

Nation/ No. Inhabitants/ No. Wards	Types of Adult Guardianship	Power of Attorney	Recent Reform	Legal "Trigger"	Who can be a guardian?	Guardianship Procedure	Control of the guardian	Costs and duration of the guardianship
<b>Asia</b>								
<b>Israel:</b> 7 Mio/ Guardianship orders in effect: App. 32000, though some are related to minors.	Most guardianship orders are plenary, although the court limit areas of decision making by the guardian.	An independent adult may sign a power of attorney, and authorize an "attorney" to decide on matters related to his/her person and/or estate, but once a person has signed a power of attorney, it will be the later one's decision to ask for a court authorized guardian/trusteeship order, if he/she deems it appropriate and surrender the decision making powers to the State, who may then appoint a guardian.	The 1962 Capacity and Guardianship Act prevails, although various aspects were amended over the years, by introducing several regulations like, moving the jurisdiction of guardianship issues from the District Court to the Family Court, placing the Ministry of Welfare as the respondent for whenever an application for a guardianship order is filed, and regulating the guardian's remuneration.	When any one thinks that an adult is unable to assume the necessary responsibilities expected and therefore he/she places him/herself at risk, one may file an application to adjudicate the person as a ward if this application is supported by a psychiatrist affidavit that indeed the person is at risk, the court would ask a social worker to identify the person that should be the guardian.	Every adult person or an entity can be the appointed guardian, yet in most instances it is a family member	A person or an agency who finds that a person is unable to take care of him/herself, and may be at risk of harming his/her interests can apply for a court order to place a person under a guardianship order, provided the application is supported by a psychiatrist affidavit, that on firms and supports the request. The court asks thereupon for a social worker's report on the needs of the alleged ward and the identity of a proposed guardian. When a court issues a guardianship order, acopy of the order is sent to the national guardian officer (seated in the government's Justice Department), who is Court's long arm of overseeing that the ward's interests are not jeopardized.	By definition, persons placed under a guardianship order, are wards of the State, and therefore, the national guardian officer is the one to whom all personal guardians must report annually on all matters related to the ward's person and his/her estate.	The costs related to providing the guardianship service are been paid by the ward and subjected to the court's approval. The guardian's fee is set by law, and subjected to the court's approval (the guardian must file an application to be paid for his/her services); it is app. 425 NIS, a month for a ward who lives in an institution and twice as much (i.e., app. 850 NIS a month) for a ward who lives in the community (1 \$ = 4.65 NIS). A guardianship order would be removed very rarely; therefore once a person is adjudicated a ward, he/she will remain a ward for as long as they live.

Nation/No. Inhabitants/No. Wards	Types of Adult Guardianship	Power of Attorney	Recent Reforms	Legal “Trigger”	Who can be a Guardian?	Guardianship Procedure	Supervision of the Guardian	Costs and duration of the Guardianship
<u>Japan:</u>	As a result of the 2000 reform the old legal terms of <b>kin-chisansha</b> (those who are incompetent in the management of their property) and <b>jun-kin-chisansha</b> (those who are quasi-incompetent) were replaced by the new legal terms <b>kohken seido</b> (guardianship system) and <b>hosa seido</b> (curatorship system). Also, a totally new type of guardianship system was introduced: the new <b>hojo seido</b> system (which is translated in English as "help system" or "advisory system").	Possible via voluntary guardianship.	2000.	The subject person is insufficiently capable of making sound judgements due to impairment of his or her mental facilities (Article 14, § 1 of the Voluntary Guardianship Law).	The new legal mechanism allows any adult person with sufficient mental capacity to voluntarily nominate a "legal" person (mostly a family member) or other entity (including a for-profit organization) to be his or her legal "guardian by contract". This new legal system, which allows competent adult to maintain their autonomy by providing advance directives, follows along the lines of the American durable power of attorney.	According to the new <b>hojo seido</b> system, the family court may appoint a <b>hojonin</b> (a helper) for those who suffer from mild mental or intellectual disability. Once a <b>hojonin</b> is appointed to an elderly person, the principal does not lose his or her legal status or independence. Specific acts (which are to be decided by the family court) need to be decided jointly by the person and the hojonin in order to be valid. In comparison to the old system which focused on protecting and preserving the property of the incapable person, guardians under the new system are responsible for health, medical care, housing, and other conditions of daily living.	The specific terms of voluntary guardianship nomination are detailed in the designated contract and registered under an "adult guardianship registration system", which provides the formal backing for this voluntary procedure. Under the voluntary guardianship system, a person does not fully avoid the formal aspects of guardianship. The contractual agreement takes effect only after the fulfillment of formal legal processes, including formal registration and the appointment of a supervisor over the voluntary guardian.	The family court is responsible for controlling.

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<p><b>Australia</b></p> <p>21 million inhabitants. (Wards not known)</p> <p>See: <a href="http://www.agac.org.au">www.agac.org.au</a></p>	<p>Guardianship is a state or territory based issue, there is no federal uniformity at present, although there are similarities between systems.</p> <p>In most Australian Jurisdictions orders are ‘domain specific’ making a distinction between personal and financial decisions. Thus a ‘guardian’ makes substitute personal decisions relating to issues such as accommodation, health care, and relationships. Substitute financial decisions are made by ‘administrators,’ ‘financial managers’ (when appointed by a tribunal) or attorneys (when appointed by the person).</p>	<p>There is provision in most Australian jurisdictions to appoint an enduring attorney or enduring guardian by way of a deed. Adjudication of issues arising in such appointments is generally undertaken by guardianship tribunals.</p>	<p>Australian Government currently undertaking National Interest Analysis to ratify the UN Disability Convention (April 08).</p> <p>National conference Brisbane March 19-20, 2009</p>	<p>Categories of applicants are generally broad; usually require that the applicant is a person with a proper interest or an interest in the welfare of the person with a disability.</p> <p>Where a person has executed an enduring power of attorney or enduring guardianship, these take effect when the person loses capacity to make reasonable judgments.</p>	<p>Any person over 18 years of age who has been appointed in an enduring guardianship or enduring power of attorney.</p> <p>A person appointed by a Board or Tribunal who has satisfied the Board or Tribunal that he or she is suitable.</p> <p>The Public Trustee or trustee companies are available for appointment under financial management or administration orders.</p> <p>Public guardians or public advocates are available for appointment under guardianship orders.</p>	<p>Boards and tribunals convene open hearings, hear evidence and receive reports regarding the person’s disability, incapacity and need for a substitute decision maker. The person with a disability has a right to attend, be heard and be represented. Appeal mechanisms exist to Supreme Courts or higher tribunals.</p>	<p>Guardianship and Administration orders are time limited (usually to 3 years) and appointees must report annually to a Board or Tribunal who appointed them, or to a Protective Commissioner. A guardian or administrator is always amenable to an application to a Board or Tribunal to review their appointment.</p>	<p>Where private persons are appointed under an enduring power of attorney there may be a contractual arrangement for payment of fees.</p> <p>Where a trustee company, including a Public Trustee, is appointed fees are charged on a commission basis.</p> <p>Appointment of a Public Guardian or Public Advocate is publicly funded, i.e. no cost to the person with a disability.</p> <p>Where private persons are appointed as guardian or administrator/financial manager, fees may only be charged with the approval of the tribunal.</p>
<p><b>Australia: Australian Capital Territory</b></p> <p>Pop: 350,000 (Wards not known)</p>	<p><i>Guardianship and Management of Property Act 1991</i>(ACT)</p> <p>Appointment by Guardianship and Management of Property Tribunal: Guardians may be appointed for personal decisions. Property Managers may be appointed for financial decisions.</p> <p>Enduring powers of attorney cover personal and financial decisions.</p>	<p>ACT’s <i>Powers of Attorney Act 2006</i> is model legislation. It enables a person to appoint a substitute decision maker for specific or general decisions.</p>	<p><i>Powers of Attorney Act 2006</i>, plus inclusion of missing persons provisions to guardianship jurisdiction.</p>	<p>Any person may apply for appointment of a guardian or manager.</p> <p>Where a person has executed an enduring power of attorney, these take effect when the person loses capacity to make reasonable judgments.</p>	<p>Any person over 18 years of age who has been appointed in an enduring power of attorney.</p> <p>A person appointed by the Tribunal who has satisfied the Tribunal that he or she is suitable.</p> <p>The Public Trustee or trustee companies are available for appointment under financial management or administration orders.</p>	<p>Tribunal convenes open hearings, hears evidence and receives reports regarding the person’s disability, incapacity and need for a substitute decision maker. The person with a disability has a right to attend, be heard and be represented. Appeal mechanisms exist to Supreme Court.</p>	<p>Guardianship and management orders must be reviewed every 3 years. The tribunal may give the appointee directions. Manager must file accounts with the Public Trustee. An appointee may be removed by the tribunal.</p>	<p>Where private persons are appointed under an enduring power of attorney there may be a contractual arrangement for payment of fees.</p> <p>Where a trustee company, including a Public Trustee, is appointed fees are charged on a commission basis.</p> <p>Appointment of the Public Advocate is publicly funded, i.e. no cost to the person with a disability.</p> <p>Where private persons are appointed as guardian or administrator/financial manager, fees may only be</p>

