible after the following conditions are met:

(a) the **courts or competent** authorities of the Member State have:

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

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

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

Notwithstanding letter (a), Member States may decide that measures taken by their courts should be registered only after the expiry of the time limit for appealing the measure.

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

6. Member States shall establish and make their registers referred to in this Article interoperable with the decentralised system for the interconnection of registers referred to in Article 47 by [3 years after the entry into force of the implementing act referred to in Article 60(1)] at the latest.

Interoperability of registers of other powers of representation

- 1.** By ~~[two years after the date of start of application]~~ at the late Member States where national law provides for electronic registers recording information concerning other powers of representation which are registered by a **court or a** competent authority, ~~and where national law does not provide for the confirmation of such powers of representation,~~ shall ensure that those registers record the ~~mandatory~~ information referred to in **letters (a), (b) and (c) of Article 45**~~(23)~~.
- 2.** **Member States shall make their registers referred to in this Article interoperable with the decentralised system for the interconnection of registers referred to in Article 47 by [3 years after the entry into force of the implementing act referred to in Article 60(1)] at the latest.**

Interconnection of registers

1. By means of implementing acts, the Commission shall establish a decentralised system for the interconnection **of registers** ('system of interconnection') that is composed of:
 - (a) Member States' ~~protection~~ registers of measures referred to in Article 45 and, where applicable, Member States' ~~protection~~ registers of confirmed powers of representation referred to in Article 45 and Member State's registers of other powers of representation **referred to in** Article 46;
 - (b) a central electronic access point to the information in the system.
2. The system of interconnection shall provide a search service in all the official languages **of the institutions** of the Union in order to make available the following:
 - (a) the ~~mandatory~~ information set out in Articles 45 **and 46(2)**;
 - (b) any other [documents] or information included in the ~~protection~~ registers **referred to in Articles 45 and 46** or other registers of powers of representation, which the Member States choose to make available through the system of interconnection.
3. **The system of interconnection shall be established by [two years after the date referred to in Articles 45(6) and 46(2)].**

Article 48

Condition of access to information via the system of interconnection

1. Member States shall ensure that the information referred to in Article 47(2) is available free of charge via the system of interconnection.
2. The information available through the system of interconnection shall only be available to those **courts**, competent authorities or Central Authorities of a Member State which **have access to that information in their Member State's register.**
 - ~~(a) have access to the mandatory information under their national law;~~
 - ~~(b) have a legitimate interest in accessing this information.~~ **They shall only access information that relates to a matter they are handling or responsible for [which they shall affirm in the system of interconnection by confirming that they have justified interest in accessing particular information].**
3. For the purposes of paragraph (2), ~~point (a)~~ Member States shall provide the means to authorise those **courts**, competent authorities or Central Authorities to access to the system of interconnection.
4. Upon a request made by those **courts**, competent authorities or Central Authorities, the system of interconnection shall automatically make the information referred to in Article 47(2) accessible to them.

Chapter IX

~~DIGITAL~~ ELECTRONIC COMMUNICATION

Article 49

Means of communication between courts, competent authorities or Central Authorities

1. ~~Written~~ Electronic Communication [pursuant to this Regulation]⁶³ between courts, competent authorities or Central Authorities of different Member States, including the exchange of forms set out in Annexes IV to X, shall be carried out through a secure, efficient and reliable decentralised IT system.
2. Communication may, however, be carried out by courts, competent authorities or Central Authorities by alternative means where electronic communication in accordance with paragraph 1 is not possible due to:
 - (a) the disruption of the decentralised IT system;
 - (b) the physical or technical nature of the transmitted material; or
 - (c) force majeure.

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

⁶³ To be further considered: whether this text should be added. Without the addition, it could be understood that electronic communication covers not only communication pursuant to this Regulation but possibly also other communications between Member States (e.g. where the HC or national law or multilateral conventions apply). In the context of some other Regulations, it was considered more appropriate to use the same channels of communication for all communication between Member States (e.g. Maintenance, Brussels IIb).

3. In addition to the exceptions referred to in paragraph 2, where the use of the decentralised IT system is not appropriate in a given situation, any other means of communication may be used. Courts shall ensure that the exchange of information under this paragraph occurs in a secure and reliable manner.

4. Paragraph 3 shall not apply to the exchange of forms provided for by this Regulation.

5. Each Member State may decide to use the decentralised IT system for communication between its national courts or national competent authorities.

