

Suppliment tal-Gazzetta tal-Gvern ta' Malta, Nru. 21,008, 17 ta' Frar, 2023

Taqsim A

MALTA

ATT Nru III tal-2023

ATT maħruġ b'ligi mill-Parlament ta' Malta.

ATT sabiex jippermetti lil Malta tirtatifika l-Konvenzjoni tal-Aja tas-sena 2000 dwar il-Protezzjoni Internazzjonali tal-Adulti.

ACT No. III of 2023

AN ACT enacted by the Parliament of Malta.

AN ACT to enable Malta to ratify the 2000 Hague Convention on the International Protection of Adults.

Nagħti l-kunsens tiegħi.

(L.S.)

GEORGE VELLA
President

17 ta' Frar, 2023

ATT Nru III tal-2023

ATT sabiex jippermetti lil Malta tirratifika l-Konvenzjoni tal-Ajattas-sena 2000 dwar il-Protezzjoni Internazzjonali tal-Adulti.

IL-PRESIDENT, bil-parir u l-kunsens tal-Kamra tad-Deputati, imlaqqgħa f'dan il-Parlament, u bl-awtorità tal-istess, hareġ b'ligi dan li ġej:-

1. It-titolu fil-qosor ta' dan l-Att hu l-Att tal-2023 dwar ir-Ratifika tal-Konvenzjoni dwar il-Protezzjoni Internazzjonali tal-Adulti. Titolu fil-qosor.

2. Għall-finijiet ta' dan l-Att, kemm-il darba r-rabta tal-kliem ma teħtieġx xort'oħra: Tifsir.

"Awtorità Ċentrali" tfisser l-Awtorità Ċentrali maħtura skont l-artikolu 4;

"Direttur" tfisser id-Direttur responsabbli għad-Direttorat għall-Affarijiet dwar id-Diżabilità, imwaqqaf skont l-artikolu 5(1) tal-Att dwar il-Konvenzjoni tal-Ġnus Magħquda dwar id-Drittijiet ta' Persuni b'Diżabilità, u kwalunkwe persuna hekk delegata biex taġixxi fl-isem u in rappreżentanza tad-Direttur mill-istess Direttur; Kap. 627.

"Konvenzjoni" tfisser il-Konvenzjoni dwar il-Protezzjoni Internazzjonali tal-Adulti li kienet konkluża fl-Aja fit-13 ta' Jannar, 2000, li l-Artikoli rilevanti tagħha huma riprodotti fl-Iskeda;

"Ministru" tfisser il-Ministru responsabbli għad-drittijiet ta' persuni b'diżabilità;

Il-Konvenzjoni tal-Aja għandu jkollha s-saħħa tal-liġi.

3. Bla ħsara għad-dispożizzjonijiet ta' dan l-Att, id-disposizzjonijiet tal-Konvenzjoni stabbiliti fl-Iskeda għandu jkollhom is-saħħa tal-liġi f'Malta.

Awtorità Ċentrali.

4. Il-funzjonijiet taħt il-Konvenzjoni ta' Awtorità Ċentrali għandhom jitwettqu mid-Direttur u kull talba magħmula taħt il-Konvenzjoni minn jew f'isem persuna barra minn Malta tista' tiġi indirizzata lill-uffiċċju tad-Direttur.

Ġurisdizzjoni.

5. (1) Il-Qorti Ċivili (Sezzjoni ta' Ġurisdizzjoni Volontarja) jew kull qorti oħra li l-Ministru jista' b'ordni jinnomina għandu jkollha l-ġurisdizzjoni li tiddetermina rikors li permezz tiegħu issir talba skont il-Konvenzjoni.

(2) Kull meta d-Direttur fuq inizjattiva tiegħu stess jew meta jaġixxi fuq talba rċevuta minn awtorità kompetenti oħra jallega li adult ikun jeħtieġ protezzjoni fis-sens tal-Artikolu 8 tal-Konvenzjoni, jista', mingħajr preġudizzju għal kull azzjoni oħra fir-rigward tal-istess materja li tkun legalment disponibbli, jippreżenta rikors skont is-subartikolu (1) għall-ħruġ ta' miżuri diretti lejn il-protezzjoni tal-persuna jew il-proprjetà tal-adult.

(3) Il-Qorti Ċivili (Sezzjoni ta' Ġurisdizzjoni Volontarja) għandha fis-sitwazzjonijiet eċċezzjonali stipulati fl-Artikolu 11 tal-Konvenzjoni, fuq rikors ippreżentat skont is-subartikolu (1), toħroġ miżuri ta' natura temporanja għall-protezzjoni tal-persuna ta' adult li għalih jirreferi tali Artikolu 11 tal-Konvenzjoni.

Rikonoxximent tal-miżuri.

6. (1) L-Artikoli 22 u 25 tal-Konvenzjoni għandu jkollhom effett skont dan l-artikolu.

(2) Deċiżjoni li għaliha japplika xi wieħed minn dawk l-Artikoli li tkun saret fi Stat Kontraenti li ma jkunx Malta tkun rikonoxxuta f'Malta bħallikieku saret minn qorti f'Malta iżda:

(a) il-Qorti tal-Appell tista', fuq rikors ta' xi persuna li tidher li jkollha interess fil-materja, tiddikjara fuq xi waħda mir-raġunijiet speċifikati fl-Artikolu 22 tal-Konvenzjoni li d-deċiżjoni ma għandhiex tkun rikonoxxuta f'Malta; u

(b) id-deċiżjoni ma għandhiex tkun infurzabbli f'Malta sakemm ma tkunx reġistrata fil-qorti kompetenti skont l-artikolu 7.

7. (1) Persuna interessata jew id-Direttur jistgħu jagħmlu rikors għar-reġistrazzjoni tad-deċiżjoni li jkun fiha l-miżuri fir-reġistru tal-Qorti tal-Appell. Reġistrazzjoni ta' deċiżjonijiet.

(2) Il-Qorti tal-Appell għandha tirrifjuta li tirreġistra deċiżjoni jekk tkun tal-opinjoni li fuq xi waħda mir-raġunijiet speċifikati fl-Artikolu 22(2) tal-Konvenzjoni d-deċiżjoni ma għandhiex tkun rikonoxxuta f'Malta.

8. Meta deċiżjoni dwar miżuri tkun giet reġistrata skont l-artikolu 7, il-Qorti tal-Appell għandu jkollha l-istess poteri għall-iskop tal-infurzar tad-deċiżjoni bħallikeku kienet saret minnha, u proċeduri għal jew fir-rigward tal-infurzar tagħha jistgħu jittiehdu skont dan. Infurzar tad-deċiżjoni.

9. (1) Il-Bord tar-Regoli stabbilit skont l-artikolu 29 tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili jista' jagħmel kull dispożizzjoni sabiex jagħti effett lil dan l-Att kif jidhirlu li jkun meħtieġ jew spedjenti. Regoli tal-Qorti. Kap. 12.

(2) Il-Ministru responsabbli għall-ġustizzja jista' b'regolamenti taht dan is-subartikolu jistabbilixxi d-drittijiet pagabbli fir-reġistru tal-qorti fir-rigward tal-prezentazzjoni ta' atti ġudizzjarji in konnessjoni ma' kull proċedura skont dan l-Att:

Iżda sakemm dawn id-drittijiet ikunu hekk stabbiliti mill-Ministru, id-drittijiet stabbiliti fil-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili għandhom japplikaw. Kap. 12.

10. Malta qed tagħmel riżerva fis-sens li l-komunikazzjonijiet mibgħuta lill-Awtorità Ċentrali għandhom ikunu akkumpanjati minn traduzzjoni bl-Ingliż biss, u mhux ukoll bil-Franċiż. Riżerva.

11. Bis-saħħa ta' dan l-Att, u skont id-dispożizzjonijiet tal-Att dwar ir-Ratifika ta' Trattati, il-Gvern ta' Malta huwa awtorizzat li jirratifika l-Konvenzjoni dwar il-Protezzjoni Internazzjonali tal-Adulti li giet konkluża fl-Aja fit-13 ta' Jannar 2000. Ratifika tat-Trattat. Kap. 304.

12. Jekk ikun hemm xi kunflitt bejn il-verżjoni Ingliża u Maltija fl-Iskeda, għandha tipprevali l-verżjoni Ingliża. Kunflitt bejn il-verżjonijiet fl-Iskeda.

SKEDA
KONVENZJONI DWAR IL-PROTEZZJONI
INTERNAZZJONALI TAL-ADULTI
(Artikoli 2, 3 u 12)

(Sors: <https://op.europa.eu/en/publication-detail/-/publication/%20bf6dca26-f425-11e7-9d43-01aa75ed71a1/language-mt/format-PDF>)

L-Istati firmatarji tal-Konvenzjoni preżenti,

Peress li jqisu l-hteġa li jiġi pprovdut għall-protezzjoni f'sitwazzjonijiet internazzjonali ta' adulti li, minhabba diżabbiltà jew nuqqas fil-kapaċitajiet personali tagħhom, ma jinsabux f'pożizzjoni li jipproteġu l-interessi tagħhom,

Peress li jixtiequ jevitaw kunflitti bejn is-sistemi legali tagħhom, il-liġi applikabbli, ir-rikonossiment u l-infurzar ta' miżuri għall-protezzjoni tal-adulti,

Peress li jfakkru fl-importanza ta' kooperazzjoni internazzjonali għall-protezzjoni tal-adulti,

Peress li jafferma li l-interessi tal-adulti u r-rispett għad-dinjità u l-awtonomija tagħhom għandhom ikunu ta' konsiderazzjoni primarja,

Ftiehmu dwar id-dispożizzjonijiet li ġejjin -

KAPITOLU I — KAMP TA' APPLIKAZZJONI TAL-
KONVENZJONI

Artikolu 1

(1) Din il-Konvenzjoni tapplika għall-protezzjoni f'sitwazzjonijiet internazzjonali ta' adulti li, minhabba diżabbiltà jew nuqqas fil-kapaċitajiet personali tagħhom, ma jinsabux f'pożizzjoni li jipproteġu l-interessi tagħhom.

