



## Address by Ms Rachida Dati, French Minister of Justice

### Conference on the international protection of vulnerable adults

Grand Palais, Lille, Wednesday 17<sup>th</sup> September 2008

Ladies and Gentlemen,  
Vice-President of the European Commission, Jacques Barrot,  
Bulgarian Minister of Justice, Ms Tacheva,

I would like to start by thanking you all for your presence at this meeting organised by the French Presidency.

Our thanks go to Jacques Barrot for his determination and humanism with regard to the issue of the legal protection of adults. The Commission is, like us, convinced that the European Union must act in favour of this issue.

I would also like to thank Ms Tacheva, Bulgarian Minister of Justice for attending the conference. She told me of her drive to make progress on the issue, both in Bulgarian legislation and on a European level.

I am delighted that this conference could be held in Lille, the birthplace of General Charles de Gaulle who paved the way for a Europe of peace; Lille, a major city at the crossroads of Europe. The inhabitants of Lille and its region have had a European perspective for a long time now.

It is fitting that we should come together in Lille to tackle the issue of the protection of vulnerable adults beyond borders, as it concerns in particular residents in cross-border regions.

Europe can add something positive to this very real issue. I hope that the rich discussions you had today will help to rally people to the cause.

Protecting the most vulnerable citizens is now a challenge for all Member States.

At the start of the day, you presented some key figures, which speak for themselves and illustrate the need to act.

- According to the Council of Europe, 80 to 120 million European citizens suffer from a type of disability.
- In 2050, 37% of the European population will be over 60 years of age.
- 10% of the population will be over 80.

These statistics show that a large proportion of the European population is particularly vulnerable, or is about to become so.

These people are made vulnerable through age or illness and have needs in terms of health and medical care. They also have clear legal needs, for example to organise their daily life, to manage their property, to plan for their future.

Member States must ensure that the rights of these elderly or ill people are upheld. It is a question of humanity and dignity, as well as solidarity.

Over the last few years, implementing a more effective protection system has become an utmost necessity in many European States.

Changing family structures and the increasingly widespread isolation of the most vulnerable of us have led Member States to bring their legislation into line with the new challenges facing society.

This has been the case in Germany, Spain, Italy, and more recently the United Kingdom in 2007.

In France, our new legislation will enter into force as of 1<sup>st</sup> January 2009. It is set to place people at the core of the protection system. It has drawn inspiration from the principles of necessity and proportionality: a measure can only be ordered by a judge if it is necessary and is the only way of ensuring the interests of the person concerned.

It is already possible to plan one's future thanks to the "*mandat de protection future*" (continuing power of attorney for future protection). This is an instrument that is drawn up in advance so that people can prepare for their old age with peace of mind. Through it, the person's protection is organised in advance and the person who will look after them and manage their property when they are no longer able to, is appointed. It is possible to fill in a straight-forward form that is available from this year. Notaries tell me that this document is being used increasingly often.

The "*mandat de protection future*" ties up with the system of "*advance directives*" that the Council of Europe is currently working on. During the day, the experts working on this project will have explained its latest developments. Your discussions today highlight the possible synergies between the various bodies that strive to further legal cooperation between States in Europe.

Today, a strictly national approach is not enough. We have to consider changing lifestyles.

This is why it is the European Union's responsibility to commit to protecting its most vulnerable citizens and to anticipating the major problems facing society.

Increasing movement of people and goods, and the ensuing rise in mobility mean that we must adapt the solutions we have to tackle vulnerability.

People now move to find a job, start a family or live elsewhere, during their careers and also upon retirement. As you know as you have gone over this in depth today: our fellow citizens no longer feel limited by national borders. They no longer hesitate to move across the EU while they are still in total possession of their faculties.

It may also be the case that suitable care may be found more easily on the other side of a border. You saw the film shown at the beginning of the day: Belgium provides care for 2,500 French people with mental disabilities.

The film demonstrated the complications encountered when the time to set up a protection measure comes. Although actual borders have disappeared, legal borders remain very present.

We must change this. The rights of vulnerable people must be considered on a European scale. Improving the protection of Europeans is one of the French Presidency's priorities.

We have already made progress on the issue of the protection of minors: a joint exercise was conducted in June leading to the guide of best practices for abduction alerts currently being drafted. We also want to move forward in the protection of the elderly and of disabled adults. These situations concern all families in Europe.

We have set ourselves two objectives:

Objective No.1: encourage Member States to sign and ratify The Hague Convention of 13<sup>th</sup> January 2000 on the international protection of adults.

You have spoken of its content with Professor Lagarde, the father of this Convention.

The Convention entails a simple principle: the law of the country of residence is applied. This is significant progress.

The Hague Convention meets the needs of European citizen, judges and law officers:

- it has a pragmatic vision that is close to the reality experienced by people,
- it resolves difficulties in the application of foreign legislation,
- it sets out cooperation guidelines between judges or administrative bodies,
- it ensures a balance between the respect for people and their fundamental rights, freedom of movement, the continuity and effectiveness of protection.

France adopted the law ratifying the Convention on 28<sup>th</sup> July 2008. Its instruments of ratification will be filed tomorrow in The Hague. It is a momentous occasion, as several European countries will sign the Convention to mark the 115<sup>th</sup> anniversary of the Conference, namely Ireland, Finland, Poland, Greece and Luxembourg.

France will become the third State to ratify the Convention, after Germany and the United Kingdom as concerns Scotland. The ratification paves the way for the Convention's entry into force on 1<sup>st</sup> January 2009.

This instrument must apply to more countries beyond these three states. I find that it is very well adapted to European challenges.

Objective No.2: bring about major discussions on the initiatives concerning the protection of adults that could be planned within the European Union.

If we want to create an area of freedom, justice and security, I believe that we must consider here and now the future actions that the European Union could carry out. We must carry on from The Hague Convention and step up European cooperation in this field.

This cooperation must focus on real issues and enable judges to have more direct contact.

How?

- Through support from the Judicial Network in civil and commercial matters, to make it easier for judges to share information on the existing protection systems,
- By creating single European forms for the recognition and performance of protection

- decisions in the European Union,
- By implementing joint registers of protection decisions, as soon as they have cross-border significance, to facilitate their movement in Europe,
  - By raising awareness of these issues among judges and the legal profession, with specific training modules open to judges across the EU,
  - By informing and raising awareness among European Citizens of the types of protection available to them in Europe and on the rights they enjoy regardless of their movements and places of residence.

These proposals have yet to convince those who are not aware of the European Union's need to act on these issues.

I am sure that we are more efficient when we work together, sharing our experiences. It is precisely what you have done today and I thank you for that. We will find the instruments that will enable us to preserve our national systems and link them together in an effective and coherent manner.

This is a challenge for civil judicial cooperation.

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Ladies and Gentlemen,

Our ultimate goal must be to afford vulnerable adults the same freedom of movement in the European Union as all other citizens, while preserving the protection they require.

A society's level of civilisation and humanity is measured by the way it respects and supports its most vulnerable members.

We must combine the protection of the most vulnerable with the modern nature of our globalised society. We must build a Europe that protects and reassures.

In this way, our fellow citizens will see the purpose of European integration.

Thank you.