**Australia:**  
**New South Wales**  
**Pop:** 6.7 million  
(Wards not known)

*Guardianship Act 1987*  
(NSW)

Appointment by  
Guardianship Tribunal:

- Guardians may be appointed for personal decisions.
- Financial Managers may be appointed for financial decisions.

*Protected Estates Act 1983*  
(NSW) provides for appointment of a financial manager by the NSW Supreme Court, a Magistrate or the Mental Health Review Tribunal.

NSW's *Powers of Attorney Act 2003* enables a competent person to make an enduring power of attorney which empowers the attorney to make financial decisions.

The *Guardianship Act 1987* enables the appointment of an enduring guardian to make personal decisions. The Guardianship Tribunal can review an enduring power of attorney and an appointment of an enduring guardian if there are concerns that these arrangements are not working in the best interests of a person with a decision making disability.

Any person with a genuine concern for the welfare of a person with a decision making disability may apply to the Tribunal for the appointment of a guardian or financial manager.

Where a person has executed an enduring power of attorney or enduring guardianship appointment, the enduring power of attorney can be exercised from the date of signing and continues notwithstanding incapacity whereas an enduring guardianship appointment only takes effect when the person loses capacity to make personal decisions.

Public guardians are available for appointment under guardianship orders.

Any person over 18 years of age can be appointed as a guardian by an enduring guardianship appointment or by the Guardianship Tribunal.

The Guardianship Tribunal can appoint a private person as guardian if satisfied they are willing and able to be a guardian, have no conflict of interest and are compatible in personality with the person with a decision making disability.

If there is no suitable private guardian available, the Tribunal can appoint the Public Guardian. The Public Guardian is a guardian of last resort.

A private person can be appointed as a financial manager if they are a suitable person to undertake that role. The Public Trustee or private trustee companies can be appointed as a financial manager.

The Protective Commissioner may also be appointed as a

Tribunal convenes open hearings, hears evidence and receives reports regarding the person's disability, incapacity and need for a substitute decision maker. The person with a disability has a right to attend, be heard and be represented. Guardianship orders are for limited duration and are reviewed at the end of their term (usually 12 months for the initial order then every 3 years for renewed orders). Reviews of the order can also be requested before the order ends. Financial management orders are continuous but the Tribunal may review them if requested to do so.

Appeal mechanisms exist to the NSW Administrative Decisions Tribunal or the NSW Supreme Court.

The Tribunal may give the guardian directions on request but does not directly supervise guardians. When reviewing a guardianship order, the Tribunal can consider whether the guardian should be replaced.

The Tribunal does not supervise financial managers. Applications can be made to the Tribunal for a financial manager to be replaced. Private financial managers must file accounts with the Protective Commissioner.

Specific decisions of the Public Guardian and the Protective Commissioner can be reviewed by the NSW Administrative Decisions Tribunal.

charged with the approval of the Minister.

There are no fees to make an application to the Guardianship Tribunal.

Private guardians cannot charge fees for performing their duties as guardian. The Public Guardian is publicly funded, i.e. no cost to the person with a disability.

The Protective Commissioner charges management fees for supervising private financial managers and also for directly managing a person's estate.

Where a trustee company, including the Public Trustee, is the appointed financial manager then fees are charged on a commission basis.

Where private persons are appointed as financial manager, they cannot charge fees to the person whose estate is under management.