(2) L-oġġettivi tagħha huma –

(a) li tistabilixxi l-Istat li l-awtoritajiet tiegħu għandhom ġurisdizzjoni biex jieħdu miżuri diretti lejn il-protezzjoni tal-persuna jew il-proprjetà ta' adult;

(b) li tistabilixxi liema liġi għandha tiġi applikata minn dawn l-awtoritajiet fl-eżerċizzju tal-ġurisdizzjoni tagħhom;

(ċ) li tistabilixxi l-liġi applikabbli għal rappreżentanza

tal-adulti;

(d) li tipprovdi għar-rikonoxximent u l-infurzar ta' dawn il-miżuri ta' protezzjoni fl-Istati Kontraenti kollha;

(e) li tistabbilixxi t-tali kooperazzjoni bejn l-awtoritajiet tal-Istati Kontraenti skont kif jista' jkun meħtieġ biex jintlaħqu l-għanijiet ta' din il- Konvenzjoni.

Artikolu 2

(1) Għall-finijiet ta' din il-Konvenzjoni, adult huwa individwu li għalaq it-18-il sena.

(2) Il-Konvenzjoni tapplika wkoll għal miżuri fil-konfront ta' adult li kien għadu ma għalaqx it-18-il sena fiż-żmien meta ttiehdu l-miżuri.

Artikolu 3

Il-miżuri msemmija fl-Artikolu 1 jista' jkollhom x'jaqsmu partikolarment ma' —

(a) id-determinazzjoni tal-inkapaċità u l-bidu ta' reġim protettiv;

(b) it-tqegħid ta' adult taħt il-ħarsien ta' awtorità gudiżzarja jew amministrattiva;

(c) tutela, kurazija u regimi simili;

(d) in-nomina u l-funzjonijiet ta' xi persuni jew korp li għandhom l-inkarigu tal-adult jew tal-proprjetà, ir-rappreżentanza jew l-għajnuna tal-adult;

(e) it-tqegħid tal-adult fi stabbiliment jew post ieħor fejn tista' tingħata protezzjoni;

(f) l-amministrazzjoni, iż-żamma u t-trasferiment ta' proprjetà tal-adult;

(g) l-awtorizzazzjoni ta' intervent speċifiku għall-protezzjoni tal-persuna jew il-proprjetà tal-adult.

Artikolu 4

(1) Il-Konvenzjoni ma tapplikax għal —

(a) l-obbligi ta' manteniment;

(b) il-formazzjoni, l-annullament u x-xoljiment ta' żwieġ jew kull relazzjoni simili, kif ukoll is-separazzjoni legali;

(ċ) ir-reġimi patrimonjali fir-rigward ta' żwieġ jew kull relazzjoni simili;

(d) trusts jew suċċessjoni;

(e) is-sigurtà soċjali;

(f) miżuri pubbliċi ta' natura ġenerali fi kwistjonijiet ta' saħħa;

(g) miżuri meħuda fir-rigward ta' persuna bħala riżultat ta' reati penali mwettqa minn dik il-persuna;

(h) deċiżjonijiet dwar id-dritt ta' ažil u dwar l-immigrazzjoni;

(i) miżuri diretti biss għas-sikurezza pubblika.

(2) Il-paragrafu 1 ma jaffettwax, f'dak li għandu x'jaqsam mal-kwistjonijiet msemmija fih, id-dritt ta' persuna li taġixxi bħala rappreżentant tal-adult.

KAPITOLU II – IL-ĠURIZDIZZJONI

Artikolu 5

(1) L-awtoritajiet ġudizzjarji jew amministrattivi tal-Istat Kontraenti tar-residenza abitwali tal-adult għandhom ġurisdizzjoni biex jieħdu miżuri diretti lejn il-protezzjoni tal-persuna jew il-proprjetà tal-adult.

(2) F'każ ta' bidla tar-residenza abitwali tal-adult fi Stat Kontraenti ieħor, l-awtoritajiet tal-Istat tar-residenza abitwali ġdida għandhom ġurisdizzjoni.

Artikolu 6

(1) Għal adulti li huma rifuġjati u dawk li, minhabba disturbi fil-pajjiż tagħhom, huma internazzjonalment spostati, l-awtoritajiet tal-Istat Kontraenti li dawn l-adulti jkunu preżenti fit-territorju tiegħu b'riżultat tal-ispostament tagħhom għandhom il-ġurisdizzjoni prevista fl-Artikolu 5, paragrafu 1.

(2) Id-dispożizzjonijiet tal-paragrafu preċedenti japplikaw ukoll għal adulti li r-residenza abitwali tagħhom ma tkunx tista' tiġi

stabbilita.

Artikolu 7

(1) Hlief għal adulti li huma rifugjati jew li, minhabba disturbi eżistenti fl-Istat tan-nazzjonalità tagħhom, huma internazzjonalment spostati, l-awtoritajiet ta' Stat Kontraenti li l-adult huwa ċittadin tiegħu għandhom guriżdizzjoni li jieħdu miżuri għall-protezzjoni tal-persuna jew il-proprjetà tal-adult jekk iqisu li huma f'pożizzjoni aħjar sabiex jivvalutaw l-interessi tal-adult, u wara li jkunu taw il-pariri tagħhom lill-awtoritajiet li għandhom guriżdizzjoni skont l-Artikolu 5 jew l-Artikolu 6, paragrafu 2.

(2) Din il-guriżdizzjoni ma għandhiex tigi eżerċitata jekk l-awtoritajiet li għandhom guriżdizzjoni skont l-Artikolu 5, l-Artikolu 6, paragrafu 2, jew l-Artikolu 8 ikunu infurmaw lill-awtoritajiet tal-Istat li l-adult ikun ċittadin tiegħu li huma ħadu l-miżuri meħtieġa mis-sitwazzjoni jew iddeċidew li ma għandha tittiehed l-ebda miżura jew li l-proċedimenti jkunu pendenti quddiemhom.

(3) Il-miżuri meħuda skont il-paragrafu 1 jiskadu malli l-awtoritajiet li għandhom guriżdizzjoni skont l-Artikolu 5, l-Artikolu 6, paragrafu 2, jew l-Artikolu 8 ikunu ħadu l-miżuri meħtieġa mis-sitwazzjoni jew iddeċidew li ma għandha tittiehed l-ebda miżura. Dawn l-awtoritajiet għandhom jinfurmaw b'dan lill-awtoritajiet li ħadu miżuri f'konformità mal-paragrafu 1.

Artikolu 8

(1) L-awtoritajiet ta' Stat Kontraenti li għandhom guriżdizzjoni skont l-Artikolu 5 jew l-Artikolu 6, jekk iqisu li dan huwa fl-interess tal-adult, jistgħu, fuq inizjattiva tagħhom stess jew fuq talba mill-awtorità ta' Stat Kontraenti ieħor, jitolbu lill-awtoritajiet ta' wieħed mill-Istati Membri msemmija fil-paragrafu 2 sabiex jieħdu miżuri għall-protezzjoni tal-persuna jew il-proprjetà ta' adult. It-talba tista' tkun relatata mal-aspetti kollha jew ma' xi aspetti ta' din il-protezzjoni.

(2) L-Istati Kontraenti li l-awtoritajiet tagħhom jistgħu jigu indirizzati kif previst fil-paragrafu preċedenti huma:

- (a) Stat li l-adult huwa ċittadin tiegħu;
- (b) l-Istat tar-residenza abitwali preċedenti tal-adult;
- (ċ) Stat li fih tinsab il-proprjetà tal-adult;
- (d) l-Istat li l-awtoritajiet tiegħu jkunu ġew magħzula

bil-miktub mill-adult biex jieħdu miżuri diretti lejn il-protezzjoni tiegħu jew tagħha;

(e) l-Istat tar-residenza abitwali ta' persuna li hija qrib tal-adult li jkun lest li jidhol għall-protezzjoni tiegħu jew tagħha;

(f) l-Istat li l-adult huwa preżenti fit-territorju tiegħu, fir-rigward tal-protezzjoni tal-persuna tal-adult.

(3) F'każ li l-awtorità maħtura skont il-paragrafi preċedenti ma taċċettax il-ġuriżdizzjoni tagħha, l-awtoritajiet tal-Istat Kontraenti li għandhom ġuriżdizzjoni skont l-Artikolu 5 jew l-Artikolu 6 iżommu l-ġuriżdizzjoni.

Artikolu 9

L-awtoritajiet tal-Istat Kontraenti fejn tkun tinsab il-proprjetà ta' adult, għandhom ġuriżdizzjoni biex jieħdu miżuri ta' ħarsien fir-rigward ta' dik il-proprjetà, sakemm dawn il-miżuri jkunu kompatibbli ma' dawk meħuda mill-awtoritajiet li għandhom ġuriżdizzjoni skont l-Artikoli 5 sa 8.

Artikolu 10

(1) Fil-każijiet kollha ta' urġenza, l-awtoritajiet ta' kull Stat Kontraenti, li fit-territorju tiegħu hija preżenti persuna adulta jew proprjetà li tappartjeni lill-adult, għandhom ġuriżdizzjoni biex jieħdu kull miżura ta' protezzjoni neċessarja.

(2) Il-miżuri meħudin skont il-paragrafu preċedenti fir-rigward ta' adult li abitwalment ikun residenti fi Stat Kontraenti għandhom jieqfu malli l-awtoritajiet li għandhom ġuriżdizzjoni skont l-Artikoli 5 sa 9 ikunu ħadu l-miżuri meħtieġa mis-sitwazzjoni.

(3) Il-miżuri meħuda skont il-paragrafu 1 fir-rigward ta' adult li abitwalment huwa residenti fi Stat mhux Kontraenti jiskadu f'kull Stat Kontraenti malli l-miżuri meħtieġa mis-sitwazzjoni u li jkunu ttieħdu mill-awtoritajiet ta' Stat ieħor ikunu rikonoxxuti fl-Istat Kontraenti inkwistjoni.

(4) L-awtoritajiet li ħadu miżuri skont il-paragrafu 1 għandhom, fejn possibbli, jinformat lill-awtoritajiet tal-Istat Kontraenti tar-residenza abitwali tal-adult bil-miżuri meħuda.