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

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

Communication through the European electronic access point

1. The European electronic access point established on the European e-Justice Portal pursuant to Article 4 of Regulation **(EU) 2023/2844** [...] [~~the Digitalisation Regulation~~] may be used for electronic communication between natural and legal persons and Member States' **courts and competent authorities and issuing authorities** in connection with the following **instances**:
 - (a) proceedings for a decision **that there are grounds for refusal of recognition of a measure taken in a Member State or that there are no such grounds** on the recognition or non-recognition of a measure taken in a Member State pursuant to Article **9(2)-10**;
 - (b) an application for the issuance of the attestations pursuant to Articles [15](#) and [17](#);
 - (c) an application for the issuance, rectification, modification, withdrawal, suspension or redress procedures of the European Certificate of Representation pursuant to Chapter [VII](#).
2. Article 4(3), **(4), (5) and (6)** Article 5(2) and (3), and Article 6 of Regulation **(EU) 2023/2844** EU [...] [~~the Digitalisation Regulation~~] shall apply to electronic communications pursuant to paragraph **(1) mutatis mutandis**.

Article 50a

Electronic payment of fees

Article 9 of the Regulation (EU) 2023/2844 shall apply to electronic payment of fees due pursuant to this Regulation.

Article 51

Electronic signatures and electronic seals

1. The general framework for the use of trust services set out in Regulation (EU) No 910/2014 of the European Parliament and of the Council⁶⁴, **as amended by Regulation (EU) 2024/1183**, shall apply to the electronic communication under this Regulation.
2. Where a document transmitted as part of the electronic communication under Article 49(1) requires ~~or features~~ a seal or ~~handwritten~~ signature, qualified electronic seals or qualified electronic signatures as defined in Regulation (EU) No 910/2014 may be used instead.
3. Where a document transmitted as part of the electronic communication under Article 50 requires ~~the~~ or features a seal or ~~handwritten~~ signature **of the person transmitting the document, that person shall fulfil that requirement by means of:**
 - (a) **electronic identification with an assurance level high as specified in Article 8(2), point (c) of Regulation (EU) No 910/2014;** ~~advanced electronic seals, advanced electronic signatures, qualified electronic seals or~~
 - (b) **a** qualified electronic signatures as defined in **Article 3(12) of** Regulation (EU) No 910/2014 ~~may be used instead.~~

⁶⁴ Regulation (EU) No 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC (OJ L 257, 28.8.2014, p. 73–114).

Article 52

Legal effects of electronic documents

Documents transmitted as part of electronic communication shall not be denied legal effect or be considered inadmissible in the context of cross-border ~~judicial~~ procedures under this Regulation solely on the ground that they are in electronic form.

Chapter X

DATA PROTECTION

Article 53

General provision on data protection

1. Personal data **included in the information gathered or transmitted pursuant to** ~~required for the application of this Regulation~~ **may** ~~shall~~ be processed **under this Regulation** by Member States' **courts**, competent authorities and Central Authorities for the purposes of ~~streamlining~~ **facilitating** cross-border procedures and cooperation among Member States in matters falling within the scope of this Regulation and thus for enhancing protection of adults in international situations. In particular, personal data **may** ~~shall~~ be processed under this Regulation for the purposes of:
 - (a) determining the Member States whose **courts** ~~authorities~~ have jurisdiction under Chapter [II](#);
 - (b) determining the law applicable to measures and powers of representation under Chapter [III](#);
 - (c) facilitation of cross-border proceedings for the recognition and enforcement of measures under Chapter [IV](#) **and of acceptance of authentic instruments in all Member States under Chapter V**, ~~including obtaining of a decision on recognition or non-recognition of a measure pursuant to Article [10](#) and the presentation of documents for the purposes of the invocation or enforcement of the measure pursuant to Article [14](#);~~
 - (d) ~~facilitation of the acceptance of authentic instruments in all Member States~~ under Chapter [V](#);

- (ed) cooperation among courts, competent authorities and Central Authorities of Member States under Chapter [VI](#) and of their electronic digital communication pursuant to Article [49](#);
- (fe) electronic communication with Member States' courts and competent authorities that natural and legal persons may use, pursuant to Article 50, in connection with specific proceedings and applications under this Regulation;
- (gf) the issuance of the attestations pursuant to Articles [15](#) and [17](#), of the forms simplifying cross-border cooperation set out in Annexes, and of a European Certificate of Representation pursuant to Chapter [VII](#).