<p><b>Australia: Northern Territory</b> Total population: 200,000 % of people under guardianship .89%</p>	<p><i>Adult Guardianship Act (NT)</i> Appointment by Magistrate: Guardians may be appointed for personal decisions and financial decisions.</p> <p>Enduring Powers of Attorney cover financial decisions.</p> <p>Provision for management of large estates under <i>Aged and Infirm Persons Property Act</i> through Supreme Court.</p>	<p><i>Power of Attorney Act (NT)</i> relates to financial decisions only.</p>	<p>Mental Health &amp; Related Services Acts</p>	<p>Any person with an interest in the person may apply for appointment of a guardian/financial manager. The Court may also direct a person to apply.</p> <p>Where a person has executed an Enduring Power of Attorney, this takes effect when the person loses capacity to make reasonable judgments.</p>	<p>financial manager if there is no suitable private person.</p>	<p>Any person over 18 years of age who has been appointed by the Magistrate and is considered to be suitable.</p> <p>The Public Guardian is available for appointment under guardianship orders.</p> <p>The Public Trustee may be appointed to manage finances in larger estates.</p>	<p>A guardianship panel assesses the application and available evidence, makes recommendations to a Magistrate who hears the application in open court. The person with an intellectual disability may attend but is always represented by a solicitor who is publicly funded.</p> <p>Initial orders are automatically reviewed after 2 years of operation or earlier by application. Further reviews may be up to 5 years.</p>	<p>Where private persons are appointed there are no fees involved.</p> <p>The Public Trustee charges fees on a set commission basis.</p> <p>Where the Public Guardian is appointed there are no fees payable.</p> <p>Guardianship may endure for the life of the person or may lapse if person moves interstate, or may be revoked/dissolved if found ineligible or no longer any need.</p>
<p><b>Australia: Queensland</b> Pop: 3.9 million (Wards not known)</p>	<p><i>Guardianship and Administration Act 2000</i> (Qld) Appointment by Guardianship and Administration Tribunal: Guardians may be appointed for personal decisions. Administrators may be appointed for financial decisions.</p> <p>Enduring powers of attorney cover financial decisions and personal decisions.</p>	<p>Qld's <i>Powers of Attorney Act 1998</i> enables an enduring attorney to make substitute personal and financial decisions.</p>	<p>Queensland Law Reform Commission currently undertaking major legislative review, see <a href="http://www.qld.qld.gov.au/guardianship/">http://www.qld.qld.gov.au/guardianship/</a></p> <p>Bill before Parliament for legislation to authorise seclusion of people with challenging behaviours due to impaired capacity</p>	<p>Any person may apply for appointment of a guardian or manager.</p> <p>Where a person has executed an enduring power of attorney, these take effect when the person loses capacity to make reasonable judgments. An enduring power of attorney may take effect immediately is that is specified in the deed of appointment.</p>	<p>Any person over 18 years of age who has been appointed in an enduring power of attorney according to the specific powers have been assigned.</p> <p>A person appointed by the Tribunal who has satisfied the Tribunal that he or she is suitable.</p> <p>The Public Trustee or trustee companies are available for appointment under financial management orders.</p> <p>The Adult Guardian is available for appointment under guardianship orders.</p>	<p>Tribunal convenes open hearings, hears evidence and receives reports regarding the person's disability, incapacity and need for a substitute decision maker. The person with a disability has a right to attend, be heard and be represented. Appeal mechanisms exist to the Supreme Court.</p>	<p>Guardianship and private administration orders must be reviewed at least every 5 years. An administration order appointing the Public Trustee or a Trustee Company need not be reviewed. The tribunal may give the appointee directions. An appointee may be removed by the tribunal. Systemic issues are examined by the Public Advocate.</p>	<p>Where private persons are appointed under an enduring power of attorney there may be a contractual arrangement for payment of fees.</p> <p>Where a trustee company, including a Public Trustee, is appointed fees are charged on a commission basis.</p> <p>Appointment of the Adult Guardian is publicly funded, i.e. no cost to the person with a disability.</p> <p>Where private persons are appointed as guardian or financial manager, fees may only be charged with the approval of the Tribunal.</p>

**Australia:  
South Australia**

**Pop:** 1.5 million

*Guardianship and Administration Act 1993* (SA) Appointment by Guardianship and Administration Board: Guardians may be appointed for personal decisions. Administrators may be appointed for financial decisions.

Enduring powers of attorney cover financial decisions. Enduring guardianships cover personal decisions.

SA's *Powers of Attorney and Agency Act 1984* enables an enduring attorney to make substitute personal and financial decisions.

Enduring guardianships are established under the *Guardianship and Administration Act 1993*.

Any person may apply for appointment of a guardian or administrator.

Where a person has executed an enduring power of attorney, these take effect when the person loses capacity to make reasonable judgments.

Any person over 18 years of age who has been appointed in an enduring power of attorney or an enduring guardianship according to the specific powers have been assigned.

A person appointed by the Board who has satisfied the Board that he or she is suitable.

The Public Trustee or trustee companies are available for appointment under financial management orders.

The Public Advocate is available for appointment under guardianship orders.

Board convenes open hearings, hears evidence and receives reports regarding the person's disability, incapacity and need for a substitute decision maker. The person with a disability has a right to attend, be heard and be represented. Appeal mechanisms exist to the Supreme Court.

Guardianship and administration orders must be reviewed every 3 years. The Board may give the appointee directions. An appointee may be removed by the tribunal. Systemic issues are examined by the Public Advocate.

Where private persons are appointed under an enduring power of attorney there may be a contractual arrangement for payment of fees.

Where a trustee company, including a Public Trustee, is appointed fees are charged on a commission basis.

Appointment of the Public Guardian is publicly funded, i.e. no cost to the person with a disability.

Where private persons are appointed as guardian or financial manager, fees may only be charged with the approval of the Tribunal.

**Australia:  
Tasmania**

**Pop:** 0.5 million (number of persons under guardianship or with EPAs not available)

*Guardianship and Administration Act 1995* (Tas) Appointment by Guardianship and Administration Board: Guardians may be appointed for personal decisions. Administrators may be appointed for financial decisions.

Enduring powers of attorney cover financial decisions. Enduring guardianships cover personal decisions.

Tas's *Powers of Attorney Act 2000* enables an enduring attorney to make substitute personal and financial decisions. Enduring guardianships are established under the *Guardianship and Administration Act 1995*.

Any person may apply for appointment of a guardian or administrator.

Where a person has executed an enduring power of attorney, these take effect when the person loses capacity to make reasonable judgments.

Any person over 18 years of age who has been appointed in an enduring power of attorney or an enduring guardianship according to the specific powers have been assigned.

A person appointed by the Board who has satisfied the Board that he or she is suitable.

The Public Trustee or trustee companies are

Board convenes open hearings, hears evidence and receives reports regarding the person's disability, incapacity and need for a substitute decision maker. The person with a disability has a right to attend, be heard and be represented. Appeal mechanisms exist to the Supreme Court.

Guardianship and administration orders must be reviewed every 3 years. The Board may give the appointee directions. An appointee may be removed by the Board

Where private persons are appointed under an enduring power of attorney there may be a contractual arrangement for payment of fees.

Where a trustee company, including a Public Trustee, is appointed fees are charged on a commission basis.

Appointment of the Public Guardian is publicly funded, i.e. no cost to the person with a disability.