Artikolu 11

(1) B'eċċezzjoni, l-awtoritajiet ta' Stat Kontraenti, li l-adult ikun preżenti fit-territorju tiegħu, għandhom ġurisdizzjoni biex jieħdu miżuri ta' natura temporanja għall-protezzjoni tal-persuna tal-adult li għandhom effett territorjali limitat għall-Istat inkwistjoni, sakemm dawn il-miżuri jkunu kompatibbli ma' dawk diġà meħudin mill-awtoritajiet li għandhom ġurisdizzjoni skont l-Artikoli 5 sa 8, u wara li jkunu taw il-pariri tagħhom lill-awtoritajiet li għandhom ġurisdizzjoni skont l-Artikolu 5.

(2) Il-miżuri meħudin skont il-paragrafu preċedenti fir-rigward ta' adult li abitwalment ikun residenti fi Stat Kontraenti għandhom jieqfu malli l-awtoritajiet li għandhom ġurisdizzjoni skont l-Artikoli 5 sa 8 jkunu ħadu deciżjoni fir-rigward tal-miżuri ta' protezzjoni li jistgħu jkunu meħtieġa mis-sitwazzjoni.

Artikolu 12

Sogġett għall-Artikolu 7, il-paragrafu 3, il-miżuri meħudin f'applikazzjoni tal-Artikoli 5 sa 9 jibqgħu fis-seħħ f'konformità mat-termini tagħhom, anki jekk bidla fiċ-ċirkostanzi tkun eliminat il-baži fuq liema kienet iffondata l-ġurisdizzjoni, sakemm l-awtoritajiet li għandhom ġurisdizzjoni skont il-Konvenzjoni ma mmodifikawx, bidlu jew temmew dawn il-miżuri.

KAPITOLU III — LIĠI APPLIKABBLI

Artikolu 13

(1) Fl-eżerċizzju tal-ġurisdizzjoni tagħhom skont id-dispożizzjonijiet tal-Kapitolu II, l-awtoritajiet tal-Istati Kontraenti għandhom japplikaw il-liġi proprja tagħhom.

(2) Madankollu, sa fejn ikun meħtieġ fir-rigward tal-protezzjoni tal-persuna jew il-proprjetà ta' adult, huma jistgħu eċċezzjonalment japplikaw jew jieħdu inkunsiderazzjoni l-liġi ta' Stat ieħor li s-sitwazzjoni għandha konnessjoni sostanzjali miegħu.

Artikolu 14

Fejn miżura meħuda fi Stat Kontraenti wieħed tkun implimentata fi Stat Kontraenti ieħor, il-kundizzjonijiet tal-implimentazzjoni tagħha jkunu rregolati mil-liġi ta' dak l-Istat l-ieħor.

Artikolu 15

(1) L-eżistenza, il-portata, il-modifika u l-estinzjoni tas-setgħat mogħtija minn adult, jew skont ftehim jew permezz ta' att unilaterali, li jiġu eżerċitati meta tali adult mhuwiex f'pożizzjoni li jieħu hsieb l-interessi tiegħu jew tagħha, huma rregolati mil-liġi tal-Istat tar-residenza abitwali tal-adult fiż-żmien tal-ftehim jew l-att, sakemm waħda mil-liġijiet imsemmija fil-paragrafu 2 ma tkunx ġiet imsemmija b'mod esplicitu bil-miktub.

(2) L-Istati Membri li l-liġijiet tagħhom jistgħu jiġu indikati huma:

- (a) Stat li l-adult huwa ċittadin tiegħu;
- (b) l-Istat ta' residenza abitwali preċedenti tal-adult;
- (ċ) l-Istat li fih tinsab il-proprjetà tal-adult, fir-rigward ta' dik il-proprjetà.

(3) Il-mod dwar kif jiġu eżerċitati dawn is-setgħat ta' rappreżentanza huwa rregolat mil-liġi tal-Istat li fih huma eżerċitati.

Artikolu 16

Fejn is-setgħat ta' rappreżentanza msemmija fl-Artikolu 15 ma jiġux eżerċitati b'mod suffiċjenti biex jiggarrantixxu l-protezzjoni tal-persuna jew il-proprjetà ta' adult, jistgħu jiġu rtirati jew modifikati permezz ta' miżuri meħuda minn awtorità li għandha ġurisdizzjoni skont il-Konvenzjoni. Fejn it-tali setgħat ta' rappreżentanza jiġu rtirati jew immodifikati, il-liġi msemmija fl-Artikolu 15 għandha tiġi kkunsidrata sa fejn ikun possibbli.

Artikolu 17

(1) Il-validità ta' tranżazzjoni bejn parti terza u persuna oħra li kienet tkun intitolata li taġixxi bħala rappreżentant ta' adult skont il-liġi tal-Istat fejn it-tranżazzjoni kienet konkluzja ma tistax tiġi kkontestata, u l-parti terza ma tistax tinżamm responsabbli, għar-raġuni biss li l-persuna l-oħra ma kinitx intitolata li taġixxi bħala rappreżentant tal-adult skont il-liġi indikata mid-dispożizzjonijiet ta' dan il-Kapitolu, sa fejn il-parti terza kienet taf jew kellha tkun taf li din il-kapaċità kienet irregolata mil-liġi tal-aħħar.

(2) Il-paragrafu preċedenti japplika biss jekk it-tranżazzjoni kienet magħmula bejn persuni preżenti fuq it-teritorju tal-istess Stat.

Artikolu 18

Id-dispożizzjonijiet ta' dan il-Kapitolu japplikaw anki jekk il-liġi indikata minnhom hija l-liġi ta' Stat li mhux Kontraenti.

Artikolu 19

F'dan il-Kapitolu, it-terminu "liġi" jfisser il-liġi li tkun fis-seħh fi Stat li ma tkunx l-għażla tiegħu dwar ir-regoli tal-kunflitt tal-liġijiet.

Artikolu 20

Dan il-Kapitolu m'għandux jipprekludi l-applikazzjoni ta' dawk id-dispożizzjonijiet tal-liġi tal-Istat li fih l-adult jiġi protett meta l-applikazzjoni ta' dawn id-dispożizzjonijiet hija obligatorja irrISPETTIVAMENT mil-liġi li kieku tkun applikabbli.

Artikolu 21

L-applikazzjoni tal-liġi indikata mid-dispożizzjonijiet ta' dan il-Kapitolu tista' tiġi rrifjutata biss jekk din l-applikazzjoni tkun manifestament kontrarja għall-ordni pubbliku.

KAPITOLU IV – RIKONOXXIMENT U EŻEKUZZJONI

Artikolu 22

(1) Il-miżuri meħudin mill-awtoritajiet tal-Istat Kontraenti għandhom jiġu rikonoxxuti skont l-operazzjoni tal-liġi fl-Istati Kontraenti l-oħra kollha.

(2) Ir-rikonoxximent jista' madankollu jiġi rrifjutat –

(a) jekk il-miżura ttieħdet minn awtorità li l-gurizdizzjoni tagħha ma kinitx ibbazata fuq, jew ma kinitx f'konformità ma' waħda mir-raġunijiet previsti mid-dispożizzjonijiet tal-Kapitolu II;

(b) jekk il-miżura ttieħdet, hlief f'każ ta' urgenza, fil-kuntest ta' proċediment ġudizzjarju jew amministrattiv, mingħajr ma tkun ingħatat opportunità għall-adult li jinstema', bi ksur ta' principji fundamentali tal-proċedura tal-Istat rikjest;

(c) jekk jidher ċar li l-imsemmi rikonoxximent huwa kuntrarju għall-politika pubblika tal-Istat rikjest, jew huwa f'konflitt ma' dispożizzjoni tal-liġi ta' dak l-Istat li hija obligatorja irrISPETTIVAMENT mil-liġi li kieku tkun applikabbli;

(d) jekk il-miżura tkun inkompatibbli ma' miżura meħuda aktar tard fi Stat mhux Kontraenti li kien ikollu ġurisdizzjoni skont l-Artikoli 5 sa 9, fejn din l-aħħar miżura tissodisfa l-ħtiġijiet għar-rikonoxximent fl-Istat rikjest;

(e) jekk il-proċedura prevista fl-Artikolu 33 ma tkunx giet imħarsa.

Artikolu 23

Mingħajr preġudizzju għall-Artikolu 22, paragrafu 1, kull persuna interessata tista' titlob lill-awtoritajiet kompetenti ta' Stat Kontraenti jiddeċiedu fuq ir-rikonoxximent jew nuqqas ta' rikonoxximent ta' miżura meħuda fi Stat Kontraenti ieħor. Il-proċedura hija rregolata mil-liġi tal-Istat rikjest.

Artikolu 24

Kull awtorità kompetenti tal-Istat rikjest hija marbuta bl-aċċertamenti ta' fatt li fuqhom l-awtorità tal-Istat fejn tkun ittiehdet il-miżura bbażat il-ġurisdizzjoni tagħha.

Artikolu 25

(1) Jekk miżuri meħudin fi Stat Kontraenti wieħed u eżegwibbli hemm jeħtieġu eżekuzzjoni fi Stat Kontraenti ieħor, għandhom, fuq talba minn parti interessata, jiġu ddikjarati eżegwibbli jew reġistrati għall-għan ta' eżekuzzjoni f'dak l-Istat l-ieħor f'konformità mal-proċedura prevista fil-liġi tal-Istat tal- aħħar.

(2) Kull Stat Kontraenti għandu japplika proċedura sempliċi u mgħaġġla għad- dikjarazzjoni ta' eżegwibbiltà jew għar-reġistrazzjoni.

(3) Id-dikjarazzjoni ta' eżegwibbiltà jew reġistrazzjoni tista' tiġi rrifjutata biss għal waħda mir-raġunijiet imsemmija fl-Artikolu 22, paragrafu 2.

Artikolu 26

Mingħajr preġudizzju għar-reviżjoni kif hija neċessarja fl-applikazzjoni tal-Artikoli preċedenti, m'għandux ikun hemm reviżjoni tal-merti tal-miżura meħuda.

Artikolu 27

Miżuri meħudin fi Stat Kontraenti wieħed u ddikjarati eżegwibbli, jew reġistrati għall-għan ta' eżekuzzjoni, fi Stat Kontraenti ieħor għandhom jiġu eżegwiti fl-Istat tal-aħħar bħalma kieku kienu meħuda

mill-awtoritajiet ta' dak l-Istat. L-eżekuzzjoni sseħħ f'konformità mal-liġi tal-Istat rikjest sal-punt previst minn din il-liġi.

