

# Consular protection for unrepresented citizens of the Union in third countries

2011/0432(CNS) - 25/10/2012 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 596 votes to 66 with 12 abstentions, in the framework of a special legislative procedure (consultation of Parliament), a legislative resolution on the proposal for a Council Directive on consular protection for citizens of the Union abroad.

Parliament approved the Commission proposal, stressing at the same time the essential role of this legislation for the implementation of the right of citizens of the Union to protection in the territory of third countries, as stated in Article 35 of the Treaty on European Union. The main aim of the Directive is thus to ensure that Member States' diplomatic and consular authorities shall closely cooperate and coordinate among each other and with the Union to ensure protection of unrepresented citizens under the same conditions as for nationals.

The **main amendments** may be summarised as follows:

**Role of EU delegations:** Parliament feels that where unrepresented citizens need protection in third countries efficient cooperation and coordination is required. In this case, not only the assisting Member State but also the **Union delegation** present in a third country and the Member State of origin of the citizen should cooperate closely and ensure consular protection for unrepresented citizens. New provisions laid out in the text set out the role of EU delegations, particularly in cases of crisis. In crisis situations, the Union delegations should ensure the necessary coordination among Member States, including facilitating assistance to unrepresented citizens.

**Consular cooperation:** noting that local consular cooperation may be more complex for unrepresented citizens, as it requires coordination with authorities not represented on the ground, Members feel that a stable framework should be ensured. Accordingly, they insert a new Chapter on the general principles of local consular protection cooperation and coordination.

Local consular cooperation should pay due attention to unrepresented citizens, for example by **collecting the relevant contact details of the nearest regional embassies and consulates of Member States**. Amongst other things, local consular cooperation should pay due attention to unrepresented citizens, for example by collecting the relevant contact details of the nearest regional embassies and consulates of Member States. In order to facilitate and improve consular protection for unrepresented citizens, the Commission should establish practical guidelines.

There are also provisions in the text regarding local cooperation, stressing the need to organise local cooperation meetings which must include a regular exchange of information on unrepresented citizens.

In general, Members feel that consular protection shall also **extend to all other situations where the Member State represented would habitually provide assistance to its own citizens**.

**Arrangements and burden sharing:** in order to provide unrepresented citizens with consular protection and ensure the effective treatment of applications, Member States' representations and where relevant, the Union delegation may conclude **local arrangements on burden sharing and the exchange of information**. After notification to local authorities, such local arrangements shall be reported to the Commission and to the EEAS and published on the Commission's website and on the relevant websites of the Member States concerned. Those arrangements shall fully respect the provisions of the Directive.

**Consular protection in everyday situations and crisis situations:** Parliament stresses that consular protection should cover assistance in a certain number of **everyday situations**, and also in **crisis situations**. Everyday cases of consular protection may cover **arrest or detention**. In this respect, the text provides that special situations should be taken into account, in particular when victims of trafficking in human beings are arrested or detained for committing crimes as a direct consequence of being trafficked.

In all cases, action must be taken in order to prevent ill treatment and ensure that minimum standards of detention conditions are granted. Where an unrepresented citizen is the victim of a crime or in danger of being victim of a crime, he must be provided with information on his/her rights and with access to proper legal assistance and counselling:

- if the citizen of the Union is unable to produce a valid passport or identity card, (for example, due to theft) the assisting embassy or consulate shall provide unrepresented citizens with the necessary means for verifying their identity;
- **in crisis situations, Union delegations (and not the lead State or States in charge of coordination, as provided in the initial proposal) shall ensure coordination amongst Member States** and shall coordinate any evacuation or other necessary support provided for an unrepresented citizen with the citizen's Member State of nationality.

**Role and funding of EEAS:** to be able to fulfil the role of coordination, Parliament proposes that the European External Action Service (EEAS) should be provided with the necessary financial means, including for the training of Member States' consular staff. The EEAS should organise training for consular staff in order to facilitate assistance to citizens, including unrepresented citizens as a part of preparation for crisis situations.

**Extending consular protection for refugees and stateless persons:** Parliament considers that the assisting Member State should consider providing protection to recognised refugees and stateless persons and other persons who do not hold the nationality of any Member State but who reside in one of the Member States and are **holders of a travel document issued by that Member State, taking into account their particular situation.**

**Family members of unrepresented citizens of the EU:** family members of unrepresented citizens who themselves are not citizens of the Union are entitled to consular protection under the same conditions as the family members of nationals of the Member State of origin, or to consular protection by a Union delegation.

**Recourse to an interpreter:** for effective coordination and cooperation between Member States' consular authorities, it is important to establish the different types of assistance which are delivered in specific situations. Those types of assistance should reflect the common practices among Member States, and Members consider that it should be ensured that language barriers are overcome and unrepresented citizens are provided with interpretation or other necessary assistance.

**Training for consular staff:** Parliament states that training courses should be organised for consular staff in order to improve cooperation and increase their knowledge of citizens' rights under the Treaties and this Directive.

**Trust funds:** Parliament feels that **Member States should consider establishing a "trust fund" for consular protection**, from which the embassy or consulate of the assisting Member State could advance its expenses for assisting an unrepresented citizen and into which the Member States of the assisted

unrepresented citizen should reimburse the financial advance. The Commission, acting in cooperation with the Member States, should establish clear rules defining the division of financial burdens for the proper functioning of such a fund.

**Hotline:** Parliament proposes that the Commission should consider establishing a **24/7 hotline** in order to make information easily accessible for those citizens seeking consular protection in cases of emergency.

**Information on website of Foreign Ministries:** Member States should encourage their own nationals to register themselves on the websites of their Ministries for Foreign Affairs before visiting third countries in order to facilitate their assistance in cases of need, in particular in crisis situations.

Member States shall make available, on the websites of their Ministries for Foreign Affairs, information on their citizens' right to seek, in a third country in which those Member States are not represented, consular protection, in accordance with this Directive, from the diplomatic or consular authorities of another Member State, and on the conditions of the exercise of that right.

**Delegated powers:** Parliament states that in order to ensure the swift and efficient functioning of the Directive, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of any **amendment to the Annexes** which consist of forms which may need to be updated from time to time. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure the simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and the Council.

Lastly, it should be noted that Parliament stipulates that the **Directive should not impose any obligations on the Member States to provide unrepresented citizens with those types of assistance that are not provided to their own nationals.**