Where private persons are appointed as guardian or financial manager, fees may

					available for appointment under administration orders.		only be charged with the approval of the Tribunal.	
<b>State of Victoria/</b> 3 Mio/ 1015 wards in 2004/05	Adult guardian responsible for lifestyle decision making such as accommodation, access to services, medical, dental and other healthcare, access to the person or community or a full plenary order covering all areas of lifestyle decision making.	Enduring Powers of Attorney covers three areas: 1) Enduring Power of Guardianship 2) Financial and Legal Decision Making 3) Medical Treatment Decision Making. "Enduring" refers to the power extending beyond a person losing capacity. Powers of attorney are to be revoked when guardianship is applied.	Guardianship and Administration Act (1986) - State of Victoria. "Person Responsible" provisions formalize "next-of-kin" relationships in medical decision making.	Any person over the age of 18 can make a guardianship application and needs to provide evidence of cognitive impairment (mental illness, intellectual disability, acquired brain injury, dementia) needs to show cognitive impairment impacts of reasonable decision making and that there are decisions that need to be made (eg where a person is going to live). Application is heard by the Victorian Civil and Administrative Tribunal.	The Public Guardian is available for appointment under guardianship orders. Any person over the age of 18 can be appointed a private guardian such as a family member and family members of the community are encouraged. Where there is conflict around the person or decision to be made an independent guardian will be appointed by the VCAT through the Office of the Public Advocate.	Application process to include medical report citing cognitive impairment and all parties are invited to attend a hearing at the VCAT where evidence is bought before the Tribunal Member for consideration. Where there is uncertainty in the process the matter is referred to the Office of the Public Advocate for investigation who then report back to the VCAT member for a decision.	Guardianship powers and duties outlined under the Guardianship and Administration Act 1986. Guardianship orders can last for a period of up three years although twelve month orders are more usual before being bought back to a hearing at the VCAT. Guardian is required to report on all decisions made during time of order via report to the VCAT. Represented person able to appeal the decision to appoint a guardian at any time and this is heard through the VCAT.	Statutory guardianship is fully funded by the State and no fees for Guardians; as well private guardians are not allowed to charge fees.
<b>Australia:</b> <b>Western Australia</b> <b>Pop:</b> Population 2 million (number of guardianship or with EPAs not available)	<i>Guardianship and Administration Act 1990</i> (WA). Appointment by State Administrative Tribunal: Guardians may be appointed for personal decisions. Administrators may be appointed for financial decisions.  Enduring powers of attorney cover financial decisions.	<i>Guardianship and Administration Act 1990</i> (WA) enables an enduring attorney to make substitute financial decisions.	Legislation for advance health care directives and enduring guardianship is currently before Parliament.	Any person may apply for appointment of a guardian or administrator.  An enduring power of attorney can be expressed to take effect immediately and continue notwithstanding subsequent incapacity, or on a declaration by the State Administrative Tribunal that the donor has lost capacity to make	Any person over 18 years of age who consents to the appointment and who the Tribunal is satisfied is suitable.  The Public Advocate may be appointed a guardian if no one else suitable and willing.  The Public Trustee or trustee companies are available for	Tribunal convenes open hearings, hears evidence and receives reports regarding the person's disability, incapacity and need for a substitute decision maker. The person with a disability has a right to attend, be heard and be represented. Review mechanisms exist within the	Guardianship and administration orders may be for up to 5 years and must be reviewed at the end of that time. The Tribunal may give the appointee directions. An appointee may be removed by the Tribunal.  Administrators (who make substitute financial	Orders may be for up to 5 years and must be reviewed at the end of that time.  Where a trustee company, including a Public Trustee, is appointed fees are charged on a percentage fee basis.  Appointment of the Public Advocate is publicly funded, i.e. no cost to the person with a disability.  Where private persons are

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**Europe**

**Austria:**

8 Mio/  
50000 wards

Guardians (**Sachwalter**) can be appointed for one field like financial management or for several fields. The ward is incapable in the fields, in which he has an appointed guardian.

Power of Attorney health care and Power of Attorney property are possible. It is planned in the actually reform. To be valid it must be central registered. It can only work once the person lacks capacity.

2007  
Power of Attorney, appointment of a NPO instead of a guardian, clearing, case limit

Article 268 to 284a Civil Law and article 117 to 139 guardianship procedure. Guardians can be appointed for adults with mental or physical handicaps who are incapable of managing their own affairs.

Family members have priority. Further professional guardians from advocacy NPO's (**Sachwaltervereine**) can be appointed. Attorneys will be appointed if special law skills are necessary (case limit of max. 25 clients). Further, suitable persons can be appointed as volunteer guardians (case limit of max. 5 clients).

Everyone can ask for a guardian. In a first hearing the probate judge has to appoint a guardian ad litem for the ward and a medical expert. In a second hearing the judge also have to hear the potential ward's opinion. **Clearing:** **Sachwaltervereine** can be appointed by the court to investigate whether alternatives to guardianship are available.

Every guardian has to report max. every 3 years to the court.

The state does not pay for guardianship services. Exception: **Sachwaltervereine** are financed by the state. A private professional guardian receives a small percentage of the ward's income and the costs for material every year.

**Germany:**

82,5 Mio/ 1,1 Mio wards

Caretaking (**Betreuung**). Adult guardian is responsible for personal and estate matters, medical treatment. But the ward has full capacity with all human rights like marrying, voting or making a will.

Possible for normal adults but adults under guardianship are not allowed to make a power of attorney, only health care.

1992/1999/2005

When a person of full age who, as a result of mental disease or physical, mental or psychological handicap is incapable of managing his own affairs, a guardian can be appointed (article 1896 Civil Law).

Everyone. Special skills or qualifications are not necessary. Family members and volunteers have preference over professionals.

Every handicapped adult can ask for a guardian. The local guardianship agency is responsible for the choice of the guardian. The public health office has to examine the potential ward. The probate judge decides

Every guardian has to report annual to the guardianship court.

A normal guardianship case costs 1848,-EUR if the ward lives in a flat and has no moeny. The ward has to pay for the guardian if they have bank accounts of more than 2600,-EUR. The duration of an guardianship case is up to 7 years.

regarding an appointment. The potential ward needs no guardian ad litem.

**England:**

69 Mio/  
No. of wards unknown/ 22.000 guardians

Full Guardianship (Receivership) and only in respect of finances and property for mentally incapacitated people. Court can make a will for mental incapacitated adults.

Yes if made before onset of mental incapacity and registered with the court of protection.

The Mental Capacity Act 2005 to come into force in 2007. Will allow full or limited guardianship for those who are mentally incapable and can make medical, welfare and/or financial decisions. Medical and welfare will usually "one off"/single order of court. Power of Attorney to be extended as well.

On becoming mentally incapable of managing finances and property.

Any adult, but must have skills to do so and be no reason why should not act, for example nor a bankrupt person to manage finances.

Person served noticed family members and anyone who may have an interest to be notified. Medical evidence is necessary. Full details provided to court of need and what should be done on standardised forms. No hearing before judge unless dispute. Orders made by a "paper hearing". Court decides who to appoint and what can do.

- Insurance against bad administration  
- Annual accounts prepared and verified by court staff with skills to do so.  
- Only able to manage income with limited scope to manage capital.  
- Court holds person's capital where necessary.

Family - only out of pocket expenses.  
Professional - set by court each year and not based on value of estate. If there is a complex case court will allow more costs but file is looked at with the bill and agrees what to charge.  
Average fees for appointment is 1500 -3000 Pounds and annual work 1000-2000 Pounds.

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**Power of Attorney**

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**Legal „Trigger“**

**Who can be a guardian?**

**Guardianship Procedure**

**Supervision of the Guardian**

**Costs and Duration of the Guardianship**

**Italy (South Tyrol: District of Meran):**

83000 inhabitants/ 376 wards

Caretaking with full capacity for the ward (**amministrazione di sostegno**), limited guardianship (**inabilitazione**) and full guardianship (**interdizione**).

It is planned.