KAPITOLU V — KOOPERAZZJONI

Artikolu 28

(1) Stat Kontraenti għandu jinnomina Awtorità Ċentrali għall-qadi tad-dmirijiet li huma imposti mill-Konvenzjoni fuq it-tali awtoritajiet.

(2) L-Istati Federali, l-Istati b'iktar minn sistema legali waħda jew Stati b'unitajiet territorjali awtonomi għandhom ikunu liberi li jaħtru iktar minn Awtorità Ċentrali waħda u għandhom jispeċifikaw il-portata territorjali jew personali tal-funzjonijiet tagħhom. Meta Stat ikun ħatar aktar minn Awtorità Ċentrali waħda, huwa għandu jinnomina l-Awtorità Ċentrali li kull komunikazzjoni tista' tiġi indirizzata lilha biex tiġi trażmessa lill-Awtorità Ċentrali adatta f'dak l-Istat.

Artikolu 29

(1) L-Awtoritajiet Ċentrali għandhom jikkooperaw flimkien u jippromwovu l-kooperazzjoni fost l-awtoritajiet kompetenti fl-Istati tagħhom sabiex jinkisbu l-għanijiet tal-Konvenzjoni.

(2) Huma għandhom, f'konnessjoni mal-applikazzjoni ta' din il-Konvenzjoni, jieħdu l-passi adatti biex jipprovdu informazzjoni dwar il-liġijiet u s-servizzi disponibbli fl-Istati tagħhom li jirrigwardaw il-protezzjoni tal-adulti.

Artikolu 30

L-Awtorità Ċentrali tal-Istat Kontraenti, jew direttament jew permezz ta' awtoritajiet pubbliċi jew organi oħra, għandha tiegħu l-passi xierqa kollha biex —

(a) tiffaċilita l-komunikazzjonijiet, b'kull mezz, bejn l-awtoritajiet kompetenti f'sitwazzjonijiet li l-Konvenzjoni tapplika għalihom;

(b) tipprovdi, fuq it-talba ta' awtorità kompetenti ta' Stat Kontraenti ieħor, assistenza fl-iskopriment ta' fejn jinsab adult meta jidher li l-adult jista' jkun preżenti u fi bżonn ta' protezzjoni ġewwa t-territorju tal-Istat rikjest.

Artikolu 31

L-awtoritajiet kompetenti ta' Stat Kontraenti jistgħu jheggu, direttament jew permezz ta' korpi oħrajn, l-użu ta' medjazzjoni, konċiljazzjoni jew mezzi simili biex jinkisbu soluzzjonijiet bi ftehim għall-protezzjoni tal-persuna jew il-proprjetà ta' adult f'sitwazzjonijiet li l-Konvenzjoni tapplika għalihom.

Artikolu 32

(1) Fejn miżura ta' protezzjoni tkun ikkontemplata, l-awtoritajiet kompetenti skont il-Konvenzjoni, jekk is-sitwazzjoni ta' adulti hekk teħtieg, jistgħu jitolbu kwalunkwe awtorità ta' Stat Kontraenti ieħor li għandha informazzjoni rilevanti għall-protezzjoni ta' persuna adulta biex tikkomunika dik l-informazzjoni.

(2) Stat Kontraenti jista' jiddikjara li talbiet skont il-paragrafu 1 għandhom jiġu kkomunikati lill-awtoritajiet tiegħu biss permezz tal-Awtorità Ċentrali tiegħu.

(3) L-awtoritajiet kompetenti ta' Stat Kontraenti jistgħu jitolbu lill-awtoritajiet ta' Stat Kontraenti ieħor biex jassistu fl-implimentazzjoni ta' miżuri ta' protezzjoni meħuda taħt din il-Konvenzjoni.

Artikolu 33

(1) Jekk awtorità li għandha ġurisdizzjoni skont l-Artikoli 5 sa 8 tikkontempla t-tqegħid ta' adulti fi stabbiliment jew post ieħor fejn il-protezzjoni tista' tiġi pprovduta, u jekk dan it-tqegħid għandux isehh fi Stat Kontraenti ieħor, għandha l-ewwel tikkonsulta mal-Awtorità Ċentrali jew awtorità kompetenti oħra ta' dan l-aħħar Stat. Għal dak l-għan, hija tittrażmetti rapport fuq l-adult flimkien mar-raġunijiet għat-tqegħid propost.

(2) Id-deċiżjoni dwar it-tqegħid ma tistax issir fl-Istat rikjest jekk l-Awtorità Ċentrali jew awtorità kompetenti oħra tal-Istat rikjest tindika l-oppożizzjoni tagħha fi żmien raġonevoli.

Artikolu 34

F'kull każ fejn l-adult ikun espost għal periklu serju, l-awtoritajiet kompetenti tal-Istat Kontraenti fejn miżuri għall-protezzjoni tal-adulti li jkunu ttieħdu jew qed jiġu kkunsidrati, jekk ikunu informati li r-residenza tal-adult inbidlet, jew li l-adult huwa preżenti fi Stat ieħor, għandhom jinformat lill-awtoritajiet ta' dak l-Istat l-ieħor dwar il-periklu involut u l-miżuri meħudin jew taħt kunsiderazzjoni.

Artikolu 35

Awtorità ma għandhiex titlob jew tittrażmetti kull informazzjoni taht dan il-Kapitolu jekk li tagħmel dan, fl-opinjoni tagħha, x'aktarx li jpoġġi l-persuna jew il-proprjetà ta' adult f'periklu, jew jikkostitwixxi theddida serja għal-libertà jew il-ħajja ta' membru tal-familja tal-adult.

Artikolu 36

(1) Mingħajr preġudizzju għall-possibbiltà li jimponu ħlasijiet raġonevoli għall-provvista ta' servizzi, l-Awtoritajiet Ċentrali u awtoritajiet pubbliċi oħra ta' Stati Kontraenti għandhom ibatu l-ispejjeż proprji tagħhom fl-applikazzjoni tad-dispożizzjonijiet ta' dan il-Kapitolu.

(2) Kull Stat Kontraenti jista' jidhol fi ftehimiet ma' Stat Kontraenti wieħed jew numru ta' Stati Kontraenti oħra dwar l-allokazzjoni ta' ħlasijiet.

Artikolu 37

Kull Stat Kontraenti jista' jidhol fi ftehimiet ma' Stat Kontraenti ieħor jew aktar bl-għan li jtejjeb l-applikazzjoni ta' dan il-Kapitolu fir-relazzjonijiet reċiproċi tagħhom. L-Istati li kkonkludew it-tali ftehim għandhom jibagħtu kopja lid-depożitarju tal-Konvenzjoni.

KAPITOLU VI – DISPOŻIZZJONIJIET ĠENERALI

Artikolu 38

(1) L-awtoritajiet tal-Istat Kontraenti fejn tkun ittiegħdet miżura ta' protezzjoni jew tkun giet ikkonfermata setgħa ta' rappreżentanza jistgħu jipprovdu lill-persuna inkarigata bil-protezzjoni tal-persuna adulta jew tal-proprjetà tagħha, fuq talba, b'ċertifikat li jindika l-kapaċità li fiha dik il-persuna tkun intitolata li taġixxi u l-poteri mogħtija.

(2) Il-kapaċitajiet u s-setgħat indikati fiċ-ċertifikat huma meqjusa li jappartjenu lil dik il-persuna sa mid-data taċ-ċertifikat, fin-nuqqas ta' prova kuntrarja.

(3) Kull Stat Kontraenti għandu jahtar l-awtoritajiet kompetenti biex iħejju ċ-ċerifikat.

Artikolu 39

Id-data personali miġbura jew trażmessa skont il-Konvenzjoni għandha tintuża biss għall-finijiet li għalihom tkun ingabret jew għet trażmessa.

Artikolu 40

L-awtoritajiet li l-informazzjoni tiġi trażmessa lilhom għandhom jiżguraw l-kunfidenzjalità tagħha, f'konformità mal-liġi tal-Istat tagħhom.

Artikolu 41

Id-dokumenti kollha miġbura jew ikkonsenjati skont din il-Konvenzjoni għandhom ikunu eżenti mil-legiżlazzjoni jew kull formalità analoga.

Artikolu 42

Kull Stat Kontraenti jista' jahtar l-awtoritajiet li t-talbiet għandhom jiġu indirizzati lilhom skont l-Artikolu 8 u l-Artikolu 33.

Artikolu 43

(1) Id-deżinjazzjonijiet imsemmija fl-Artikolu 28 u l-Artikolu 42 għandhom jiġu kkomunikati lill-Uffiċċju Permanenti tal-Konferenza tal-Aja dwar id-Dritt Internazzjonali Privat sa mhux aktar tard mid-data tad-depożitu tal-istrument tar-ratifika, l-aċċettazzjoni jew l-approvazzjoni tal-Konvenzjoni jew l-adeżjoni tagħhom. Kull modifika tagħha għandha wkoll tiġi kkomunikata lill-Uffiċċju Permanenti.

(2) Id-dikjarazzjoni msemmija fl-Artikolu 32, il-paragrafu 2, għandha tiġi magħmula lid-depożitarju tal-Konvenzjoni.

Artikolu 44

Stat Kontraenti li fih sistemi differenti ta' liġi jew settijiet ta' regoli tal-liġi japplikaw għall-protezzjoni tal-persuna jew tal-proprjetà ta' adult ma għandhomx ikunu marbutin li japplikaw ir-regoli ta' din il-Konvenzjoni lill-kunflitti unikament bejn it-tali sistemi differenti jew settijiet ta' regoli tal-liġi.

