


Guardianship by Country:

Resource for Second World Congress on Adult Guardianship

 Country: Hungary Population: 9.9 million Number of people under Adult Guardian/Guardianship: 67,480 (2009)
Relevant legislation 1959 Civil Code and the 1952 Civil Procedure Code
Key terminology Plenary guardianship; General partial guardianship; Partial guardianship based on limitation of legal capacity by groups of matters; adult
What types of guardianship exist? (personal welfare/financial affairs) Plenary guardianship and General partial guardianship include powers relating to mainly legal and financial matters but can include personal welfare care matters. In Partial guardianship based on limitation of legal capacity by groups of matters the adult retains full legal capacity in all areas of life except the areas in which they were limited by the court.
Aside from personal appointments, who has the power to appoint an adult guardian? The court decides if a guardian needs to be appointed, and then the Guardianship Authority appoints a guardian to the person under guardianship.
What criteria do the court need to consider when deciding the need for a guardian? Any adult person who has full legal capacity and accepts the appointment can be guardian.
What is the potential duration of an order? A court must schedule a review for the necessity of guardianship no more than five years from the date on which it limited or deprived the adult of legal capacity, except for cases in which the judge considers the adult's underlying condition to be permanent, in which case the order is made for an indefinite period.
Can a person under guardianship seek review of a guardian's appointment and/or a guardian's decisions? The person under guardianship can ask that the Guardianship Authority change the appointed guardian. The person can also initiate a procedure before the court seeking restoration of their legal capacity (revocation of guardianship). There is no option available to the person in relation to seeking a ruling on a particular decision of the guardian, however the Guardianship Authority has to approve some of the guardian's decisions, for example, real estate transactions.

Who can be appointed as guardian? (eg family members, private guardian, private body, public body)

A guardian may be any adult with full capacity who accepts the appointment including individuals, family members, professional guardians, or members of a non-governmental organisation where that organisation's activities are related to people with disabilities, psychiatric patients, or people with pathological addictions.

What are the responsibilities of an adult guardian? (eg what principles or guidelines must they comply with)

There is a general provision to safeguard and promote the interests and welfare of the adult under guardianship. Hungarian legislation does not require a guardian to ever visit the adult, but does require a guardian to consult with the adult before taking decisions, and to follow the adult's wishes whenever possible. This obligation exists only if an adult is deemed (presumably by the guardian) able to express his or her views.

How are adult guardians monitored and/or supported? (eg overseeing body, support for volunteer guardians)

Guardians must annually send written reports on the adult's finances to the guardianship authority. Guardians must also annually provide a statement of the adult's 'personal condition', which should include information about the adult's education, health care and living conditions. There are less strict reporting requirements for guardians who are relatives of the adult.

The guardianship authority must investigate allegations of neglect, abuse and failures of the guardian and, if necessary, ask for involvement of other State bodies such as the police or the Public Prosecutor's Office.

Does an existing enduring Power of Attorney (personal welfare/financial) remove the need for guardianship when capacity is lost?

No. Hungary's legal system does not regard a Power of Attorney as an alternative of guardianship.

What costs are associated with guardianship and who pays? (eg application costs, court costs, yearly service fees)

There are no application costs for guardianship proceedings. The state provides legal representation for the adult if they cannot afford to employ their own lawyer. Family members, relatives and friends do not get any payment for being guardians. Public guardians are paid by local governments but their salary is very low.

Additional comments (Interesting elements of your country's system than are not covered above)

Hungarian legal capacity legislation is under modification. For more info, please visit MDAC website (www.mdac.info)