Cross-border protection of vulnerable adults

(ongoing study)

- The New European Certificate of Support & Representation -

Luisa Clode

Latvia – 12 November 2026

Co-funded by the European Union

EP Adoption & Legal Framework Intersection

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

Adopted Oct 20, 2026

Parliament Adoption

Passed by **531 votes in favour** (93 against, 41 abstentions). Introduces a harmonised legal framework safeguarding autonomy and cross-border rights.

Entry into Force

Timeline & Application

Enters into force 20 days post-publication in the OJ. Applicable on the 1st day of the month following a transition period (30 months).

Direct interest to Land Registries

Provisions encompass protective measures extending beyond personal healthcare or residence to include the **cross-border management, acquisition, and disposition of immovable properties**.

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Individual Autonomy & The Shift to the Certificate

Autonomy & Subsidiarity

- Adults can predetermine applicable law via advance support arrangements.
- **Art 5 TEU:** Respects domestic substantive civil law diversity without compelling national law changes.
- Measures circulate freely without exequatur or validation procedures.

Evolution of ELRA Focus

- Final text **eliminated interconnected central registers**, choosing decentralised digital channels between Central Authorities.
- Focus on the **European Certificate of Support and Representation**.
- Certificate does not replace national documentation; its use remains **optional**.

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Competence

8 Operational Pillar Issues

Issuing Competence (Art 42 / Recital 57): Vested in the court or authority that enacted the measure/confirmed powers, or an issuing authority granted direct access to such information.

1. Application & Entitlement
Adult or authorized representative (Art 43)

2. Verification Process
Ex-ante scrutiny by legal authority (Art 44)

3. Content of Certificate
Scope and limits (Art 45)

4. Mandatory Format
Annex III form, paper/digital, eIDAS (Art 44(4))

5. Validity Duration
1 year default, max 5 years (Art 46)

6. Modification / Withdrawal
Rectification & surrender of copies (Art 48/50)

7. Legal Effects
Rebuttable presumption & 3rd party faith (Art 46)

8. Rights of Redress
Judicial challenge in issuing MS (Art 49)

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1. Application
2. Ex-Ante Verification

Application (Art 43)

- Covers full representation and supported decision-making (likewise **UNCRPD)**.
- Mandatory cross-border declaration of use.
- Declaration confirming no active legal dispute.
- Format choice: Paper, digital, or both.
- Supplementary documentation deemed relevant

Verification (Art 44)

- Scrutiny by legal professionals (inspired by traditional title registration)
- Verifies authorization, accuracy, and non-revocation.
- Verifies measures are not under active challenge.
- **Operational Challenge:** Lacking interconnected registries makes verifying active disputes difficult.

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3. Content Specification
4. Format Standards

Content Details (Art 45)

- Explicitly delineates authorized scope, validity date, and negative powers.
- Specifies conditional parameters (e.g., joint representation rules).
- ***Ex-lege* conditions: Statutory judicial authorization for immovable property must be endorsed on the Certificate face.**

Mandatory Format (Art 44(4))

- **Annex III Form:** Multilingual template eliminating Union translation costs.
- **Digital Security:** eIDAS compliant electronic signature/seal.
- **Registry of Copies:** issuing authority maintains a comprehensive registry of all issued Certificates and certified copies
- **External duplicate** copies from public or private entities ought not to be accepted

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5. Period of Validity
6. Modification / Withdrawal

Period of Validity (Art 46)

- **Standard Duration:** Restricted to 1 year to ensure continuous monitoring.
- **Possibility of Extension:** Extended on case-by-case basis up to **max 5 years**.
- Validity cannot exceed operational length of underlying measure or confirmed power of representation.

Rectification & Withdrawal (Arts 48, 50)

- **Rectification:** Corrects purely clerical/typographical errors.
- **Modification:** Adjusts operational changes in powers.
- **Withdrawal:** Extinguishes certificate when protection ends or measure is revoked.
- Withdrawn certificates lose legal effect; physical copies must be surrendered.

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7. Legal Effects
8. Rights of Redress

Presumption & Third Parties (Art 46)

- **Rebuttable Presumption:** Prima facie evidence of status across all Member States.
- **Third-Party Protection:** Dealing in good faith with representative is legally valid unless actual knowledge of inaccuracy or gross negligence exists.
- Evidentiary instrument, but not an enforceable title *per se*.

Rights of Redress (Art 49)

- Issuance, refusal, modification, or withdrawal subject to legal challenge.
- Available to any individual demonstrating a legitimate legal interest.
- Lodged before judicial authority in the issuing Member State.

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The Critical Equilibrium

Land Registry Assessment

Vulnerability: Absence of Interconnected Registers

The elimination of the proposed mandate for interconnected central registers introduces a **vulnerability into legal certainty**.

Lacking a real-time digital ledger to verify revocation, conveyancers and land registries are forced to rely on face value.

Risk Shift to Practitioners

Shifts transactional uncertainty risks onto local legal practitioners and conveyancers.

Fraud Prevention Gap

Leaves a critical gap in Union-wide preventive frameworks against representation abuse.

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Thank you very much for your attention

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