2. **Any processing of personal data carried out by Member States' courts, competent authorities and Central Authorities pursuant to this Regulation shall be in conformity with Regulation (EU) 2016/679. Member States' courts, competent authorities and Central Authorities shall ensure that the information and personal data deemed confidential under the law of the Member State from which it is being transmitted remains confidential in accordance with the rules on confidentiality laid down by their national law.** ~~Personal data to be processed pursuant to this Regulation shall be those contained in the documents handled, for the purposes referred to in paragraph [\(1\)](#), by Member States competent authorities and Central Authorities. Processing of personal data under this Regulation shall be limited to the extent necessary for the purposes set out in paragraph [\(1\)](#), without affecting further processing for archiving purposes in the public interest in accordance with Article 5(1), point (b) and Article 89 of the Regulation (EU) 2016/679.~~

3. For the purposes of this Regulation, **courts**, competent authorities and Central Authorities empowered by Member States to apply this Regulation shall be regarded as controllers within the meaning of Article 4(7) of the Regulation (EU) 2016/679. ~~Controllers shall ensure the security, integrity, authenticity and confidentiality of the data processed for the purposes set out in paragraph [\(1\)](#).~~
4. Notwithstanding paragraph [\(3\)](#), the Commission shall be regarded as a controller within the meaning of Article 3(8) of the Regulation (EU) 2018/1725 with respect to personal data processing by the European electronic access point pursuant to Article [50](#). This processing shall be for the purposes of providing for electronic communication means with Member States' **courts and** competent authorities that natural and legal persons may use in connection with specific proceedings and applications under this Regulation. ~~The Commission shall implement the technical measures required to ensure the security of personal data transmitted, in particular confidentiality and integrity of any transmission.~~

Article 54

Data accessed through the system of interconnection

1. Notwithstanding Article [53](#), processing of personal data under Chapter [VIII](#) on the establishment of ~~protection registers~~ and interconnection of registers shall be governed by the paragraphs 2 to 5 of this Article.
2. Processing of personal data under Chapter [VIII](#) shall be limited to the extent necessary for the purposes of facilitating the cross-border provision of information about a measure or powers of representation concerning a particular adult. Without affecting Article 47(2), point [\(b\)](#), the processing shall be limited to the personal data included in the ~~mandatory~~ information set out in Articles [45](#) **and** [46](#) ~~(2)~~.

3. Personal data shall be stored in the Member States' ~~protection~~ registers referred to in Articles 45 **and 46, and** (1) or registers of other powers of representation referred to in Article 46. ~~The retention period of data in the system of interconnection shall be limited to what is~~ **system of interconnection shall not store any personal data except for temporary storage** necessary to interconnect those registers and to enable the retrieval of and the access to the data from them.
4. Member States shall be responsible, ~~in~~ accordance with Article 4(7) of Regulation (EU) 2016/679⁶⁵, for the collection and storage of data in registers referred to in Articles 45 and ~~Article 46~~ and for decisions taken to make that data available in the system of interconnection referred to in Article 47.
5. With respect to the system of interconnection referred to in Article 47, the Commission shall be regarded as **a** controller within the meaning of Article 3(8) of Regulation (EU) 2018/1725. It shall adopt necessary technical solutions to fulfil its responsibilities within the scope of this function. ~~The Commission shall in particular implement technical measures required to ensure the security of personal data while in transit, especially their confidentiality and integrity.~~

⁶⁵ An alternative to the text in square brackets would be that MS notify who the controller is, in their national context, similarly to Article 79(1) of Regulation 2015/848 on insolvency.

Chapter XI

DELEGATED ACTS

Article 55

Delegation of powers

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

Article 56

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts referred to in Article [55](#) shall be conferred on the Commission for an indeterminate period of time from [*date of entry into force of this Regulation*].
3. The delegation of power referred to in Article [55](#) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.
5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
6. A delegated act adopted pursuant to Article [55](#) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

Chapter XII

GENERAL AND FINAL PROVISIONS

Article 57

Legalisation or other similar formality

No legalisation or other similar formality shall be required for documents issued in a Member State in the context of this Regulation.

*Article 57a*⁶⁶

Languages

1. The attestation referred to in Article 15 shall be completed and issued in the language of the measure. The attestation may also be issued in another official language of the institutions of the European Union requested by the person invoking a measure or seeking its enforcement pursuant to Article 14. This does not create any obligation for the court issuing the attestation to provide a translation or transliteration of the translatable content of the free text fields.
2. The court or enforcement authority before which a person invokes a measure or seeks enforcement of a measure may, where necessary, require that person to provide a translation or a transliteration of the translatable content of the free text fields of the attestation referred to in Article 15. In addition, the court or the enforcement authority may require a translation or transliteration of the measure only if it is unable to proceed without such a translation or transliteration.