2004

Article 382, 404, 424 Italian Civil Law

Family members are normally appointed. Professionals (attorneys, social worker) are only appointed if special skills are necessary (financial management..) for the guardianship case.

The potential needs a guardian ad litem during the hearing. The probate judge requested for a medical report.

Every guardian has to report annual to the guardianship court.

The state does not pay for guardianship services. A guardian can only receive a small percentage of the ward's estate. But it is the decision of the probate judge.

**Luxembourg:**  
470000/ 2000  
wards

Caretaking with full capacity (**sauveguard de justice**) for the ward, limited guardianship (**curatelle**) and full guardianship (**tutelle**).

Not possible.

1982

Article 491-507 Civil Law. The Law goes back to the French Law. When an adult with a physical, mental or psychical handicap is incapable of managing his own affairs or wasting his moeny/estate, a guardian can be appointed.

Everyone. Family members are normally appointed. There are no professional guardians till now.

Everyone can ask for a guardian. The probate judge asks for a medical report and is responsible for the choice of the guardian. He decides regarding an appointment. The handicapped adult needs no guardian ad litem.

The probate judge is responsible for controlling the guardian and the ward's estate. The guardian has to report annual.

Normally, a guardian will not be paid for his service. The judge decides regarding exceptions.

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**The Netherlands:**  
16,4 Mio inhabitants/ 12.000 wards.  
**Approx. 85% of the guardians are family members. 500 guardians are volunteers.**

There are three measures in Dutch law. The measures for incapable adults are full guardianship (**Curatele** covering both the financial and the non-financial interests), protective trust (**Bewindvoering**, solely dealing with money & goods) and partial guardianship for the person (**Mentorschap**, for treatment, care and support including living conditions).

Powers of Attorney are not common in the Netherlands. The law is not tailor-made for the situation: Once the adult, who has given the power, loses his actual capability, the Dutch Civil Code does not provide for additional protection.

Human and patient' rights required flexible and tailor-made measures of protection. The law on Mentorschap was introduced in 1995. At this moment there is a discussion to make Mentorschap more like how Bewindvoering is organised. There is also a development to create regional organisations with volunteer guardians for the person all over the country.

Someone can apply for himself, the family can ask for guardianship, and public prosecutor can do so. An institution can make a request to the judge for a Mentorschap over one of the inhabitants.

Both a person and an agency can fill in Bewindvoering. Guardian for the person: every adult can be the appointed guardian, yet in most situations it is a family member. The judge will decide if someone is capable or not. If the person is under guardianship himself he or she cannot be a guardian..

The judge investigates the necessity and assesess the capability and suitability of the candidate -guardian. The judge gives a written instruction to the guardian. The function of the guardian is in principle for life.

The judge can demand the guardian for a written rapport annually. This is practise in cases of Curatele and Bewindvoering (financial reports). But written rappsorts are seldom asked for in cases of Mentorschap.

The ward pays the costs related to providing the guardianship services. The judge fixes the amount of the expenses and the reward to be paid back to the guardian. Volunteers will get 250 € per year. Bewindvoering: First year 850 €. Second and on: 750 €. Family members and partners acting as guardians do not receive a reward.

**Scotland (UK):**  
5 Mio/ 1.200 adults under guardianship (at 31st August 2004) and about 100.000 adults with a degree of incapacity but not

Guardianship can be financial (which can include managing the adult's property) and welfare (can include health). Either or both can be applied for depending

Competent adult can grant financial and welfare powers and include health care decisions. Lawyer or medical doctor must sign to attest

The Adults with Incapacity (Scotland) Act 2000 The Mental Health (Care and Treatment) Scotland act 2003 comes into

Adult being judged incapable of making, communicating, understanding, or acting on decisions because of mental disorder; or inability to communicate

Anyone who has an interest in the adult's affairs and is judged suitable (family member, friends, professionals) can apply to be a

Summary application made to court by family member or local authority, must include 2 medical reports on incapacity and report from local

All guardianships must be registered with the Office of the Public Guardian (OPG). The OPG oversee the records of Financial

The OPG estimate the cost of making a guardianship application is on average between 1700 and 2000 Pounds, of which 70% generally represented fees paid to solicitors. In

under guardianship	on the adult's area of incapacity. In both types of guardianship the powers have to be specified and should be the minimum necessary to benefit the adult. Adult has right to vote and marry. Guardian cannot place adult in mental hospital.	competence of grantor. To be valid must be registered with the Office of the Public Guardian. Welfare powers can only work once the person lacks capacity.	force in October 2005.	caused by a physical or other disorder may trigger action under The Adults with Incapacity (Scotland) Act 2000.	guardian. Local authority social workers or care managers can be welfare but financial guardian. 37% are family members and 61% are local authorities. Historically all guardianships were "welfare" and most held by local authorities.	authority Mental Health Officer on suitability of applicant to become a guardian. Adult must be informed of application and has right of appeal. Adult must be given every assistance to express his/her views. Court can appoint a safeguarder or curator to speak to the adult as well as others and report to court.	Guardians annually and charge a fee. Welfare Guardianships need to be also registered with the Mental Welfare Commission (MWC) and the Local Authority. The MWC visit the adult annually and a LA Officer has to visit the guardian and the adult 4 times per year.	Financial Guardianship costs are paid from the adult's resources. Welfare guardianship costs are similar at present but this will change very soon. All welfare guardianships will be entitled to legal aid. Policy decision is that the adult should not be penalised because they need additional care and support.
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**Slovenia:**

2 Mio/ 8750 wards	Full guardianship, limited guardianship and guardianship for special need.	Power of Attorney is not possible.	?	Article 178-223 of Civil and Family Code	Guardian cannot be a person who cannot have parental responsibility, who does not have contractual capability, person whose interests oppose to interests of the ward and person from whom cannot be expected to act in best interest of the ward.	Wishes and interests of the ward are the most important thing, potential needs guardian ad litem during hearing.	Every guardian has an obligation to report annually to the center of social care.	The state does not pay for guardianship services. A guardian can only receive some expenses from the ward's estate.
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Nation/ No. Inhabitants/ No. Wards	Types of Adult Guardianship	Power of Attorney	Recent Reforms	Legal "Trigger"	Who can be a guardian?	Guardianship Procedure	Supervision of the Guardian	Costs and Duration of the Guardianship
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**Sweden:**

8,8 Mio/ 40000 Swedes have a mentor and 3500 Swedes have an administrator/ trustee	Sweden has replaced guardianship with two forms of assistance. The primary and less restrictive form of support is the appointment of a <b>god man (translated into English as "good man" or "mentor")</b> to act on behalf of the incapacitated adult, in which case the person does not lose any of his/her	Possible via "God Man".	1974/1988	...a person for reasons of illness, mental retardation, declining health, or other such conditions needs help in protection his/her rights... (Code relating to Parenthood and Guardianship article 11:4 Civil Law) The roots of traditional guardianship law in	Relatives. Most <b>god men</b> are retired teachers, social workers, bank employees etc..	If a person needs help in the protection of his/her rights or managing his/her property, for reasons of illness, mental retardation, declining health etc., then the court may appoint an administrator. Such an appointment	The offices of the public trustee have the duty to control. A replacement of a <b>god man</b> is possible, if he/she fails to discharge his/her duties or act in a way contrary to his/her ward.	<b>God men</b> are paid for their services. The annual fee is normally around 7000 Kr. (less than \$ 1000). If the individual with a disability lacks funds, the municipality will bear the expenses of the <b>god man</b> .  The procedure is relatively informal, quick and without cost to the ward.
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legal capacities.  
The second form of assistance is the **forvaltarekap**, which is the appointment of an **administrator or trustee**, resulting in the loss of legal capacity in only circumscribed areas. The Swedish system is very similar to the German system.

