

Consular protection for unrepresented citizens of the Union in third countries

2011/0432(CNS) - 20/04/2015 - Final act

PURPOSE: to establish a system of consular protection for unrepresented citizens of the Union in third countries.

LEGISLATIVE ACT: Council Directive (EU) 2015/637 on the coordination and cooperation measures to facilitate consular protection for unrepresented citizens of the Union in third countries and repealing Decision 95/553/EC.

BACKGROUND: almost 7 million EU citizens travel or live outside the EU in places where their own EU country does not have an embassy or consulate.

During their stay abroad, “unrepresented citizens” might need assistance from consular authorities, for instance because their passport has been stolen or lost, or because they have been victims of an accident or a crime. They could also find themselves in the middle of a crisis, such as a natural disaster or political unrest, which might require evacuation.

It is against this background that this Directive is adopted which seeks to establish a clear framework to improve EU citizens’ rights to seek the same consular protection, even if their Member State is not represented in the third country in question. This means that the other EU countries must provide them with whatever assistance they would provide to their own nationals, which may differ from one EU country to the other. The Directive also clarifies to what extent non-EU family members can get assistance.

CONTENT: the Directive clarifies when and how EU citizens in distress in a country outside the EU have the right to receive assistance from other EU countries' embassies or consulates. The aim is to ease cooperation between consular authorities and strengthen European citizens' right to consular protection.

Principle: under this Directive, unrepresented citizens should be able to seek consular protection from the embassy or consulate of any Member State. However, that should not prevent Member States from entering into **practical arrangements** for the purpose of sharing responsibilities for providing consular protection to unrepresented citizens in accordance with this Directive.

N.B.: consular protection shall be provided to family members, who are not themselves citizens of the Union, accompanying unrepresented citizens in a third country.

Scope: consular protection for unrepresented citizens should include assistance in a number of typical situations in which Member States provide consular protection to their own nationals depending on the individual circumstances of each case. Since the protection needed always depends on the factual situation, consular protection should not be limited to the situations specifically mentioned in this Directive.

Applicants seeking consular protection shall establish that **they are citizens of the Union by producing their passports or identity cards**. If the citizen of the Union is unable to produce a valid passport or identity card (in the case of theft or loss), nationality may be proven by any other means, if necessary including verification with the diplomatic or consular authorities of the Member State of which the applicant claims to be a national.

Types of assistance: the consular protection may include assistance, *inter alia*, in the following situations:

- arrest or detention;
- being a victim of crime;
- a serious accident or serious illness;
- death;
- relief and repatriation in case of an emergency;
- a need for emergency travel documents.

Access to consular protection and other arrangements: the citizens' EU home country will always be consulted by the country from whom the citizen is seeking help and can, at any time, decide to take care of its own citizens, even when it has no embassy or consulate in the country concerned (for instance by providing information over the phone, contacting family or friends, or by way of online consular services). The Directive thus preserves the **crucial role of the home country** in taking care of its own citizens in distress abroad.

The Directive also makes clear that a citizen seeking help from an embassy may be redirected to another one who will be better placed to assist. This is because EU countries present in the country can agree locally on who should take care of whom in order to ensure efficient protection for EU citizens.

Information about such arrangements will have to be made public.

Citizens will also be able to turn to the EU Delegation there to get general information about such agreements or about the assistance they could be entitled to.

Among the proposed **coordination and cooperation** measures are provisions concerning the exchange of information on the person seeking consular protection, including all the relevant information at its disposal, including regarding the identity of the person concerned, possible costs of consular protection, and regarding any family members to whom consular protection may also need to be provided.

Except in cases of extreme urgency, this consultation shall take place before assistance is provided.

Sharing responsibility, in particular in crisis situations: the Directive also foresees specific rules to guarantee that unrepresented citizens are duly taken into account and fully assisted in crisis situations, where a clear division of responsibilities and coordination are of paramount importance.

A clear division of responsibilities between represented and unrepresented Member States and the Union delegation is essential to ensure adequate crisis preparedness and crisis management. Crisis contingency planning should therefore be coordinated and fully take unrepresented citizens into account. To this end, in the framework of local crisis response preparedness, Member States which do not have an embassy or consulate established locally should provide all available and relevant information regarding their citizens in the territory.

Such information should be updated as appropriate in the event of a crisis. Competent embassies and consulates, and Union delegations should be informed and, wherever appropriate, involved in crisis preparedness arrangements. Information regarding those arrangements should be made available to unrepresented citizens. In the event of a crisis, the Lead State or the Member State(s) coordinating the assistance should coordinate the support provided for unrepresented citizens and the use of available

evacuation capacities on the basis of the agreed planning and local developments, on a non-discriminatory basis.

Costs covered for assisted citizens: the Directive makes clear who should pay for what. The Directive clarifies that if the assistance provided implies certain costs or fees, the unrepresented EU citizens will not have to pay more than the citizens of the EU country which assists them. Citizens who are not able to pay these costs on the spot will be asked to sign a form by which they undertake to repay those costs to their own authorities, if requested to do so.

Those Member States which provide consular protection in the form of financial assistance to their own citizens do so as a **last resort** and only in exceptional cases where citizens cannot obtain financial means in other ways, such as through transfers from family, friends or employers.

Unrepresented citizens should be granted financial assistance under the same conditions as the nationals of the assisting Member State.

Review: the Commission shall submit a report on the implementation and application of this Directive by 1 May 2021 in order to evaluate whether there is a need for additional measures, including, where appropriate, amendments to adapt this Directive if necessary.

More favourable treatment: Member States may introduce or retain provisions more favourable than those of this Directive in so far as they are compatible herewith.

ENTRY INTO FORCE: 14.5.2015.

TRANSPOSITION IN THE MEMBER STATES: 1.5.2018. Decision 95/553/EC is repealed with effect from this date.