Artikolu 45

Fir-rigward ta' Stat fejn japplikaw żewġ sistemi legali jew settijiet ta' regoli tal-liġi jew iktar f'unitajiet territorjali differenti, f'dak li għandu x'jaqsam ma' kwistjonijiet li jaqgħu taħt din il-Konvenzjoni:

(a) kull referenza għar-residenza abitwali f'dak l-Istat għandha titqies bħala r-residenza abitwali f'unità territorjali;

(b) kull referenza għall-preżenza tal-persuna adulta f'dak l-Istat għandha titqies bħala li tirreferi għall-preżenza f'unità territorjali;

(ċ) kull referenza għall-post tal-proprjetà tal-adult f'dak l-Istat għandha titqies bħala li tirreferi għall-post tal-proprjetà tal-persuna adulta f'unità territorjali;

(d) kull referenza għall-Istat li persuna hija ċittadina tiegħu għandha tinftiehem bħala li tirreferi għall-unità territorjali magħżula mil-liġi tal-Istat jew, fin-nuqqas ta' regoli rilevanti, għall-unità territorjali li l-persuna adulta għandha l-eqreb konnessjoni magħha;

(e) kull referenza għall-Istat li l-awtoritajiet tiegħu jkunu ġew magħżula mill-persuna adulta għandha tinftiehem

– bħala li tirreferi għall-unità territorjali jekk il-persuna adulta tkun għażlet lill-awtoritajiet ta' din l-unità territorjali;

– bħala li tirreferi għall-unità territorjali li l-persuna adulta ikollha l-eqreb rabta magħha jekk il-persuna adulta tkun għażlet l-awtoritajiet tal-Istat mingħajr ma speċifikat unità territorjali partikolari fi hdan l-Istat;

(f) kull referenza għal-liġi ta' Stat li s-sitwazzjoni għandha konnessjoni sostanzjali magħha għandha tiġi mifhuma bħala referenza għal-liġi ta' unità territorjali li s-sitwazzjoni għandha konnessjoni sostanzjali magħha;

(g) kull referenza għal-liġi jew proċedura jew awtorità tal-Istat li fih il-miżura ttiehdet għandha tiġi mifhuma bħala referenza għal-liġi jew proċedura fis-sehħ fit-tali unità territorjali jew awtorità tal-unità territorjali li fiha din il-miżura tkun ittiehdet;

(h) kull referenza għal-liġi jew proċedura jew awtorità tal-Istat rikjest għandha tiġi mifhuma bħala referenza għal-liġi jew proċedura fis-sehħ fit-tali unità territorjali jew awtorità tal-unità territorjali li fiha qed jintalab ir-rikonoxximent jew l-eżekuzzjoni;

(i) kull referenza għall-Istat fejn miżura ta' protezzjoni għandha tiġi implimentata għandha tinftiehem bħala li tirreferi

għall-unità territorjali fejn il-miżura se tiġi implimentata;

(j) kull referenza għal entitajiet jew awtoritajiet tal-Istat, barra minn Awtoritajiet Ċentrali, għandha tiġi mifhuma bħala li tirreferi għal dawk awtorizzati li jaġixxu fl-unità territorjali relevanti;

Artikolu 46

Għall-fini li tiġi identifikata l-liġi applikabbli skont il-Kapitolu III, fejn l-Istat ikun magħmul minn żewġ unitajiet territorjali jew aktar, li kull waħda minnhom ikollha s-sistema legali jew settijiet ta' regoli legali tagħha, fir-rigward tal-kwistjonijiet irregolati minn din il-Konvenzjoni, japplikaw ir-regoli li ġejjin –

(a) jekk hemm regoli fis-seħħ fit-tali Stat li jidentifikaw liema liġi ta' liema unità territorjali hija applikabbli, tapplika l-liġi ta' dik l-unità;

(b) fin-nuqqas tat-tali regoli, tapplika l-liġi tal-unità territorjali relevanti kif definita fl-Artikolu 45.

Artikolu 47

Sabiex tiġi identifikata l-liġi applikabbli skont il-Kapitolu III, fejn l-Istat li għandu żewġ sistemi legali jew aktar jew settijiet ta' regoli legali applikabbli għal kategoriji differenti ta' persuni fir-rigward ta' kwistjonijiet koperti minn din il-Konvenzjoni, japplikaw ir-regoli li ġejjin –

(a) jekk hemm regoli fis-seħħ fit-tali Stat li jidentifikaw liema fost it-tali liġijiet hija applikabbli, tapplika dik il-liġi;

(b) fin-nuqqas ta' dawn ir-regoli, tapplika l-liġi tas-sistema jew tas-sett ta' regoli legali li l-adult għandu l-eqreb konnessjoni miegħu.

Artikolu 48

Fir-relazzjonijiet bejn l-Istati Kontraenti, din il-Konvenzjoni tissostitwixxi l- *Convention concernant l'interdiction et les mesures de protection analogues*, iffirmata fl-Aja fis-17 ta' Lulju 1905.

Artikolu 49

(1) Il-Konvenzjoni ma taffettwa l-ebda strument internazzjonali ieħor li l-Partijiet Kontraenti jkun Partijiet fih u li jkun fih dispożizzjonijiet dwar kwistjonijiet irregolati minn din il-Konvenzjoni,

sakemm ma ssirx xi dikjarazzjoni kuntrarja mill-Istati Partijiet f'dan l-istrument.

(2) Din il-Konvenzjoni ma taffettwax il-possibbiltà għal wiehed jew aktar mill-Istati Kontraenti li jikkonkludu ftehimiet li jkun fihom, fir-rigward ta' persuni adulti li s-soltu jkunu residenti f'wiehed mill-Istati Partijiet għal dawn il-ftehimiet, dispożizzjonijiet fuq kwistjonijiet irregolati minn din il-Konvenzjoni.

(3) Il-ftehimiet li għandhom jiġu konklużi minn Stat Kontraenti wiehed jew aktar dwar kwistjonijiet li jaqgħu fl-ambitu ta' din il-Konvenzjoni ma jaffettwawx, fir-relazzjoni ta' dawn l-Istati ma' Stati Kontraenti oħra, l-applikazzjoni tad- dispożizzjonijiet ta' din il-Konvenzjoni.

(4) Il-paragrafi preċedenti japplikaw ukoll għal-ligijiet uniformi bbażati fuq rabtiet speċjali ta' natura reġjonali jew ta' tip ieħor bejn l-Istati kkonċernati.

Artikolu 50

(1) Il-Konvenzjoni għandha tapplika għall-miżuri biss jekk dawn jittieħdu fi Stat wara li l-Konvenzjoni tkun iddaħħlet fis-seħh f'dak l-Istat.

(2) Il-Konvenzjoni għandha tapplika għar-rikonoxximent u l-eżekuzzjoni ta' miżuri meħuda wara d-dhul fis-seħh tagħha bejn l-Istat fejn ittieħdu l-miżuri u l-Istat rikjest.

(3) Il-Konvenzjoni għandha tapplika mill-mument tad-dhul fis-seħh tagħha fi Stat Kontraenti għas-setgħat ta' rappreżentazzjoni mogħtija qabel taħt kondizzjonijiet li jikkorrispondu għal daww stabbiliti fl-Artikolu 15.

Artikolu 51

(1) Kull komunikazzjoni mibgħuta lill-Awtorità Ċentrali jew lil awtorità oħra ta' Stat Kontraenti għandha tkun fil-lingwa oriġinali, u għandha tkun akkumpanjata bi traduzzjoni għal-lingwa ufficjali jew għal waħda mil-lingwi ufficjali tal-Istat l-ieħor jew, fejn dan mhux possibbli, traduzzjoni għall-Franciz jew l-Ingliż.

(2) Madanakollu, Stat Kontraenti jista', billi jagħmel riżerva f'konformità mal-Artikolu 56, joġġezzjona għall-użu tal-Ingliż jew il-Franciz, iżda mhux tat-tnejn li huma.

Artikolu 52

Is-Segretarju Ġenerali tal-Konferenza tal-Aja dwar id-Dritt Internazzjonali Privat għandu jlaqqa' f'intervalli regolari Kummissjoni Speċjali bl-iskop li tirrevedi l-operazzjoni Prattika tal-Konvenzjoni.

KAPITOLU VII - KLAWŻOLI FINALI

Artikolu 53

(1) Il-Konvenzjoni għandha tinfetħ għall-iffirmar mill-Istati li kienu Membri tal-Konferenza tal-Aja dwar id-Dritt Internazzjonali Privat fit-2 ta' Ottubru 1999.

(2) Hija għandha tiġi ratifikata, aċċettata jew approvata u l-istrumenti ta' ratifika, aċċettazzjoni jew approvazzjoni għandhom jiġu ddepożitati mal-Ministeru tal-Affarijiet Barranin tar-Renju tan-Netherlands, id-depożitarju tal-Konvenzjoni.

Artikolu 54

(1) Kwalunkwe Stat ieħor jista' jaderixxi mal-Konvenzjoni wara li din tkun daħlet fis-seħħ f'konformità mal-Artikolu 57(1).

(2) L-istrument ta' adeżjoni għandu jiġi ddepożitat mad-depożitarju.

(3) Din l-adeżjoni għandu jkollha effett biss fir-rigward tar-relazzjonijiet bejn l-Istat aderenti u dawk l-Istati Kontraenti li ma jkunux ressq u oġġezzjoni għall-adeżjoni tiegħu fis-sitt xhur ta' wara l-irċevuta tan-notifika msemmija fis-sottoparagrafu b) tal-Artikolu 59. It-tali oġġezzjoni tista' tiġi mressqa wkoll mill-Istati fil-mument meta dawn jirratifikaw, jaċċettaw jew japprovaw il-Konvenzjoni wara l-adeżjoni. Kull oġġezzjoni tali għandha tiġi nnotifikata lid-depożitarju.

Artikolu 55

(1) Jekk Stat għandu żewġ unitajiet territorjali jew aktar li fihom jgħoddu sistemi legali differenti dwar kwistjonijiet trattati f'din il-Konvenzjoni, jista' fiż-żmien tal-firma, ir-ratifika, l-aċċettazzjoni, l-approvazzjoni jew l-adeżjoni jiddikjara li l-Konvenzjoni għandha testendi għall-unitajiet territorjali kollha tiegħu jew biss għal wiehed jew aktar minnhom, u jista' jimmodifika din id-dikjarazzjoni billi jissottometti dikjarazzjoni oħra fi kwalunkwe hin.

(2) Kull dikjarazzjoni tali għandha tiġi nnotifikata lid-depożitarju u għandha tiddikjara espressament l-unitajiet territorjali lil-Konvenzjoni tapplika għalihom.

