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Safeguarding justice

Verified 01 janvier 2020 - Directorate of Legal and Administrative Information (Prime Minister), Ministry of Justice

Safeguarding justice is a short-term measure of legal protection that allows an adult to be represented to perform certain acts. This measure may avoid imposing a more binding guardianship or curatorship. The adult shall retain the exercise of his rights, except in exceptional cases. There are 2 types of judicial, judicial or medical safeguards.

Persons concerned

The safeguard of justice shall apply to persons who have reached the age of majority and who suffer:

- impairment of their mental faculties by illness,
- or an infirmity or impairment due to age,
- or an alteration of their physical and/or mental faculties preventing the expression of their will.

► **FYI** : for those whose faculties are more seriously affected, safeguarding justice is an immediate measure pending the establishment of a [guardianship \(https://www.service-public.fr/particuliers/vosdroits/F2120?lang=en\)](https://www.service-public.fr/particuliers/vosdroits/F2120?lang=en) or [curatelle \(https://www.service-public.fr/particuliers/vosdroits/F2094?lang=en\)](https://www.service-public.fr/particuliers/vosdroits/F2094?lang=en).

Procedure

There are 2 types of judicial safeguards, each with its own procedure.

Backup by medical declaration

The medical safeguard is the result of a statement made to the public prosecutor:

- by the person's doctor, accompanied by a psychiatrist,
- by the doctor of the health care institution where the person is located.

Who shall I contact

- [Court of Justice or Proximity](https://www.justice.fr/recherche/annuaires) [↗ \(https://www.justice.fr/recherche/annuaires\)](https://www.justice.fr/recherche/annuaires)

Safeguarding of justice by decision of the protection litigation judge

The judge may be required to take legal proceedings against him on the basis of a decision of the protection court only [by certain persons \(https://www.service-public.fr/particuliers/vosdroits/F23595?lang=en\)](https://www.service-public.fr/particuliers/vosdroits/F23595?lang=en).

The application must contain the following documents:

- [Full copy of birth certificate \(https://www.service-public.fr/particuliers/vosdroits/F1427?lang=en\)](https://www.service-public.fr/particuliers/vosdroits/F1427?lang=en) of the person to be protected, less than 3 months
- Duplex copy of the identity document of the person to be protected
- Duplex copy of the applicant's identity document
- [Detailed medical certificate \(https://www.service-public.fr/particuliers/vosdroits/F21667?lang=en\)](https://www.service-public.fr/particuliers/vosdroits/F21667?lang=en)
- Completed Cerfa Application Form 15891



Application for legal protection of an adult (family or legal)

Cerfa n° 15891*03 - Ministry of Justice

Go to
form(pdf - 115.8 KB) [↗](https://www.formulaires.service-public.fr/gf/cerfa_15891.do)
(https://www.formulaires.service-public.fr/gf/cerfa_15891.do)

Consult the online manual

- [Notice - Application for legal protection of an adult \(family or legal\) ↗ \(https://www.formulaires.service-public.fr/gf/getNotice.do?cerfaNotice=52257&cerfaFormulaire=15891\)](https://www.formulaires.service-public.fr/gf/getNotice.do?cerfaNotice=52257&cerfaFormulaire=15891)

The judge shall hear the adult to be protected, who may be accompanied by a lawyer or, on the agreement of the judge, by another person of his choice. The hearing is not public. In the event of an emergency, the hearing may take place only after the decision to save the case has been taken.

The judge may decide, after the opinion of the doctor who issued the medical certificate, not to hear the person, whether the hearing may harm his health or if the person cannot express his will.

The judge may order information measures (e.g.: social survey) or ask to hear the parents or close relatives of the person to be protected.

Who shall I contact

- [Court of Justice or Proximity](https://www.justice.fr/recherche/annuaires)  (<https://www.justice.fr/recherche/annuaires>)

Remedy

In the event of a judicial safeguard by medical declaration to the public prosecutor, the protected person may make an amicable appeal to obtain the cancelation of this safeguard. This appeal must be addressed to the public prosecutor.