Sweden, as in Germany, are in ancient Roman law.

needs the consent of the individual unless that person's condition renders it impossible for the court to hear his/her opinion. This should be done only as a last resort, and if it is sufficient to appoint a **god man**, then an administrator will not be appointed.

**Switzerland:**  
7,36 Mio/62570  
wards

Caretaking with full capacity for the ward (**Beistandschaft**), limited guardianship (**Beiratschaft**) and full guardianship (**Vormundschaft**).

Possible. Power of Attorney is a part of the revision of the guardianship law. A better regulation is planned.

1996/1999 - now

Article 360 Swiss Civil Law.

Everyone (Article 379). Full Capacity is necessary, interest conflicts should be avoided.

The local guardianship agency is responsible for caretaking, limited guardianship and full guardianship (article 372). The probate court is responsible for full guardianship (article 369/370).

Every guardian has to report to the local guardianship agency every two years.

It depends on the district. Example district Solothurn: A guardian receives 4% of the ward's estate and the costs for material. If the ward has no moeny, the guardian's service is financed by the state.

Nation/ No. Inhabitants/ No. Wards	Types of Adult Guardianship	Power of Attorney	Recent Reforms	Legal “Trigger”	Who can be a guardian?	Guardianship Procedure	Supervision of the Guardian	Costs and Duration of the Guardianship
<b><u>North America</u></b>								
<b><u>Canada, Province of Ontario:</u></b>								
12,5 Mio/ 9000 Property Clients and 23 Personal Care Clients	<p><b>Adults: 18 years and older</b> (Financial) Guardian for mentally incapable adults who have no family able or willing to do so, by managing finances, paying bills, protecting assets, arranging for personal needs;</p> <p><b>Personal Care</b> Guardianship for 23 adult clients - by court order, acts as guardian for the purpose of making personal care decisions for mentally incapable adults in cases of extreme risk to personal care and safety.</p> <p><b>Litigation Guardian</b> Acts for individuals who are involved in lawsuits who lack sufficient capacity to properly instruct a lawyer or make decisions about important matters, such as settlements, and who have no family or friends willing to act in this role.</p>	Possible, if person under guardianship previously granted a Power of Attorney for property or Personal Care when they had mental capacity to do so.	1995/96	Automatic upon issuance of a certificate of incapacity by a physician or Capacity Assessor. Also by court appointment.	The PGT, family, etc. (see Act for list). People who are not relatives must apply to a court.	<p>If PGT has been appointed guardian by the issuance of a certificate, family can apply to the PGT to replace.</p> <p>If PGT is not guardian, family can apply to court for appointment.</p> <p>The person under guardianship has legal rights to dispute the finding of incapacity.</p>	All guardians are required to keep accounts of all transactions involving property. Anyone may apply to the court for an order requiring the guardian to pass (submit) the accounts to court for inspection.	<p>Average duration of guardianship - 6,5 years.</p> <p>Compensation of 3% of receipts and of 3% of disbursements, and an annual and management fee of 3/5 of 1%.</p> <p>Certain low-income clients are exempt from fees.</p>

Nation/ No. Inhabitants/ No. Wards	Types of Adult Guardianship	Power of Attorney	Recent Reforms	Legal “Trigger”	Who can be a guardian?	Guardianship Procedure	Supervision of the Guardian	Costs and Duration of the Guardianship
<p><b><u>Canada, Province of Quebec:</u></b> 7,6 Mio inhabitants/11000 people are under public protective supervision (tutorship or curatorship) , while 16000 adults are under private protective supervision (tutorship, curatorship or mandate in case of incapacity)</p>	<p>The tribunal decides wether to institute protective supervision (curatorship, tutorship or advisor to a person of full age). Incapacity may be total, partial, temporary or permanent. Th ekind of protection can cover the person, his or her assets or the person and his or her assets. The protection can be private or public (as a last resort).</p>	<p>The mandate in case of incapacity enables a fit person to designate his or her representative in case of incapacity. This mandate must be homologated by the tribunal when teh person becomes incapacitated. As of March 31, 2006, 8.235 people were represented by a mandatary.</p>	<p>1990: The new law on the <b>Curateur public</b> comes into force (judiciarization, gradation of the types of protection and obligatory reassessment of the protection).</p> <p>1999: The Curateur's budgets are henceforth voted by the National Assembly, putting an end to the agency's self-financing.</p> <p>2005: The <b>Curateur public</b> transfers teh management of unclaimed aasets to the Ministry of Revenue.</p>	<p>The person of full age him or herself, his or her spouse, a close relative or associate, any other person demonstrating an interest or the <i>Curateur publican</i> request that protective supervision be instituted.</p>	<p>Any person with a significant interest in the person of full age.</p>	<p>The incapacity must be established by the Court. The person of full age supposed to be incapacitated is heard by the clerk of the court and a medical and psycho-social examination is required. The Court then decides to institute protective supervision and designates a private legal representative or, in the last resort, the <i>Curateur public</i>.</p>	<p>The <i>Curateur public</i> is responsible for monitoring the private legal representative, who must provide an inventory, security and an annual account of his or her management.</p>	<p>Instituting protective supervision costs \$ 1019 when the procedure is carried out by the <i>Curateur public</i>. This cost can vary when the procedure is carried out by a notary in private practice. Protective activities cost \$ 815 per year for persons under public protection. The regulation provides for annual fees of 1.5% of the assets being managed. Other fees are provided for by regulation (the sale of moveable or immoveable assets and other assets) and are posted on the web site of the <i>Curateur public</i>. The legal representative may not demand fees except in the case of a decision to the contrary by the tribunal.</p>