⁶⁶ This article centralises all the provisions on languages and translation from Regulation into one place. The provisions are deleted elsewhere. Additional paragraphs were added to address comments raised especially concerning the languages of attestations.

- 3. The attestation referred to in Articles 17 shall be completed and issued in the language of the authentic instrument. The attestation may also be issued in another official language of the institutions of the European Union requested by the person wishing to use an authentic instrument in another Member State. This does not create any obligation for the authority issuing the attestation to provide a translation or transliteration of the translatable content of the free text fields.**
- 4. If necessary, the person using the authentic instrument in another Member State may be required to provide a translation or a transliteration of the translatable content of the free text fields of the attestation referred to in Article 17.**
- 5. The requests or communication made by courts, competent authorities or Central Authorities of one Member State under the Chapter VI of this Regulation to courts, competent authorities or Central Authorities of another Member State shall be completed in the official language of the requested Member State or accompanied by a translation into that language, unless the Central Authority, court or competent authority of the requested Member State dispenses with the translation. If there are several official languages in the requested Member State, the requests or communication shall be made in or translated into the official language or one of the official languages of the place where the request is to be carried out, or any other language that the requested Member State expressly accepts.**

The documents accompanying the requests shall not be translated into the language determined in accordance with the first subparagraph unless a translation is necessary in order to provide the assistance requested.

6. The European Certificate of Representation shall be completed and issued in the language of the Member State of the issuing authority referred to in Article 36(2). The Certificate may also be issued in another language of the institutions of the European Union requested by the applicant. This shall not create any obligation for the issuing authority issuing the Certificate to provide a translation or transliteration of the translatable content of the free text fields.

Article 58

Relations with other instruments

1. This Regulation shall not affect the application of international conventions to which one or more Member States are party at the time of adoption of this Regulation and which concern matters covered by this Regulation.
2. Notwithstanding paragraph 1, this Regulation shall, as between Member States, take precedence over conventions concluded exclusively between two or more of the Member States in so far as such conventions concern matters governed by this Regulation.

Article 59

Relation with the HCCH 2000 Protection of Adults Convention

- ~~1. As concerns the relation with the HCCH 2000 Protection of Adults Convention, this Regulation shall apply:~~
 - ~~(a) subject to paragraph (2), where the adult concerned has his or her habitual residence in the territory of a Member State;~~

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

~~2. Notwithstanding paragraph 1,~~

~~(a) with respect to an adult who is a national of a Party to the HCCH 2000 Protection of Adults Convention in which this Regulation does not apply, Article 7 of that Convention shall apply;~~

~~(b) as concerns the transfer of jurisdiction between an authority of a Member State and an authority of a Party to the HCCH 2000 Protection of Adults Convention in which this Regulation does not apply, Article 8 of that Convention shall apply;~~

~~(c) as concerns cooperation among competent authorities and Central Authorities, Chapter V of the HCCH 2000 Protection of Adults Convention shall apply between a Member State and a Party to that Convention in which this Regulation does not apply.~~

1. This Regulation shall not affect the application of the HCCH 2000 Protection of Adults Convention in respect of other contracting Parties to that Convention in which this Regulation does not apply.

2. Without prejudice to paragraph (1), the rules of jurisdiction in this Regulation shall apply where the adult has his or her habitual residence in the territory of a Member State.

3. Notwithstanding paragraph (2) and without prejudice to paragraph 1,

- (a) Article 7 of the HCCH 2000 Protection of Adults Convention shall apply with respect to an adult who is a national of a contracting Party to that Convention in which this Regulation does not apply;**
- (b) Article 8 of the HCCH 2000 Protection of Adults Convention shall apply as concerns the transfer of jurisdiction between a court of a Member State and a court of a contracting Party to that Convention in which this Regulation does not apply;**
- (c) Article 6 of this Regulation shall not apply, if the measure to be taken by a chosen court would modify, replace or terminate a measure taken in a contracting Party of the HCCH 2000 Protection of Adults Convention in which this Regulation does not apply, or if jurisdiction has been transferred to such contracting Party in accordance with Article 8 of the Convention.**

4. This Regulation shall apply:

- (a) in matters of the recognition or enforcement in one Member State of a measure taken by a court in another Member State;**
- (b) in matters of the acceptance in one Member State of an authentic instrument formally drawn up or registered as an authentic instrument in another Member State;**
- (c) in relation to cooperation and communication between courts, competent authorities and Central Authorities of Member States.**

5. Chapter VII of this Regulation shall not prejudice the application of Article 38 of the HCCH 2000 Protection of Adults Convention.