Who shall I contact

- [Court of Justice or Proximity](https://www.justice.fr/recherche/annuaires)  (<https://www.justice.fr/recherche/annuaires>)

In the event of the safeguarding of justice on the basis of a decision of the protection disputes judge, no appeal is possible, as the safeguarding does not in itself entail any modification of the rights of the person concerned.

Appointment of a special representative

The judge may appoint one or more special agents to perform specific acts of representation or assistance which the protection of the person renders necessary. It is, for example, the use of a bank investment, the sale of a house—

The judge shall choose the special representative **first among the relatives**. (<https://www.service-public.fr/particuliers/vosdroits/F23603?lang=en>) If this is not possible, he designates a professional on a departmental list maintained by the prefect.

The special representative shall be accountable to the protected person and to the judge for the execution of his mandate. It must, in particular, be accountable at the end of management.

If a special representative is appointed to perform certain acts, that decision shall be subject to appeal within 15 days of receipt of the notification. Such appeal may be brought by **same persons** (<https://www.service-public.fr/particuliers/vosdroits/F23595?lang=en>) only those authorized to request a safeguard measure. A registered letter with acknowledgement of receipt must be sent to the court registry which will forward it to the court of appeal.

Who shall I contact

- [Court of Justice or Proximity](https://www.justice.fr/recherche/annuaires)  (<https://www.justice.fr/recherche/annuaires>)

Measure effects

The person under the protection of justice shall retain the right to perform all acts of civil life, except those entrusted to the special representative, if he has been appointed.

The person under court protection cannot divorce by mutual consent or consent.

The safeguard allows the special representative to challenge (either by canceling or correcting them) certain acts contrary to the interests of the adult, which he would have passed during the safeguard of justice.


Request for review

Before the end of the legal protection measure, such persons may submit a request to the protection litigation judge to review the protected person (form cerfa n°14919*03). This request is to extend the duration of the measure.





Application to the guardianship judge - New examination of a measure of judicial protection of an adult

Cerfa n° 14919*04 - Ministry of Justice

Go to
form(pdf - 95.0 KB) 

(https://www.formulaires.service-public.fr/gf/cerfa_14919.do)

 Consult the online manual

- [Notice - Application to the guardianship judge - New examination of a measure of judicial protection of an adult](https://www.formulaires.service-public.fr/gf/getNotice.do?cerfaNotice=51708&cerfaFormulaire=14919)  (<https://www.formulaires.service-public.fr/gf/getNotice.do?cerfaNotice=51708&cerfaFormulaire=14919>)

End of measure

The safeguard of justice may not exceed 1 year, renewable once by the judge of protection disputes. The total duration can therefore not exceed 2 years.

The protection of justice ceases:

- on the expiry of the period for which it has been issued, or
- on the lifting of the measure by the protection proceedings judge, after the completion of the acts for which it was ordered, or
- the removal of the measure by the judge responsible for protection proceedings, when the adult regains possession of his faculties, or
- by opening a guardianship or guardianship measure.

Statute and miscellaneous references

- **Civil Code: Articles 433 to 439** [↗](http://www.legifrance.gouv.fr/affichCode.do?idSectionTA=LEGISCTA000006150532&cidTexte=LEGITEXT000006070721) (<http://www.legifrance.gouv.fr/affichCode.do?idSectionTA=LEGISCTA000006150532&cidTexte=LEGITEXT000006070721>)
Decision to place the accused in court
- **Code of Civil Procedure: Articles 1248 to 1252-1** [↗](http://www.legifrance.gouv.fr/affichCode.do?idArticle=LEGIARTI000020030991&idSectionTA=LEGISCTA000020030994&cidTexte=LEGITEXT000006070716&dateTexte=vig) (<http://www.legifrance.gouv.fr/affichCode.do?idArticle=LEGIARTI000020030991&idSectionTA=LEGISCTA000020030994&cidTexte=LEGITEXT000006070716&dateTexte=vig>)
Safeguarding justice

Online services and forms

- **Application for legal protection of an adult (family or legal)** (<https://www.service-public.fr/particuliers/vosdroits/R50473?lang=en>)
Form
- **Application to the guardianship judge - New examination of a measure of judicial protection of an adult** (<https://www.service-public.fr/particuliers/vosdroits/R31793?lang=en>)
Form