(3) Jekk Stat ma jagħmel l-ebda dikjarazzjoni skont dan l-Artikolu, il-Konvenzjoni testendi għall-unitajiet territorjali kollha ta' dak l-Istat.

Artikolu 56

(1) Kull Stat jista', mhux aktar tard mill-mument tar-ratifika, l-aċċettazzjoni, l-approvazzjoni jew l-adeżjoni, jew fil-mument li jagħmel id-dikjarazzjoni fit-termini tal-Artikolu 55, jagħmel ir-riżerva prevista fl-Artikolu 51(2). L-ebda riżerva oħra ma għandha tkun permessa.

(2) Kwalunkwe Stat jista' fi kwalunkwe mument jirtira r-riżerva li jkun għamel. L-irtirar għandu jiġi nnotifikat lid-depożitarju.

(3) Ir-riżerva għandha tieqaf milli jkollha effett fl-ewwel jum tat-tielet xahar kalendarju wara n-notifika msemmija fil-paragrafu preċedenti.

Artikolu 57

(1) Il-Konvenzjoni għandha tidhol fis-seħh fl-ewwel ġurnata tax-xahar wara li jgħaddu tliet xhur mid-depożitu tat-tielet strument ta' ratifika, aċċettazzjoni jew approvazzjoni msemmi fl-Artikolu 53.

(2) Minn hemm 'il quddiem il-Konvenzjoni għandha tidhol fis-seħh –

(a) Għal kull Stat ieħor li jirratifikaha, jaċċettaha jew japprovaha sussegwentement, fl-ewwel jum tax-xahar wara l-iskadenza ta' tliet xhur wara d-depożitu tal-istrument tagħhom ta' ratifika, aċċettazzjoni, approvazzjoni jew adeżjoni;

(b) għal kull Stat li jadderixxi ruħu, fl-ewwel ġurnata tax-xahar wara t-tmiem ta' tliet xhur wara t-tmiem tal-perjodu ta' sitt xhur previst fl-Artikolu 54, paragrafu 3;

(ċ) għal unità territorjali li għaliha tkun ġiet estiża l-Konvenzjoni f'konformità mal-Artikolu 55, fl-ewwel ġurnata tax-xahar wara li jgħaddu tliet xhur min-notifika msemmija f'dak l-Artikolu.

Artikolu 58

(1) Stat Parti għall-Konvenzjoni jista' jiddenunzjaha permezz ta' notifika bil-miktub indirizzata lid-depożitarju. Id-denunzja tista' tkun limitata għal ċerti unitajiet territorjali li l-Konvenzjoni tapplika għalihom.

(2) Id-denunzja ssir effettiva fl-ewwel jum tax-xahar ta' wara l-iskadenza ta' tmax-il xahar wara li d-depożitarju jirċievi n-notifika. Meta fin-notifika jiġi speċifikat perjodu itwal sabiex id-denunzja ssir effettiva, id-denunzja ssir effettiva mal-iskadenza ta' dan il-perjodu itwal.

Artikolu 59

Id-depożitarju għandu jinnotifika lill-Istati Membri tal-Konferenza tal-Aja dwar id-Dritt Internazzjonali Privat, u l-Istati li aderew f'konformità mal-Artikolu 54 b'dan li ġej –

(a) l-iffirmar, ir-ratifiki, l-aċċettazzjonijiet u l-approvazzjonijiet imsemmija fl-Artikolu 53;

(b) l-adeżjonijiet u l-oġġezzjonijiet imressqa għall-adeżjonijiet imsemmija fl-Artikolu 54;

(ċ) id-data li fiha l-Konvenzjoni tidhol fis-seħh f'konformità mal-Artikolu 57;

(d) id-dikjarazzjonijiet imsemmija fl-Artikolu 32(2) u l-Artikolu 55;

(e) il-ftehimiet imsemmija fl-Artikolu 37;

(f) ir-riżerva msemmija fl-Artikolu 51(2), u l-irtirar imsemmi fl-Artikolu 56(2);

(g) id-denunzji msemmija fl-Artikolu 58.

B'xhieda ta' dan, is-sottoskritti, awtorizzati debitament biex jagħmlu dan, iffirmaw din il-Konvenzjoni.

Magħmul fl-Aja, fit-13-il jum ta' Jannar 2000, fl-ilsien Inġliż u Franciż, biż-żewġ testi jkunu awtentiċi ndaqs, b'kopja waħda li tiġi ddepożitata fl-arkivji tal-Gvern tar-Renju tan-Netherlands, u li għandha tintbagħat kopja ċertifikata tagħha, permezz ta' mezzi diplomatiċi, lil kull Stat Membru tal-Konferenza tal-Aja dwar id-Dritt Internazzjonali Privat.

Mgħoddi mill-Kamra tad-Deputati fis-Seduta Nru 89 tal-14 ta' Frar, 2023.

ANĠLU FARRUGIA
Speaker

RAYMOND SCICLUNA
Skrivan tal-Kamra tad-Deputati

I assent.

(L.S.)

GEORGE VELLA
President

17th February, 2023

ACT No. III of 2023

AN ACT to enable Malta to ratify the 2000 Hague Convention on the International Protection of Adults.

BE IT ENACTED by the President, by and with the advice and consent of the House of Representatives, in this present Parliament assembled, and by the authority of the same, as follows:-

Short title. **1.** The short title of this Act is the Convention on the International Protection of Adults (Ratification) Act, 2023.

Interpretation. **2.** For the purposes of this Act, unless the context otherwise requires:

"Central Authority" means the Central Authority designated in accordance with article 4;

"Convention" means the Convention on the International Protection of Adults which was concluded at The Hague on 13 January, 2000, the relevant Articles of which are set out in the Schedule;

Cap. 627. "Director" means the Director responsible for the Directorate for Disability Issues, established in terms of article 5(1) of the United Nations Convention on the Rights of Persons with Disabilities Act, and any person so delegated to act in the name and representation of the Director by the said Director;

"Minister" means the Minister responsible for the rights of persons with disability;

3. Subject to the provisions of this Act, the provisions of the Convention set out in the Schedule shall have the force of law in Malta. The Hague Convention shall have the force of law.

4. The functions under the Convention of a Central Authority shall be discharged by the Director and any request made under the Convention by or on behalf of a person outside Malta may be addressed to the office of the Director. Central Authority.

5. (1) The Civil Court (Voluntary Jurisdiction Section) or any other court which the Minister may by order designate shall have jurisdiction to determine applications through which requests under the Convention are made. Jurisdiction.

(2) Whenever the Director of his own initiative or acting upon a request received from another competent authority alleges that an adult is in need of protection within the meaning of Article 8 of the Convention, may, without prejudice to any other action with respect to the same matter that is lawfully available, file an application under sub-article (1) for the issue of measures directed to the protection of the adult's person or property.

(3) The Civil Court (Voluntary Jurisdiction Section) shall in the exceptional situations stipulated in Article 11 of the Convention, upon an application filed in accordance with sub-article (1), issue measures of a temporary nature for the protection of the person of an adult referred to in said Article 11 of the Convention.

6. (1) Articles 22 and 25 of the Convention shall have effect in accordance with this article. Recognition of measures.

(2) A decision to which either of those Articles applies which was made in a Contracting State other than Malta shall be recognized in Malta as if made by a court in Malta provided that:

(a) the Court of Appeal may, on the application of any person appearing to have an interest in the matter, declare on any of the grounds specified in Article 22 of the Convention that the decision is not to be recognized in Malta; and

(b) the decision shall not be enforceable in Malta unless registered in the competent court in terms of article 7.

7. (1) An interested person or the Director may file an application for the registration of the decision containing the measures Registration of decisions.

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in the registry of the Court of Appeal.

(2) The Court of Appeal shall refuse to register a decision if it is of the opinion that on any of the grounds specified in Article 22(2) of the Convention the decision should not be recognized in Malta.

Enforcement of
decision.

8. Where a decision relating to measures has been registered according to article 7, the Court of Appeal shall have the same powers for the purpose of enforcing the decision as if it had been made by it and proceedings for or with respect to its enforcement may be taken accordingly.

Rules of Court.
Cap. 12.

9. (1) The Rule-Making Board established in terms of article 29 of the Code of Organization and Civil Procedure may make any provision for giving effect to this Act as appears to it to be necessary or expedient.

(2) The Minister responsible for justice may by regulations under this sub-article establish the fees payable in the registry of the courts in relation to the filing of judicial acts in connection with any procedure under this Part:

Cap. 12.

Provided that until such fees are so established by the Minister, the fees established in the Code of Organization and Civil Procedure shall apply.

Reservation.

10. Malta is making a reservation to the effect that communications sent to the Central Authority shall be accompanied by a translation in English only, and not also in French.

Ratification of
Treaty.
Cap. 304.

11. By virtue of this Act, and in compliance with the provisions of the Ratification of Treaties Act, the Government of Malta is authorized to ratify the Convention on the International Protection of Adults which was concluded at The Hague on the 13th January 2000.

Conflict
between
versions in
Schedule.

12. If there is any conflict between the English and Maltese versions in the Schedule, the English version shall prevail.

SCHEDULE
CONVENTION ON THE INTERNATIONAL PROTECTION OF
ADULTS
(Articles 2, 3 and 12)

(Source: <https://assets.hcch.net/docs/c2b94b6b-c54e-4886-ae9f-c5bbef93b8f3.pdf>)

The States signatory to the present Convention,

Considering the need to provide for the protection in international situations of adults who, by reason of an impairment or insufficiency of their personal faculties, are not in a position to protect their interests,

Wishing to avoid conflicts between their legal systems in respect of jurisdiction, applicable law, recognition and enforcement of measures for the protection of adults,

Recalling the importance of international co-operation for the protection of adults,

Affirming that the interests of the adult and respect for his or her dignity and autonomy are to be primary considerations,

Have agreed on the following provisions –

CHAPTER I – SCOPE OF THE CONVENTION

Article 1

(1) This Convention applies to the protection in international 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) Its objects are:

(a) to determine the State whose authorities have jurisdiction to take measures directed to the protection of the person or property of the adult;

(b) to determine which law is to be applied by such authorities in exercising their jurisdiction;

(c) to determine the law applicable to representation of the adult;

(d) to provide for the recognition and enforcement of such measures of protection in all Contracting States;

(e) to establish such co-operation between the authorities of the Contracting States as may be necessary in order to achieve the purposes of this Convention.

