



## European network of legal experts in gender equality and non-discrimination

### FLASH REPORT

<b>Country:</b>	Spain
<b>Title:</b>	Bill on legal capacity of people with disabilities
<b>Date:</b>	27 July 2020
<b>Expert:</b>	Lorenzo Cachón
<b><u>Context</u></b>	
<b>Issue at stake:</b>	Bill on legal capacity of people with disabilities
<b>Grounds of discrimination:</b>	Disability
<b>Field of application:</b>	Other field
<b>Source:</b>	National legislation

### **Content**

**Policy development:** On 8 July 2020, the Spanish Government sent to Parliament the 'Bill reforming civil and procedural legislation to support people with disabilities in the exercise of their legal capacity'.<sup>1</sup>

The bill seeks to reform civil and procedural legislation to recognise the legal capacity of persons with disabilities on equal terms with other citizens in all aspects of life, establishing measures to provide persons with disabilities access to support they may need in the exercise of their legal capacity. The Bill establishes a system that respects the will and preferences of the person with a disability who, as a general rule, will be in charge of making her/his own decisions.

The bill amends the following laws: Civil Code, Notary Law, Mortgage Law, Civil Procedure Law, Property Protection Law for people with disabilities, Civil Registry Law, and Voluntary Jurisdiction Law.

The new norm eliminates from the field of disability, figures such as guardianship (*tutela*), extended parental rights (*patria potestad prorrogada*) and rehabilitated parental rights (*patria potestad rehabilitada*), because they do not respond to the system for promoting the autonomy of adults with disabilities promoted by the International Convention on the Rights of People with disabilities. In its place, the Bill establishes three new figures: the de facto guardian (*guardador de facto*), the conservatorship (*curatutela*) and the judicial defender (*defensor judicial*), depending on the degree of disability.

The Bill also includes preventive measures that any person may take in anticipation of possible future disability. And so, anyone can sign an advance a power of attorney or leave in writing who should care for them and how their assets should be managed in case of unexpected disability.

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<sup>1</sup> Proyecto de Ley por la que se reforma la legislación civil y procesal para el apoyo a las personas con discapacidad en el ejercicio de su capacidad jurídica.

**Key points of analysis:** The bill aims to promote the autonomy of adults with disabilities and recognises their legal capacity on equal terms with the rest of the citizens. This complies with Article 12 of the International Convention on the Rights of Persons with Disabilities.

**Internet link source:**

[http://www.congreso.es/public\\_oficiales/L14/CONG/BOCG/A/BOCG-14-A-27-1.PDF#page=1](http://www.congreso.es/public_oficiales/L14/CONG/BOCG/A/BOCG-14-A-27-1.PDF#page=1).