

France

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1. The regimes for the protection of vulnerable adults and the measures allowing for occasional care are all in the Civil Code in articles 414 et seq. Most of them come from the law n° 2007-308 of 5 March 2007 reforming the legal protection of adults. This law came into force on 1 January 2009.

Thus, in France, there are two regimes that affect the capacity of the person: guardianship and curatorship. Guardianship establishes a total incapacity of the person. As soon as guardianship exists, the person must be represented. The curatorship institutes a partial incapacity. The person can continue to do the simplest acts alone, but must be assisted by his curator for the most serious acts.

In addition to these two regimes, different measures exist and they are more or less incapacitating. The first is "the safeguard of justice". This measure is halfway between a simple measure and a real protection regime. When a safeguard measure exists, the acts carried out by the safeguarded person can be cancelled more easily. However, the safeguarded person continues to do the acts alone unless the judge has set up an assistance in the judgment. The second measure is the mandate for future protection, which is the French version of the "power of attorney". This mandate allows an adult to appoint one or more representatives in advance. When the mandate is activated, the person is not deprived of his or her legal capacity. As with the safeguard of justice, there is only a facilitation of the invalidation of acts. The third measure is the family empowerment. This technique is a representation mode. An adult under family empowerment loses the exercise of the rights entrusted to the person authorised to represent him.

2. Article 425 of the Civil Code specifies: « Any person for whom it is impossible alone to pursue his interests because of an alteration, medically established, either of his mental abilities or of his bodily abilities of such a nature as to prevent the expression of his will, may benefit from a measure of legal protection referred to in the present chapter. »

3. With representation techniques, the vulnerable person can no longer sign a contract. Only his or her guardian can do it. With assistance techniques, the vulnerable person can always sign contracts for low commitments alone. However, he or she must be assisted for serious acts. In this case, both the curator and the protected person must sign the document. In all cases, the protected adult can do the personal deeds alone. Article 458 of the Civil Code provides that: « Acts that are deemed strictly personal are the declaration of the birth of a child, the acknowledgment of a child, acts under parental authority relating to the person of a child, the declaration of the choice or of the change of the name of a child, and the consent to his own adoption or to that of his child ». In addition, the protected person decides alone for his or her person when his or her condition allows it (art. 459 Civil Code).

4. France signed the CRPD the 30 March 2007, i.e. just a few days after the adoption of the main domestic reform on the protection of vulnerable adults. But it only came into force in France on 20 March 2010. No other major domestic law reforms have taken place since then. Only family empowerment is a measure introduced after the 2007 law (see supra). It was created by the Ordinance of 15 October 2015 on the simplification and modernisation of family law.

France has also signed the Hague Convention of 13 January 2000 on the International Protection of Adults. It entered into force in France on 1 January 2009, i. e. on the same day as the law of 5 March 2007.

5. On 31 December 2014, there were just fewer than 680,000 adults under judicial protection, including 365,000 under guardianship (54%) and 313,000 under curatorship (46%). The average age of protected persons varies according to the type of measure and their sex: persons under guardianship are on average 64 years old and almost 10 years older than those under curatorship. Women under protection are on average 12 years older than men. If women are in a slight majority among the population of protected adults, they are particularly over-represented in the population of persons under guardianship over 80 years of age.