

Guardianship by Court Order, Mandate for future protection, exercise of the activity of legal trustee for the protection of persons

Law No. 1.474 of 2 July 2019 on the Guardianship by Court Order, Mandate for future protection and the exercise of the activity of legal trustee for the protection of persons, is the result of Draft Law No. 958, passed by the National Council on 24 June 2019 (following the Draft Law No. 209 adopted on 28 May 2015).

The legislator pursued the objective of *"enriching Monegasque law, which currently operates mainly through tutorship, which is a measure of representation, and curatorship, which is a measure of assistance"*.¹

It is in line with Recommendation No. R(99) of the Committee of Ministers to Member States of the Council of Europe on Principles concerning the legal protection of incapable adults, adopted on 23 February 1999.

Law No. 1.474 introduces two new protective measures in the Civil Code:

- Guardianship by Court Order

This short-term legal protection measure allows an adult to be represented to perform certain acts. It is less restrictive than a tutorship or curatorship, the adult person retaining in principle the exercise of his or her rights.

- Mandate for future protection

The possibility of appointing a representative in advance allows the latter to act in place of and on behalf of the principal's interests. The mandate does not cause the principal to lose any rights or legal capacity.

Articles 18 to 23 of Law No. 1.474 govern the professional exercise of the activity of trustee for the protection of persons (conditions laid down by Sovereign Order). Persons professionally exercising the functions of tutor and curator have 3 years to comply.

In addition, the Law amends the provisions of the Civil Code relating to tutorship and curatorship in the case of adults and minors.

The provisions of Law No. 1.474 will enter into force within 3 months of its publication in the *Journal de Monaco* on 5 July 2019.

¹ Commission on Women's and Family Rights, Report on Draft Law No. 958, 13 May 2019, p. 2.