Article 59a⁶⁷

States with more than one legal system

1. A Member State in which different systems of law or sets of rules of law apply to the protection of the person or property of the adult shall not be bound to apply the rules of this Regulation to conflicts solely between such different systems or sets of rules of law.
2. In relation to a State in which two or more systems of law or sets of rules of law with regard to matters dealt with in this Regulation or in the Chapters II and III of the HCCH Protection of Adults Convention apply in different territorial units:
 - (a) any reference to habitual residence in that State shall be construed as referring to habitual residence in a territorial unit;
 - (b) any reference to the presence of the adult in that State shall be construed as referring to presence in a territorial unit;
 - (c) any reference to the location of property of the adult in that State shall be construed as referring to location of property of the adult in a territorial unit;
 - (d) any reference to the State of which the adult is a national shall be construed as referring to the territorial unit designated by the law of that State or, in the absence of relevant rules, to the territorial unit with which the adult has the closest connection;

⁶⁷ Article on States with more than one legal system is missing in the proposal. This proposed provision is the first draft that should serve as a basis for the discussion on this aspect. The draft follows Articles 44 to 47 of the HC.

- (e) any reference to the State whose courts have been chosen by the adult shall be construed – as referring to the territorial unit if the adult has chosen the courts of this territorial unit; – as referring to the territorial unit with which the adult has the closest connection if the adult has chosen the courts of the State without specifying a particular territorial unit within the State;**
- (f) any reference to the law of a State with which the situation has a substantial connection shall be construed as referring to the law of a territorial unit with which the situation has a substantial connection;**
- (g) any reference to the law or procedure or court of the State in which a measure has been taken shall be construed as referring to the law or procedure in force in such territorial unit or court of the territorial unit in which such measure was taken;**
- (h) any reference to the law or procedure or court of the requested State shall be construed as referring to the law or procedure in force in such territorial unit or court of the territorial unit in which recognition or enforcement is sought;**
- (i) any reference to the State where a measure of protection is to be implemented shall be construed as referring to the territorial unit where the measure is to be implemented;**
- (j) any reference to bodies, courts or competent authorities of that State, other than Central Authorities, shall be construed as referring to those authorised to act in the relevant territorial unit.**

- 3. For the purpose of identifying the applicable law under Chapter III, in relation to a State which comprises two or more territorial units each of which has its own system of law or set of rules of law in respect of matters covered by this Regulation or the HCCH 2000 Protection of Adults Convention, the following rules shall apply:**
- (a) if there are rules in force in such a State identifying which territorial unit's law is applicable, the law of that unit applies;**
- (b) in the absence of such rules, the law of the relevant territorial unit as defined in paragraph 1 applies.**
- 4. For the purpose of identifying the applicable law under Chapter III, in relation to a State which has two or more systems of law or sets of rules of law applicable to different categories of persons in respect of matters covered by this Regulation or the HCCH 2000 Protection of Adults Convention, the following rules shall apply:**
- (a) if there are rules in force in such a State identifying which among such laws applies, that law applies;**
- (b) in the absence of such rules, the law of the system or the set of rules of law with which the adult has the closest connection applies.**

Article 60

Adoption of implementing acts by the Commission

1. The Commission shall adopt implementing acts establishing a decentralised system for the interconnection of registers referred to in Article [47](#) (~~'system of interconnection'~~) setting out the following:
- (a) the technical specification defining the methods of communication and information exchange by electronic means on the basis of the established interface specification for the system of interconnection;

- (b) the technical measures ensuring the minimum information technology security standards for communication and distribution of information within the system of interconnection;
- (c) minimum criteria for the search service provided by the system of interconnection based on the information set out in Article ~~45~~47(2);
- (d) minimum criteria for the presentation of the results of the searches in the system of interconnection based on the information set out in Article ~~47(2)~~45;
- (e) the means and the technical conditions of availability of services provided by the system of interconnection;
- (f) a technical semantic glossary containing a basic explanation of the Member States' of ~~protection~~ measures or of powers of representation;
- (g) specification of the categories of data that can be accessed, including pursuant to Article 47(2), point (b); and
- (h) **technical means for authorising courts, competent authorities and Central Authorities for accessing the system of interconnection**~~data protection safeguards.~~