Nation/Zahl Einwohner /Betreute	Formen der Vormundschaft	Vorsorgevollmacht und Patientenverfügung	Letzte Reform	Rechtsgrundlage	Wer kann Vormund sein?	Vormundschaftsverfahren	Kontrolle des Vormunds	Kosten u. Dauer Vormundschaft
Deutschland/ 82,5 Mio / 1,1 Mio	Betreuung, beinhaltet u.a. gesundheitliche, finanzielle, behördliche, wohnliche Angelegenheiten, aber ohne Entmündigung des Betreuten. Betreuer darf wählen, heiraten, Testament verfassen. Er ist voll handlungsfähig.	Möglich für 'normale' Erwachsene, aber betreute Personen dürfen keine Vorsorgevollmacht verfassen, maximal eine Patientenverfügung	1992/1999/2005	Für eine volljährige Person, die an einer körperlichen, geistigen oder psychischen Erkrankung leidet, kann ein Betreuer bestellt werden, §1896 Bürgerliches Gesetzbuch (BGB).	Jeder darf Betreuer werden. Es gibt keine formalen Anforderungen, nur ein polizeiliches Führungszeugnis wird benötigt. Allerdings werden Familienangehörige und Ehrenamtliche vorrangig zum Betreuer bestellt.	Beantragung kann durch jeden erfolgen. Auswahl des Betreuers obliegt der Betreuungsbehörde. Der Betroffene muss von einem Arzt begutachtet werden. Der Richter entscheidet während der Anhörung, in der sich der Betroffene alleine vertreten kann, über die Betreuung. Der Betroffene darf sich vor Gericht selbst vertreten.	Der Betreuer muss dem Gericht einen jährlichen Bericht inklusive Abrechnung vorlegen. Die Kontrolle erfolgt durch den Rechtspfleger.	Eine Betreuung, die länger als 12 Monate läuft, kostet 1848,- EUR, wenn der Betreute mittellos ist und in einer eigenen Wohnung lebt. Der Staat kommt nur für die Kosten auf, wenn das Bankvermögen des Betreuten weniger als 2600,-EUR beträgt. Die Dauer einer Betreuung beträgt max. 7 Jahre.
England/ 69 Mio/ Zahl der Betreuten unbekannt/ 22.000 Betreuer	Es gibt vor allem für Erwachsene mit psychischer Erkrankung die Vormundschaft mit kompletter Entmündigung im Bereich der Vermögenssorge ( <b>Full Guardianship</b> ). Eine Reform tritt erst 2007 in Kraft. Das Gericht kann für Erwachsene mit psychischer Erkrankung oder geistiger Behinderung ein Testament verfassen.	Eine Vorsorgevollmacht ist möglich und wird anerkannt, wenn der Betroffene diese vor Ausbruch seiner Erkrankung verfasst hat und die Vollmacht bei Gericht registriert wurde.	Die Gesetzesreform "Mental Capacity Act 2005" tritt in 2007 in Kraft. Neben der Vormundschaft mit kompletter Entmündigung gibt es zukünftig auch die Möglichkeit der Vormundschaft nur mit teilweiser Entmündigung ( <b>Limited Guardianship</b> ) in den Bereichen Gesundheitssorge, Personensorge und/oder Vermögenssorge. Eine Vormundschaft ist auch nur für einzelne Bereiche möglich. Die Bedeutung der Vorsorgevollmacht	Zur Zeit erhält ein Erwachsener nur einen Vormund, wenn er aufgrund seiner psychischen Erkrankung oder geistigen Behinderung unfähig ist, seine finanziellen Angelegenheiten selbständig zu erledigen.	Jeder Erwachsene kann Vormund werden, insofern er über die entsprechenden Fähigkeiten und ein polizeiliches Führungszeugnis verfügt. Eine Person, die schon einmal insolvent war, soll keine Vermögenssorge ausüben dürfen.	Die betroffene Person und Angehörigen werden über das Verfahren (bei Interesse) informiert. Das Gericht benötigt ein medizinisches Gutachten sowie Informationen bezüglich der Notwendigkeit und des Umfanges der Vormundschaft. Für diese Informationen gibt es standardisierte Formblätter. Eine Anhörung der betroffenen Person durch den Richter erfolgt in der Regel nicht ( <b>paper hearing</b> ), nur wenn es Streitigkeiten gibt.	- Jeder Vormund hat eine Versicherung für den Schadensfall. - Rechtspfleger bei Gericht überprüfen jährlich die Vermögensabrechnung bzw. Vergütung der Vormünder. - Der Vormund ist nur berechtigt, das Einkommen sowie in geringem Umfang das Vermögen des Betreuten zu verwalten. - Hat der Betreute ein größeres Vermögen, dann wird dies vom Gericht beaufsichtigt.	Kosten: - Familienangehörigen Vormündern werden die Sachkosten durch das Gericht erstattet. - Die Vergütung der Berufsvormünder wird jährlich vom Gericht festgelegt und richtet sich nicht nach der Höhe des Vermögens des Betreuten. - Die Vergütung des sich um einen besonders schweren Fall, kann das Gericht eine höhere Vergütung bewilligen, aber es ist immer eine Einzelfallentscheidung. - Die einmalige Gebühr für die Bestellung des Vormundes beträgt durchschnittlich 1500-3000 Pfund. Die jährliche

			soll gestärkt werden.			Der Richter entscheidet per schriftlichen Beschluss und bestimmt den Vormund sowie den Umfang der Vormundschaft.	Vergütung für einen Berufsvormund beträgt durchschnittlich 1000-2000 Pfund.	
<b>Italien</b> (Südtirol: Meran und Umgebung)/ 83000 Einwohner/ 376 Betreute	Sachwalterschaft mit voller Geschäftsfähigkeit des Betreuten ( <b>amministrazione di sostegno</b> ), Beistandschaft mit teilweiser Entmündigung ( <b>inabilitazione</b> ), Vormundschaft mit kompletter Entmündigung ( <b>interdizione</b> ).	Befindet sich in Planung.	2004	Artikel 382, 404, 424 ff Zivilgesetzbuch	Familienangehörige werden vorrangig zum Sachwalter bestellt. Professionelle Sachwalter wie Anwälte oder Sozialarbeiter werden nur bestellt, wenn bestimmte Kenntnisse erforderlich sind (z. B. Vermögensverwaltung).	Für den Betroffenen besteht vor Gericht Anwaltspflicht, d. h. er darf sich nicht selbst vertreten. Der Richter holt ein gesundheitliches Gutachten ein.	Der Sachwalter muss dem Gericht einen jährlichen Bericht inklusive Abrechnung vorlegen.	Der Staat bezahlt nichts für die Sachwalterschaft. Nach Festlegung des Gerichtes kann der professionelle Sachwalter als Honorar maximal einen prozentualen Anteil vom Vermögen des Betreuten erhalten.
<b>Luxemburg</b> / 470000/ 2000	Vormundschaft mit voller Geschäftsfähigkeit des Betreuten ( <b>sauvegard de justice</b> ), Vormundschaft mit teilweiser Entmündigung ( <b>curatelle</b> ), Vormundschaft mit kompletter Entmündigung ( <b>tutelle</b> ).	Gibt es nicht.	1982	Artikel 491-507 Zivilgesetzbuch. Basiert auf französischem Recht. Beeinträchtigung der geistigen oder körperlichen Fähigkeiten, die die volljährige Person ausserstande setzt, alleine ihre Interessen wahrzunehmen oder ihr Vermögen derart verschwendet, dass sie sich de Gefahr einer Notlage aussetzt oder die Erfüllung der Verpflichtungen ihrer Familie gegenüber gefährdet.	Jeder (ein polizeiliches Führungszeugnis wird benötigt). In der Regel werden Familienangehörige zum Vormund bestellt. Professionelle Vormünder gibt es bisher noch nicht.	Beantragung kann durch jeden erfolgen. Auswahl des Vormundes obliegt dem Richter. Der Betroffene muss von einem Arzt begutachtet werden. Der Richter entscheidet wähen der Anhörung, in der sich der Betroffene alleine vetreten muss, über die Vormundschaft.	Die Kontrolle des Vormunds sowie des Vermögens des Betreuten obliegt dem Richter.	Vergütung wird vom Richter festgelegt (abhängig vom Vermögen des Betreuten und der Arbeit des Vormundes).

