

# Powers and Duties of Representatives and Support Persons for Adults with Disabilities: a Comparative Analysis within FL-EUR Countries

## Central research

### Main normative research question:

Which decision-making model for adults with a disability complies with Article 12 CRPD, and ensures a just and fair balance between autonomy and protection?

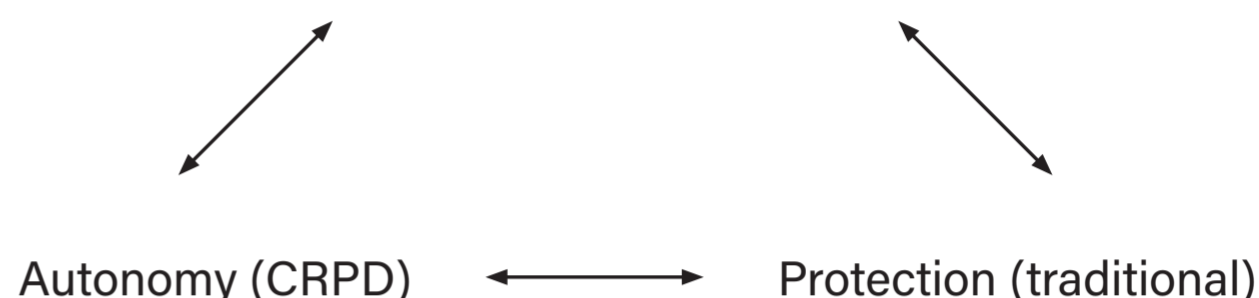
### Focus:

Alternative approaches to 'pure' supported decision-making via human rights frameworks, ECtHR and Sub-committee on the Prevention of Torture, and comparative insights.

Comparative insights via the FL-EUR (Family Law in Europe) network, encompassing 31 jurisdictions.

## Fundamental tension

Striking a just and fair balance between autonomy and protection



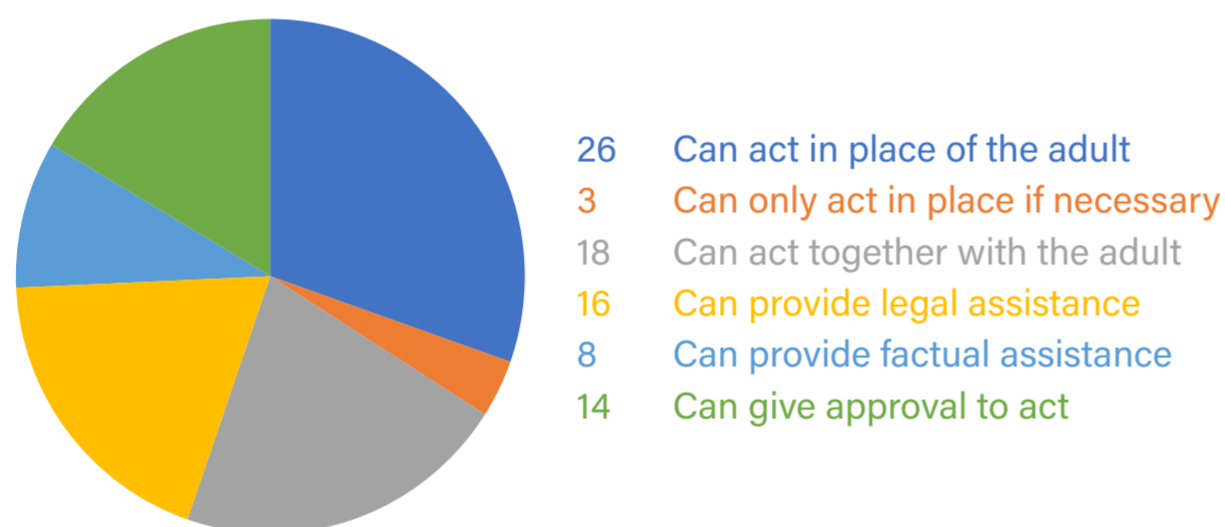
## Research output

### 1. Tailor-made approach

CRPD: On the level of support (evolving capacities theory)  
 Comparative insights: On the level of legal incapacitation (by judicial decision)

### 2. Decision-making model

CRPD: Paradigm shift, total abolition of substituted decision-making, in favour of supported decision-making  
 Comparative insights: Substituted decision-making still dominant, emerging shift towards more collaborative models



### 3. Scope of matters

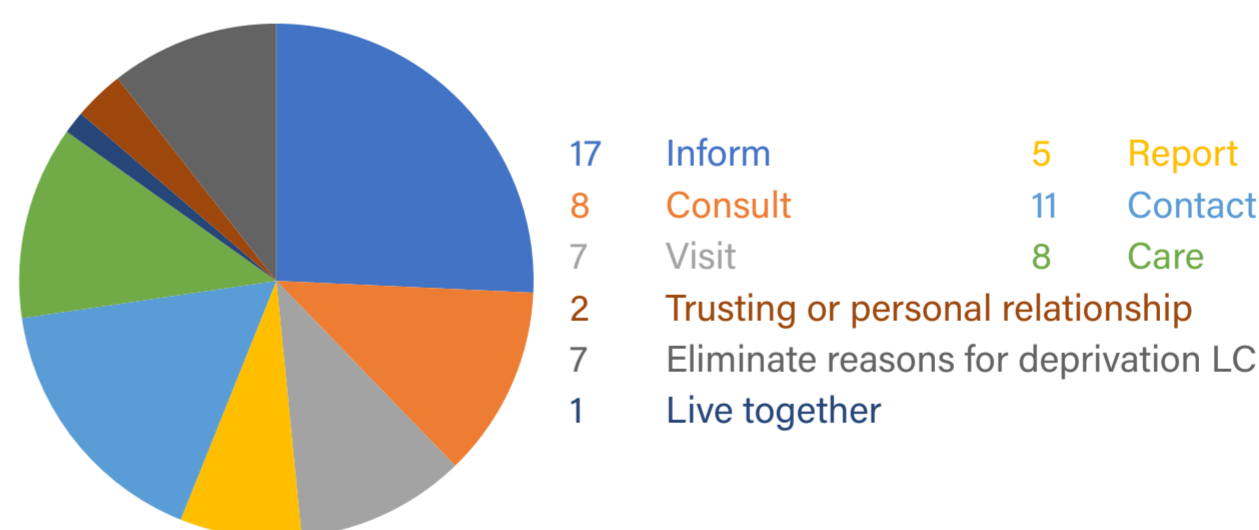
CRPD: All decisions affecting the life of the vulnerable adult  
 Comparative insights: Broad scope across multiple domains with specific modalities to preserve the adult's autonomy (exception of highly personal matters and court approval)

### 4. Decision-making criteria

CRPD: Primacy of will and preference, and possibility of 'best interpretation' of will and preference  
 Comparative insights: Primacy of best interests standard, and no mechanisms for 'best interpretation', sometimes involvement of third parties to determine will and preferences

### 5. Duties of representatives and support persons

CRPD: No general obligation, core role is to provide support (focus on empowerment)  
 Comparative insights: Duties are rooted in substituted decision-making, focus on control and oversight (reporting) and emerging of autonomy safeguards (informing, consulting and maintaining contact), limited role of family, supervisory authorities ensure accountability



## No 'real' paradigm shift: a movement from protection towards autonomy?

## Conclusion