2. **For the purposes of electronic communications referred to in Chapter IX,** ~~t~~The Commission shall adopt implementing acts ~~establishing the decentralised IT system referred to in Chapter IX,~~ setting out the following:

- (a) the technical specifications **for defining** the methods of communication by electronic means for the purposes of the decentralised IT system **including the European electronic access point**;
- (b) the technical specifications for communication protocols;

- (c) the information security objectives and relevant technical measures ensuring minimum information security standards and a high level of cybersecurity for the processing and communication of information within the decentralised IT system; ~~and~~
- (d) the minimum availability objectives and possible related technical requirements for the services provided by the decentralised IT system;
- (e) ~~data protection safeguards~~ **digital procedural standards as defined in Article 3(9) of Regulation (EU) 2022/850; and**
- (f) **an implementation timetable laying down, inter alia, the dates of the availability of the reference implementation software, referred to in Article 61 of this Regulation, its installation by courts, competent authorities and Central Authorities, and, where relevant, completion of the adjustments to national IT systems necessary for ensuring compliance with the requirements referred to in points (a) to (e) of this paragraph.**

3. The implementing acts referred to in ~~¶~~^This ~~A~~^Article shall be adopted in accordance to the procedure referred to in Article ~~64~~.
4. The implementing acts establishing the system of interconnection pursuant to paragraph 1 shall be adopted by [*3 years after the entry into force*].
5. The implementing acts establishing the decentralised IT system pursuant to paragraph 2 shall be adopted by [*2 years after the entry into force*].

Reference implementation software

1. ~~With a view to setting up the decentralised IT system referred to in Article 50, the~~ Commission shall be responsible for the creation, **accessibility, development and** maintenance ~~and development~~ of reference implementation software which Member States may choose to apply as their back-end system instead of a national IT system ~~for the purposes of the communication between competent authorities and Central Authorities referred to in Article 49 and between natural and legal persons and competent authorities and issuing authorities referred to in Article 50.~~ The creation, **development and** maintenance ~~and development~~ of the reference implementation software shall be financed from the general budget of the Union.
32. The Commission shall provide, maintain and support ~~on a free-of-charge basis~~ the reference implementation software **on a free-of-charge basis**.
3. **The reference implementation software shall offer a common interface for communication with other national IT systems.**

Article 62

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

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

Costs of the decentralised IT system, European electronic access point, and national IT portals

1. As regards the decentralised IT system established pursuant to Chapter [IX](#), each Member State **or entity operating an authorised e-CODEX access point as defined in Article 3(4) of Regulation (EU) 2022/850** shall bear the costs of the installation, operation and maintenance of the decentralised IT system's access points **for which they are responsible**~~which are located on their territory.~~
2. Each Member State **or entity operating an authorised e-CODEX access point as defined in Article 3(4) of Regulation (EU) 2022/850** shall bear the costs of establishing and adjusting its **relevant** national **or, where applicable, other** IT systems to make them interoperable with the access points, and shall bear the costs of administering, operating and maintaining those systems.
3. **The Commission shall inform** Member States **of the possibility of** ~~shall not be prevented from~~ applying for grants to support the activities referred to in paragraphs 1 and 2, under the relevant Union financial programmes.
4. The Commission shall bear all costs related to the European electronic access point.
5. **[Member States shall ensure that adequate resources are allocated to handle communication under this Article.]**

Article 64

Committee procedure

1. The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011⁶⁸.
2. Where reference is made to this ~~Article~~ paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

Article 65

Transitional provisions

1. This Regulation shall apply **to proceedings concerning the protection of adults instituted** ~~only to measures taken,~~ **and** to authentic instrument formally drawn up or registered, and to powers of representation confirmed after **[date of application]**.
2. ~~Notwithstanding paragraph (1),~~ **1** This Regulation shall apply as from [date of application] to powers of representation previously granted by an adult under conditions corresponding to those set out in Article 15 of the HCCH 2000 Protection of Adults Convention.
3. Chapter **VI** on cooperation **and communication** ~~between Central Authorities~~ shall apply to requests **or communication** and application received by the **courts, competent authorities or the** Central Authorities as from **[date of application]**.

⁶⁸ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13–18).

