Council approves final version of an EU Regulation on Adults

On 19 November the Council of the EU approved the Regulation on jurisdiction, applicable law, recognition and enforcement of measures and cooperation in matters relating to the protection of adults.

At the vote in the Council, all Member States agreed except Spain. Denmark and Ireland did not participate in the vote, as they will not be participating in the Regulation, i.e. the Regulation will not bind them (confirmed in Recitals 93 and 94). The fact that Spain voted against the Regulation is part of the legislative process, but did not obstruct the adoption of the text according to the general legislative procedure (Art. 81(2) TFEU). Spain will still be bound by the Regulation once it enters into force.

The text of the Regulation is available on the Council's website, and will soon be published in the Official Journal, under its new official number. It will then enter into force 20 days later, although most of the provisions will only become applicable 30 months later (Art. 72).

As previously reported on this Blog, the process started in May 2023 with the Commission's proposal. The Proposal was accompanied by a Proposal for a Council Decision authorising Member States that have not already done so to ratify the Hague Convention of 13 January 2000 on the International Protection of Adults. The latter Proposal has been somewhat delayed and is yet to pass through the final vote of the European Parliament and the Council. However, since the Convention is annexed to the Regulation, the Regulation's entry into force will not be delayed due to a delay in the accessions or ratifications by the Member States of the Convention.

The main differences between the final version of the Regulation and the Commission's Proposal are (non-exhaustive list):

- more attention to supported decision-making and co-decision-making, instead of only representation;
- the choice of court is restricted to a limited number of States, showing a link to the adult on the basis of nationality, habitual residence, habitual

residence of the support person/representative, or the location of property;

- new rules on incidental questions;
- provisions on States with more than one legal systems in the Applicable Law Chapter;
- no interconnection of protection registers at this stage.