<p><b>Österreich/</b> 8 Mio/ 50000</p>	<p>Sachwalter können für eine Angelegenheit, für einen Kreis von Angelegenheiten oder für alle Angelegenheiten bestellt werden; in dem Bereich, für den der Sachwalter bestellt ist, ist der Betroffene nicht geschäftsfähig.</p>	<p>Die Errichtung einer <b>Patientenverfügung</b> ist möglich, eine zentrale Registrierung ist vorgesehen. <b>Vorsorgevollmachten</b> sind gültig, wenn sie vor Verlust der Geschäftsfähigkeit errichtet und bestimmte Vorschriften eingehalten werden. Um wirksam zu werden, ist eine Registrierung erforderlich. Rechtsgeschäfte des täglichen Lebens sowie zur eckung des Pflegebedarfs können im Rahmen der <b>Vertretungsbefugnis nächster Angehöriger</b> geregelt werden; eine Registrierung ist erforderlich.</p>	<p>2007 Vorsorgevollmacht, Vertretungsbefugnis nächster Angehöriger, Vereinsbestellung, Clearing, Fallzahlbegrenzung</p>	<p>ABGB §§ 268 bis 284a, AußStrG §§ 117 bis 139 (Verfahren). Sachwalter werden für volljährige Personen bestellt, die aufgrund einer psychischen oder geistigen Behinderung nicht in der Lage sind, ihre Angelegenheiten ohne einen Nachteil für sich selbst zu regeln.</p>	<p>Zum Sachwalter sind in erster Linie nahe stehende Personen zu bestellen. Sind diese nicht verfügbar oder sind mit der Sachwalterschaft besondere Anforderungen verbunden, ist ein geeigneter <b>Sachwalterverein</b> zu bestellen; Rechtsanwälte oder Notare werden ausgewählt, wenn Rechtskenntnisse erforderlich sind (max. 25 Klienten). Darüber hinaus können auch andere geeignete Personen zum ehrenamtlichen Sachwalter bestellt werden (max. 5 Klienten).</p>	<p>Anregen kann jeder; der Richter muss eine Erstanthörung durchführen und einen Verfahrensach-walter zur Vertretung des Betroffenen sowie einen medizinischen Sachverständigen bestellen; eine mündliche Verhandlung ist ebenfalls durchzuführen. Der Betroffene kann sich im Verfahren auch selbst vertreten. <b>Clearing:</b> Die Sachwaltervereine haben auf Ersuchen des Gerichts abzuklären, welche Angelegenheiten erforderlich sind, ob Alternativen zur Sachwalterschaft bestehen, ob nahe stehende Personen als Sachwalter in Frage kommen und dem Gericht darüber zu berichten.</p>	<p>Die Kontrolle erfolgt durch das Gericht. Der Sachwalter muss jährlich einen Bericht über die persönliche Situation des Betroffenen und längstens alle 3 Jahre einen Bericht und eine Abrechnung vorlegen. Das Gericht kann auch einen kürzeren Zeitraum festlegen.</p>	<p>Keine Bezahlung des Sachwalters durch den Staat (lediglich die Sachwaltervereine erhalten eine Förderung). Dem Sachwalter steht eine jährliche Entschädigung (prozentueller Anteil von Einkommen und Vermögen des Betroffenen) sowie ein Aufwandsersatz aus den Mitteln des Betroffenen zu. Die Befriedigung der Lebensbedürfnisse darf dadurch allerdings nicht gefährdet werden.</p>
<p><b>Schweiz/</b> 7,36 Mio/ 62570 Erwachsene</p>	<p>Es wird zwischen Beistandschaften (keinen Einfluss auf die Handlungsfähigkeit), Beiratschaften (teilweiser Entzug der Handlungsfähigkeit betreffend Vermögensverwaltung) und Vormundschaften (vollständiger Entzug der Handlungsfähigkeit) unterschieden.</p>	<p>Bereits heute möglich. Mit der Revision wird aber eine einheitlichere und klarere Regelung angestrebt.</p>	<p>1996 und seit 1999 am laufen</p>	<p>Schweizerisches Zivilgesetzbuch (ZGB) Art. 360ff.</p>	<p>Art. 379ff. ZGB. Grundsätzlich jeder. Voraussetzung ist Mündigkeit, keine Interessenkollision, Fähigkeit und Wille das Amt auszuüben.</p>	<p>Beistandschaften, Beiratschaften und Vormundschaft Art. 372 ZGB nach Antrag durch Vormundschaftsbehörde oder Aufsichtsbehörde. Vormundschaften nach 369 und 370 ZGB durch Gericht.</p>	<p>Periodische Berichts- und Rechnungsablage alle 2 Jahre. Kontrolle durch zuständige Vormundschafts- und Aufsichtsbehörde.</p>	<p>Von Kanton zu Kanton unterschiedlich. Geregelt im kantonalen Einführungsgesetz zum ZGB. Kanton Solothurn: Für Vermögensverwaltung: 4% der Bruttovermögenserträge, Vergütung ausserordentlicher Bemühungen, Anspruch auf Ersatz der Auslagen. Bei Mittellosigkeit entschädigt der Staat.</p>

<b>Slowenien/</b> 2 Mio/ 8750 Betreute	Ähnlich wie in Frankreich, Italien oder der Schweiz gibt es in Slowenien ein dreistufiges Vormundschaftsmodell: Vormundschaft mit kompletter oder teilweiser Entmündigung sowie Vormundschaft für einzelne Bereiche.	Vorsorgevollmachten sind bis jetzt nicht möglich. ?	Artikel 178-223 des Zivil- und Familiengesetzbuches	Vormund kann nicht werden, der nicht über elterliche Verantwortung verfügt, der keine Geschäftsfähigkeit in Vertragsangelegenheiten aufweist oder der gegen die Interessen des Betreuten handelt.	Die Wünsche und Interessen des Betroffenen sind das Wichtigste während des Vormundschaftsverfahrens. Während der Anhörung hat der Betroffene Anspruch auf einen Anwalt.	Jeder Vormund muss einen jährlichen Bericht an die zuständige Behörde (Center of Social Care) abgeben.	Der Staat zahlt nicht für Vormundschafts- oder Betreuungsleistungen. Ein Vormund kann lediglich seine Auslagen aus dem Vermögen des Betreuten entnehmen.
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