4. **Without prejudice to paragraph 1**, Chapter **VII** on the European Certificate of Representation shall apply to applications for the Certificate received by the issuing authority **ies** as from **[date of application]**.
- ~~65.~~ Chapter VIII on the establishment and interconnection of ~~protection registers and registers of other powers of representation~~ shall apply to the measures taken and the powers of representation confirmed or registered from the **[first day of the month following the date referred to in Article 47(3)]** ~~period of two years after the adoption of the implementing act referred to in Article 60(4)~~.
6. **Articles 49 and 50 shall apply to procedures instituted from the first day of the month following a period of three years from the entry into force of the implementing acts referred to in Article 60(2)**.

Article 66

Monitoring and evaluation

1. By *[10 years after the entry into force]*, the Commission shall carry out an evaluation of this Regulation and present to the European Parliament, to the Council [and to the European Economic and Social Committee] a report on the evaluation of this Regulation supported by information supplied by the Member States and collected by the Commission. The report shall be accompanied, where necessary, by a legislative proposal.
2. As of *[3 years after the entry into force]* **application**, the Member States shall provide the Commission, on an annual basis, within the framework of the European Judicial Network in civil and commercial matters, **and where available**, with:

- (a) the number of measures taken by their courts, in which jurisdiction was based on the grounds laid down in this Regulation and the HCCH 2000 Protection of Adults Convention; number of incoming communications received by their authorities under Article 7 of the HCCH 2000 Protection of Adults Convention, which were sent by authorities of another Member State;
- ~~(b) the number of incoming requests received by their authorities under Article 8 of the HCCH 2000 Protection of Adults Convention, which were sent by authorities of another Member State;~~
- (be)** the number of European Certificates of Representation issued by their issuing competent authorities, as well as the number of requests for rectifications, modifications or withdrawals of European Certificates of Representations previously issued, and, where possible, the division between Certificates issued on the basis of a ~~source~~ measure and those issued on the basis of ~~source~~-confirmed powers of representation;
- ~~(d) the number of incoming requests received by the Central Authorities coming from Central Authorities of other Member States, and where possible the nature of those requests;~~
- (ce)** the number of incoming requests received by their ~~authorities~~ courts, and competent authorities and Central Authorities of other Member States, and where possible the nature of those requests;~~(f) — the average duration of the cases handled by the Central Authorities under this Regulation, based on the number of cases closed during the relevant year. The duration of a case is calculated from the day it is registered by the Central Authority until the day the file is permanently closed.~~

3. As of [4 years after the entry into force of the implementing act referred to in Article 60(2)], Member States shall provide the Commission on an annual basis with the following information relevant for the evaluation of the operation and application of the Chapter IX of this Regulation:

- (a) the number of requests transmitted through the decentralised IT system in accordance with Article 49(1), where such information is available;**
- (b) the number of instances where the European electronic access point was used by natural and legal persons for electronic communication with Member States' courts or competent authorities in instances referred to in points (a), (b) and (c) of paragraph 1 of Article 50 of this Regulation.**

Member States shall make every endeavour to collect the data referred to in paragraph 3.

4. The reference implementation software and, where equipped to do so, the national back-end system shall programmatically collect the data referred to in paragraph 3, point (a) and transmit them to the Commission on an annual basis.

Information made available to the public

1. The Member States shall, with a view to making the information available to the public within the framework of the European Judicial Network in civil and commercial matters, provide factsheets with a short summary of their national legislation, including, where **applicable** available, information on:
 - (a) ~~an indicative list of~~ measures directed to the protection of **the person or the property of an** adults **available under their law**;
 - (b) ~~an indicative list of~~ **rules relating to** powers of representation directed to the protection of adults;
 - (c) the existence of **authentic instruments in the area of protection of adults and their effects** and the procedures for the confirmation of powers of representation;
 - (d) the **relevant courts and competent** authorities which have competence in matters of protection of adults, their roles and contact details where possible;
 - (e) the national procedures applying to the establishment, registration, confirmation, modification and termination of measures and/or powers of representation.
2. The Member States shall keep the information permanently updated.

Article 68

Accessibility

Information provided to the public and forms and applications made available to it under this Regulation shall be made accessible to the public **with the relevant accessibility requirements for services as set out in Annex I to Directive (EU) 2019/882 and Directive (EU) 2016/2102**, in line with the accessibility requirements of Directive (EU) 2019/882.