Article 2

(1) For the purposes of this Convention, an adult is a person who has reached the age of 18 years.

(2) The Convention applies also to measures in respect of an adult who had not reached the age of 18 years at the time the measures were taken.

Article 3

The measures referred to in Article 1 may deal in particular with:

(a) the determination of incapacity 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) 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.

Article 4

(1) The Convention 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.

(2) Paragraph 1 does not affect, in respect of the matters referred to therein, the entitlement of a person to act as the representative of the adult.

CHAPTER II – JURISDICTION

Article 5

(1) The judicial or administrative authorities of the Contracting State of the habitual residence of the adult have jurisdiction to take measures directed to the protection of the adult's person or property.

(2) In case of a change of the adult's habitual residence to another Contracting State, the authorities of the State of the new habitual residence have jurisdiction.

Article 6

(1) For adults who are refugees and those who, due to disturbances occurring in their country, are internationally displaced, the authorities of the Contracting State on the territory of which these adults are present as a result of their displacement have the jurisdiction provided for in Article 5, paragraph 1.

(2) The provisions of the preceding paragraph also apply to adults whose habitual residence cannot be established.

Article 7

(1) Except for adults who are refugees or who, due to disturbances occurring in their State of nationality, are internationally displaced, the authorities of a Contracting State of which the adult is a national have jurisdiction to take measures for the protection of the person or property of the adult if they consider that they are in a better position to assess the interests of the adult, and after advising the authorities having jurisdiction under Article 5 or Article 6, paragraph 2.

(2) This jurisdiction shall not be exercised if the authorities having jurisdiction under Article 5, Article 6, paragraph 2, or Article 8 have informed the authorities of the State of which the adult is a national that they have taken the measures required by the situation or have decided that no measures should be taken or that proceedings are pending before them.

(3) The measures taken under paragraph 1 shall lapse as soon as the authorities having jurisdiction under Article 5, Article 6, paragraph 2, or Article 8 have taken measures required by the situation or have decided that no measures are to be taken. These authorities shall inform accordingly the authorities which have taken measures in accordance with paragraph 1.

Article 8

(1) The authorities of a Contracting State having jurisdiction under Article 5 or Article 6, if they consider that such is in the interests of the adult, may, on their own motion or on an application by the authority of another Contracting State, request the authorities of one of the States mentioned in paragraph 2 to take measures for the protection of the person or property of the adult. The request may relate to all or some aspects of such protection.

(2) The Contracting States whose authorities may be addressed as provided in the preceding paragraph are:

- (a) a State of which the adult is a national;
- (b) the State of the preceding habitual residence of the adult;
- (c) a State in which property of the adult is located;
- (d) the State whose authorities have been chosen in writing by the adult to take measures directed to his or her protection;

(e) the State of the habitual residence of a person close to the adult prepared to undertake his or her protection;

(f) the State in whose territory the adult is present, with regard to the protection of the person of the adult.

(3) In case the authority designated pursuant to the preceding paragraphs does not accept its jurisdiction, the authorities of the Contracting State having jurisdiction under Article 5 or Article 6 retain jurisdiction.

Article 9

The authorities of a Contracting State where property of the adult is situated have jurisdiction to take measures of protection concerning that property, to the extent that such measures are compatible with those taken by the authorities having jurisdiction under Articles 5 to 8.

Article 10

(1) In all cases of urgency, the authorities of any Contracting State in whose territory the adult or property belonging to the adult is present have jurisdiction to take any necessary measures of protection.

(2) The measures taken under the preceding paragraph with regard to an adult habitually resident in a Contracting State shall lapse as soon as the authorities which have jurisdiction under Articles 5 to 9 have taken the measures required by the situation.

(3) The measures taken under paragraph 1 with regard to an adult who is habitually resident in a non-Contracting State shall lapse in each Contracting State as soon as measures required by the situation and taken by the authorities of another State are recognised in the Contracting State in question.

(4) The authorities which have taken measures under paragraph 1 shall, if possible, inform the authorities of the Contracting State of the habitual residence of the adult of the measures taken.

Article 11

(1) By way of exception, the authorities of a Contracting State, in whose territory the adult is present, have jurisdiction to take measures of a temporary character for the protection of the person of the adult which have a territorial effect limited to the State in question, in so far as such measures are compatible with those already taken by the authorities which have jurisdiction under Articles 5 to 8, and after advising the authorities having jurisdiction under Article 5.

(2) The measures taken under the preceding paragraph with regard to an adult habitually resident in a Contracting State shall lapse as soon as the authorities which have jurisdiction under Articles 5 to 8 have taken a decision in respect of the measures of protection which may be required by the situation.

Article 12

Subject to Article 7, paragraph 3, the measures taken in application of Articles 5 to 9 remain in force according to their terms, even if a change of circumstances has eliminated the basis upon which jurisdiction was founded, so long as the authorities which have jurisdiction under the Convention have not modified, replaced or terminated such measures.

CHAPTER III – APPLICABLE LAW

Article 13

(1) In exercising their jurisdiction under the provisions of Chapter II, the authorities of the Contracting States shall apply their own law.

(2) However, in so far as the protection of the person or the property of the adult requires, they may exceptionally apply or take into consideration the law of another State with which the situation has a substantial connection.

Article 14

Where a measure taken in one Contracting State is implemented in another Contracting State, the conditions of its implementation are governed by the law of that other State.

Article 15

(1) The existence, extent, modification and extinction of powers of representation granted by an adult, either under an agreement or by a unilateral act, to be exercised when such adult is not in a position to protect his or her interests, are governed by the law of the State of the adult's habitual residence at the time of the agreement or act, unless one of the laws mentioned in paragraph 2 has been designated expressly in writing.

(2) The States whose laws may be designated are –

(a) a State of which the adult is a national;

- (b) the State of a former habitual residence of the adult;
- (c) a State in which property of the adult is located, with respect to that property.

(3) The manner of exercise of such powers of representation is governed by the law of the State in which they are exercised.

Article 16

Where powers of representation referred to in Article 15 are not exercised in a manner sufficient to guarantee the protection of the person or property of the adult, they may be withdrawn or modified by measures taken by an authority having jurisdiction under the Convention. Where such powers of representation are withdrawn or modified, the law referred to in Article 15 should be taken into consideration to the extent possible.

Article 17

(1) The validity of a transaction entered into between a third party and another person who would be entitled to act as the adult's representative under the law of the State where the transaction was concluded cannot be contested, and the third party cannot be held liable, on the sole ground that the other person was not entitled to act as the adult's representative under the law designated by the provisions of this Chapter, unless the third party knew or should have known that such capacity was governed by the latter law.

(2) The preceding paragraph applies only if the transaction was entered into between persons present on the territory of the same State.

Article 18

The provisions of this Chapter apply even if the law designated by them is the law of a non-Contracting State.

Article 19

In this Chapter the term 'law' means the law in force in a State other than its choice of law rules.

Article 20

This Chapter does not prevent the application of those provisions of the law of the State in which the adult is to be protected where the application of such provisions is mandatory whatever law would otherwise be applicable.

Article 21

The application of the law designated by the provisions of this Chapter can be refused only if this application would be manifestly contrary to public policy.

CHAPTER IV – RECOGNITION AND ENFORCEMENT

Article 22

(1) The measures taken by the authorities of a Contracting State shall be recognised by operation of law in all other Contracting States.

(2) Recognition may however be refused –

(a) if the measure was taken by an authority whose jurisdiction was not based on, or was not in accordance with, one of the grounds provided for by the provisions of Chapter II;

(b) if the measure was taken, except in a case of urgency, in the context of a judicial or administrative proceeding, without the adult having been provided the opportunity to be heard, in violation of fundamental principles of procedure of the requested State;

(c) if such recognition is manifestly contrary to public policy of the requested State, or conflicts with a provision of the law of that State which is mandatory whatever law would otherwise be applicable;

(d) if the measure is incompatible with a later measure taken in a non-Contracting State which would have had jurisdiction under Articles 5 to 9, where this later measure fulfils the requirements for recognition in the requested State;

(e) if the procedure provided in Article 33 has not been complied with.

Article 23

Without prejudice to Article 22, paragraph 1, any interested person may request from the competent authorities of a Contracting State that they decide on the recognition or non-recognition of a measure taken in another Contracting State. The procedure is governed by the law of the requested State.

Article 24

The authority of the requested State is bound by the findings of fact on which the authority of the State where the measure was taken based its jurisdiction.

Article 25

(1) If measures taken in one Contracting State and enforceable there require enforcement in another Contracting State, they shall, upon request by an interested party, be declared enforceable or registered for the purpose of enforcement in that other State according to the procedure provided in the law of the latter State.

(2) Each Contracting State shall apply to the declaration of enforceability or registration a simple and rapid procedure.

(3) The declaration of enforceability or registration may be refused only for one of the reasons set out in Article 22, paragraph 2.

Article 26

Without prejudice to such review as is necessary in the application of the preceding Articles, there shall be no review of the merits of the measure taken.

Article 27

Measures taken in one Contracting State and declared enforceable, or registered for the purpose of enforcement, in another Contracting State shall be enforced in the latter State as if they had been taken by the authorities of that State. Enforcement takes place in accordance with the law of the requested State to the extent provided by such law.

CHAPTER V – CO-OPERATION

Article 28

(1) A Contracting State shall designate a Central Authority to discharge the duties which are imposed by the Convention on such authorities.

(2) Federal States, States with more than one system of law or States having autonomous territorial units shall be free to appoint more than one Central Authority and to specify the territorial or personal extent of their functions. Where a State has appointed more than one Central Authority, it shall designate the Central Authority to which any communication may be addressed for transmission to the appropriate

Central Authority within that State.

Article 29

(1) Central Authorities shall co-operate with each other and promote co-operation amongst the competent authorities in their States to achieve the purposes of the Convention.

