

Consular protection for unrepresented citizens of the Union in third countries

2023/0441(CNS) - 06/12/2023 - Legislative proposal

PURPOSE: to revise the EU Consular Protection Directive to facilitate consular protection for unrepresented citizens of the Union in third countries.

PROPOSED ACT: Council Directive.

ROLE OF THE EUROPEAN PARLIAMENT: the Council adopts the act after consulting the European Parliament but without being obliged to follow its opinion.

BACKGROUND: crises resulting in requests for consular protection are increasing in frequency and scale. The COVID-19 pandemic, the crisis in Afghanistan, Russia's war of aggression against Ukraine, the conflict in Sudan, the repatriations from Israel and Gaza and other similar crises have provided a context to identify gaps and reflect on how to further facilitate the exercise of the right to consular protection.

Improving consular protection of Union citizens abroad by reinforcing Union solidarity and cooperation in this field ensures that Union citizens continue to benefit from this fundamental right according to the highest standards, in particular during times of crisis.

The rules established under the Consular Protection Directive should be amended to protect and support EU citizens abroad in times of crisis.

To improve legal certainty for consular authorities and citizens, it is therefore appropriate to lay down more detailed criteria that aid in the assessment whether a Union citizen is to be considered as unrepresented and thus eligible to receive consular protection from the Member State whose consular authorities have been approached. Those criteria should be sufficiently flexible and applied in light of local circumstances, such as ease of travel or security situation in the third country concerned.

CONTENT: in this regard, the Commission proposes to **revise the EU Consular Protection Directive** to ensure better and easier protection for EU citizens in a third country, where their country of nationality does not have a consulate or embassy. Therefore, EU citizens should be able to get clearer information and exercise their rights for assistance and protection.

Overall, the proposal aims to: (i) **simplify procedures** and make best use of the EU's global network of EU delegations, Member States' embassies and consulates to better assist citizens in need; (ii) **reinforce crisis preparedness and response measures**, including by conducting regular consular crisis exercises and preparing crisis consular plans with an assessment of possible risks and an estimate of EU citizens present for each country; (iii) **send joint teams of consular experts** to reinforce diplomatic and consular staff during crises.

More specifically, the proposal:

- clarifies when a Member State is **not to be considered as represented** in a third country due to the fact that it has **no embassy or consulate** effectively in a position to provide consular protection. The proposal also sets out the criteria to be taken into account by the embassy or consulate from which the unrepresented citizen seeks consular protection to determine whether a Member State has no embassy or consulate effectively in a position to provide consular protection in a given case;

- clarifies that the presence of an **honorary consul** of the citizen's Member State of nationality may only be taken into account if the assistance requested by the citizen is covered by the competences of the honorary consul. This is to avoid that citizens are denied assistance with reference to an honorary consul who is not competent to assist them;
- adds a reference to 'evacuation' to comprehensively cover situations where Union citizens are rescued and moved from areas affected by an emergency to a safe location, which must not necessarily be the territory of a Member State, as well as situations where Union citizens are repatriated to Union territory;
- states that Member States may involve, in their coordination and cooperation measures, security and military personnel, honorary consuls, international organisations or diplomatic and consular authorities of third countries;
- introduces the possibility to Member States to offer their citizens the possibility to **register with or inform competent national authorities of their travels to or residence in third countries**. This is meant to improve the information available on the estimated number and location of Union citizens present in a third country for the purposes of crisis preparedness and crisis response. It would also make it **easier to contact citizens** affected by a crisis situation;
- lays down the rules on the **reimbursement of the costs for consular protection** which would be adapted to provide that such costs are primarily to be reimbursed by the assisted unrepresented citizen directly, either when making the request or at a later stage. Only if such reimbursement does not take place, the assisting Member State should approach the Member State of nationality for reimbursement. Moreover, Member States that assist represented citizens in crisis situations may also ask for the reimbursement of costs, given that it may not be possible or practically feasible to distinguish them from unrepresented citizens in crisis situations;
- implements the **fundamental right** to an effective remedy in the context of consular protection.