Article 69

Information to be communicated to the Commission

1. The Member States shall communicate to the Commission the following, **if applicable**:
 - (a) the **courts** authorities competent to decide, **pursuant to Article 9(2), that there are grounds for refusal of recognition** ~~on the recognition or non-recognition of a measure taken in another Member State~~ **or that there are no such grounds** referred to in Article ~~9(2)~~;
 - (b) ~~the authorities competent to issue the attestation referred to in Article 15;~~
enforcement authorities referred to in Article 14;
 - (c) **the authorities referred to in point (b) of point (5) of Article 3 competent to formally draw up or register authentic instruments in matters of the protection of adults;**
 - (d) **the courts and** authorities competent to issue the attestations referred to in Articles ~~15~~ **and 17;**
 - (e) the relevant provisions of their national law on the evidentiary effects of authentic instruments directed to the protection of adults;

- (~~df~~) the conditions for establishing the authenticity of an authentic instrument under their national law, as referred to in Article 16(2);
- (~~e~~) ~~the authorities competent to issue the attestation referred to in Article 17;~~
- (~~gf~~) the names, addresses and means of communication for the Central Authorities designated pursuant to Article 18;
- (**h**) **the competent authorities or professional representatives which can be designated, pursuant to Article 22, as a representative in that Member State;**
- (~~gi~~) ~~where applicable, the names, addresses and contact details of the~~ **courts, competent** authorities and other bodies competent to establish mediation or other means of alternative dispute resolution, referred to in Article 28;
- [(i) the Central Authorities, courts or competent authorities competent to grant or refuse consent in accordance with Article 21;⁶⁹]**
- (~~hk~~) languages accepted for the **requests and communication** translations, pursuant to Article 57a(5) 31;
- (~~il~~) the **issuing** authorities competent to issue the European Certificate of Representation, as referred to in Article 36(2);
- (~~j~~) ~~the authorities competent to deal with the redress procedures, as referred to in Article 43;~~
- (~~km~~) fees, if any, that Member States charge for **obtaining** ~~the issuance of the European Certificate of Representation in accordance with Article 37(23);~~

⁶⁹ Notification to be added if the Article on placement is maintained and, in addition, if it is also agreed that the consent with placement can be given not only by the Central Authority but that also other competent authorities may be competent to grant/refuse the consent (currently in square brackets). If the consent procedure is centralized with Central Authorities, the notification would not be necessary.

(n) any additional information and documents required for the issuance of the Certificate in accordance with Article 37(2)(d);

~~(4o)~~ the judicial authorities competent to deal with redress procedure pursuant to Article [43](#) and with the requests for a suspension of the effects of the Certificate pursuant to Article [44](#);

~~(m)~~ **courts, competent authorities and Central Authorities** referred to in Article 48(2), point ~~(a)~~ having access to information via the system of interconnection of registers.

2. The Member States shall communicate the information referred to in paragraph 1, points (a) to ~~(4o)~~ by **[twelve months before the date of applicable of the Regulation]** ~~the first day of the month following a period of 15 months after the start of application at the latest, and the information referred to in paragraph 1, point ~~(m)~~, by~~ **[nine months before the date referred to in Article 47(3)]** ~~the first day of the month following the period of two years after the date of entry into force of the implementing act referred to in Article 60~~(4)~~.~~
3. The Member States shall communicate to the Commission any changes to the information referred to in paragraph 1.
4. The Commission shall make the information referred to in paragraph 1 publicly available through appropriate means, including through the European e-Justice Portal.

Article 70

Entry into force and application

1. This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

2. It shall apply from [the first day of the month following a period of ~~18~~**36** months from the date of entry into force of this Regulation], **with the exception of:-**

(a) Articles 45, 46, 47, 55, 56, 60, 61, 62, 63, 64, 65, 66 and 69, which shall apply from [the date of entry into force of the Regulation];

(b) Article 67, which shall apply from [12 months before the date of application of the Regulation];

(c) ~~3-~~Articles ~~49~~ and Article ~~50~~, which shall apply from the first day of the month following ~~a~~ the period of ~~three~~two**-years ~~from~~ after the date of entry into force of the implementing act referred to in Article 60~~(1)~~**(2)**;-**

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

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

(d) ~~6-~~Article 38~~(3)~~ and Articles 48 and 54, which shall apply from **[the first day of the month following the date referred to in Article 47(3)],~~the first day of the month following the period of two years after the adoption of the implementing act referred to in Article 60~~(4)~~.~~**

This Regulation shall be binding in its entirety and directly applicable in **the Member States in accordance with the Treaties**~~all Member States~~.

Done at Brussels,

For the European Parliament

The President

[...]

For the Council

The President

[...]