(2) They shall, in connection with the application of the Convention, take appropriate steps to provide information as to the laws of, and services available in their States relating to the protection of adults.

Article 30

The Central Authority of a Contracting State, either directly or through public authorities or other bodies, shall take all appropriate steps to:

(a) facilitate communications, by every means, between the competent authorities in situations to which the Convention applies;

(b) provide, on the request of a competent authority of another Contracting State, assistance in discovering the whereabouts of an adult where it appears that the adult may be present and in need of protection within the territory of the requested State.

Article 31

The competent authorities of a Contracting State may encourage, either directly or through other bodies, the use of mediation, conciliation or similar means to achieve agreed solutions for the protection of the person or property of the adult in situations to which the Convention applies.

Article 32

(1) Where a measure of protection is contemplated, the competent authorities under the Convention, if the situation of the adult so requires, may request any authority of another Contracting State which has information relevant to the protection of the adult to communicate such information.

(2) A Contracting State may declare that requests under paragraph 1 shall be communicated to its authorities only through its Central Authority.

(3) The competent authorities of a Contracting State may request the authorities of another Contracting State to assist in the implementation of measures of protection taken under this Convention.

Article 33

(1) If an authority having jurisdiction under Articles 5 to 8 contemplates the placement of the adult in an establishment or other place where protection can be provided, and if such placement is to take place in another Contracting State, it shall first consult with the Central Authority or other competent authority of the latter State. To that effect it shall transmit a report on the adult together with the reasons for the proposed placement.

(2) The decision on the placement may not be made in the requesting State if the Central Authority or other competent authority of the requested State indicates its opposition within a reasonable time.

Article 34

In any case where the adult is exposed to a serious danger, the competent authorities of the Contracting 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, or that the adult is present in, another State, shall inform the authorities of that other State about the danger involved and the measures taken or under consideration.

Article 35

An authority shall not request or transmit any information under this Chapter if to do so would, in its opinion, be likely to place the adult's person or property in danger, or constitute a serious threat to the liberty or life of a member of the adult's family.

Article 36

(1) Without prejudice to the possibility of imposing reasonable charges for the provision of services, Central Authorities and other public authorities of Contracting States shall bear their own costs in applying the provisions of this Chapter.

(2) Any Contracting State may enter into agreements with one or more other Contracting States concerning the allocation of charges.

Article 37

Any Contracting State may enter into agreements with one or more other Contracting States with a view to improving the application of this Chapter in their mutual relations. The States which have concluded such an agreement shall transmit a copy to the depositary of the Convention.

CHAPTER VI – GENERAL PROVISIONS

Article 38

(1) The authorities of the Contracting State where a measure of protection has been taken or a power of representation confirmed may deliver to the person entrusted with protection of the adult's person or property, on request, a certificate indicating the capacity in which that person is entitled to act and the powers conferred.

(2) The capacity and powers indicated in the certificate are presumed to be vested in that person as of the date of the certificate, in the absence of proof to the contrary.

(3) Each Contracting State shall designate the authorities competent to draw up the certificate.

Article 39

Personal data gathered or transmitted under the Convention shall be used only for the purposes for which they were gathered or transmitted.

Article 40

The authorities to whom information is transmitted shall ensure its confidentiality, in accordance with the law of their State.

Article 41

All documents forwarded or delivered under this Convention shall be exempt from legalisation or any analogous formality.

Article 42

Each Contracting State may designate the authorities to which requests under Article 8 and Article 33 are to be addressed.

Article 43

(1) The designations referred to in Article 28 and Article 42 shall be communicated to the Permanent Bureau of the Hague Conference on Private International Law not later than the date of the deposit of the instrument of ratification, acceptance or approval of the Convention or of accession thereto. Any modifications thereof shall also be communicated to the Permanent Bureau.

(2) The declaration referred to in Article 32, paragraph 2, shall be made to the depositary of the Convention.

Article 44

A Contracting 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 the Convention to conflicts solely between such different systems or sets of rules of law.

Article 45

In relation to a State in which two or more systems of law or sets of rules of law with regard to any matter dealt with in this 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;

(e) any reference to the State whose authorities have been chosen by the adult shall be construed

– as referring to the territorial unit if the adult has chosen the authorities of this territorial unit;

– as referring to the territorial unit with which the adult has the closest connection if the adult has chosen the authorities 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 authority 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 authority of the territorial unit in which such measure was taken;

(h) any reference to the law or procedure or authority of the requested State shall be construed as referring to the law or procedure in force in such territorial unit or authority 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 or authorities of that State, other than Central Authorities, shall be construed as referring to those authorised to act in the relevant territorial unit.

Article 46

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 Convention, the following rules 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 Article 45 applies.

Article 47

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 Convention, the following rules 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 48

In relations between the Contracting States this Convention replaces the *Convention concernant l'interdiction et les mesures de protection analogues*, signed at The Hague 17 July 1905.

Article 49

(1) The Convention does not affect any other international instrument to which Contracting States are Parties and which contains provisions on matters governed by this Convention, unless a contrary declaration is made by the States Parties to such instrument.

(2) This Convention does not affect the possibility for one or more Contracting States to conclude agreements which contain, in respect of adults habitually resident in any of the States Parties to such agreements, provisions on matters governed by this Convention.

(3) Agreements to be concluded by one or more Contracting States on matters within the scope of this Convention do not affect, in the relationship of such States with other Contracting States, the application of the provisions of this Convention.

(4) The preceding paragraphs also apply to uniform laws based on special ties of a regional or other nature between the States concerned.

Article 50

(1) The Convention shall apply to measures only if they are taken in a State after the Convention has entered into force for that State.

(2) The Convention shall apply to the recognition and enforcement of measures taken after its entry into force as between the State where the measures have been taken and the requested State.

(3) The Convention shall apply from the time of its entry into force in a Contracting State to powers of representation previously granted under conditions corresponding to those set out in Article 15.

Article 51

(1) Any communication sent to the Central Authority or to another authority of a Contracting State shall be in the original language, and shall be accompanied by a translation into the official language or one of the official languages of the other State or, where that is not feasible, a translation into French or English.

(2) However, a Contracting State may, by making a reservation in accordance with Article 56, object to the use of either French or English, but not both.

Article 52

The Secretary General of the Hague Conference on Private International Law shall at regular intervals convoke a Special Commission in order to review the practical operation of the Convention.

CHAPTER VII – FINAL CLAUSES

Article 53

(1) The Convention shall be open for signature by the States which were Members of the Hague Conference on Private International Law on 2 October 1999.

(2) It shall be ratified, accepted or approved and the instruments of ratification, acceptance or approval shall be deposited with the Ministry of Foreign Affairs of the Kingdom of the Netherlands, depositary of the Convention.

Article 54

(1) Any other State may accede to the Convention after it has entered into force in accordance with Article 57, paragraph 1.

(2) The instrument of accession shall be deposited with the depositary.

(3) Such accession shall have effect only as regards the relations between the acceding State and those Contracting States which have not raised an objection to its accession in the six months after the receipt of the notification referred to in sub-paragraph *b)* of Article 59. Such an objection may also be raised by States at the time when they ratify, accept or approve the Convention after an accession. Any such objection shall be notified to the depositary.

Article 55

(1) If a State has two or more territorial units in which different systems of law are applicable in relation to matters dealt with in this Convention, it may at the time of signature, ratification, acceptance, approval or accession declare that the Convention shall extend to all its territorial units or only to one or more of them and may modify this declaration by submitting another declaration at any time.

(2) Any such declaration shall be notified to the depositary and shall state expressly the territorial units to which the Convention applies.

(3) If a State makes no declaration under this Article, the Convention is to extend to all territorial units of that State.

Article 56

(1) Any State may, not later than the time of ratification, acceptance, approval or accession, or at the time of making a declaration in terms of Article 55, make the reservation provided for in Article 51, paragraph 2. No other reservation shall be permitted.

(2) Any State may at any time withdraw the reservation it has made. The withdrawal shall be notified to the depositary.

(3) The reservation shall cease to have effect on the first day of the third calendar month after the notification referred to in the preceding paragraph.

Article 57

(1) The Convention shall enter into force on the first day of the month following the expiration of three months after the deposit of the third instrument of ratification, acceptance or approval referred to in Article 53.

(2) Thereafter the Convention shall enter into force –

(a) for each State ratifying, accepting or approving it subsequently, on the first day of the month following the expiration of three months after the deposit of its instrument of ratification, acceptance, approval or accession;

(b) for each State acceding, on the first day of the month following the expiration of three months after the expiration of the period of six months provided in Article 54, paragraph 3;

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(c) for a territorial unit to which the Convention has been extended in conformity with Article 55, on the first day of the month following the expiration of three months after the notification referred to in that Article.

Article 58

(1) A State Party to the Convention may denounce it by a notification in writing addressed to the depositary. The denunciation may be limited to certain territorial units to which the Convention applies.

(2) The denunciation takes effect on the first day of the month following the expiration of twelve months after the notification is received by the depositary. Where a longer period for the denunciation to take effect is specified in the notification, the denunciation takes effect upon the expiration of such longer period.

Article 59

The depositary shall notify the States Members of the Hague Conference on Private International Law and the States which have acceded in accordance with Article 54 of the following –

(a) the signatures, ratifications, acceptances and approvals referred to in Article 53;

(b) the accessions and objections raised to accessions referred to in Article 54;

(c) the date on which the Convention enters into force in accordance with Article 57;

(d) the declarations referred to in Article 32, paragraph 2, and Article 55;

(e) the agreements referred to in Article 37;

(f) the reservation referred to in Article 51, paragraph 2, and the withdrawal referred to in Article 56, paragraph 2;

(g) the denunciations referred to in Article 58.

In witness whereof the undersigned, being duly authorised thereto, have signed this Convention.

Done at The Hague, on the 13th day of January, 2000, in the English and French languages, both texts being equally authentic, in a single copy which shall be deposited in the archives of the Government of the Kingdom of the Netherlands, and of which a certified copy shall be sent, through diplomatic channels, to each of the States Members of the Hague Conference on Private International Law.

Passed by the House of Representatives at Sitting No. 89 of the 14th February, 2023.

ANĠLU FARRUGIA
Speaker

RAYMOND SCICLUNA
Clerk of the House of Representatives

