

Basic information	
<b>2011/0432(CNS)</b> CNS - Consultation procedure Directive	Procedure completed
Consular protection for unrepresented citizens of the Union in third countries  <b>Subject</b> 1.20.20 Diplomatic and consular protection	

Key players				
European Parliament	<b>Committee responsible</b>		<b>Rapporteur</b>	<b>Appointed</b>
	<b>LIBE</b>	Civil Liberties, Justice and Home Affairs	BAUER Edit (PPE)	09/02/2012
			Shadow rapporteur FAJON Tanja (S&D) ŽDANOKA Tatjana (Verts /ALE)	
	<b>Committee for opinion</b>		<b>Rapporteur for opinion</b>	<b>Appointed</b>
	<b>AFET</b>	Foreign Affairs	OJULAND Kristiina (ALDE)	11/01/2012
	<b>DEVE</b>	Development	The committee decided not to give an opinion.	
	<b>JURI</b>	Legal Affairs	ZWIEFKA Tadeusz (PPE)	19/12/2011
	Council of the European Union			
European Commission	<b>Commission DG</b>		<b>Commissioner</b>	
	Justice and Consumers		REDING Viviane	

Key events			
Date	Event	Reference	Summary
		COM(2011)0881	Summary

14/12/2011	Legislative proposal published		
02/02/2012	Committee referral announced in Parliament		
19/09/2012	Vote in committee		
10/10/2012	Committee report tabled for plenary, 1st reading/single reading	<a href="#">A7-0288/2012</a>	<a href="#">Summary</a>
25/10/2012	Decision by Parliament	<a href="#">T7-0394/2012</a>	<a href="#">Summary</a>
25/10/2012	Results of vote in Parliament		
20/04/2015	Act adopted by Council after consultation of Parliament		
20/04/2015	End of procedure in Parliament		
24/04/2015	Final act published in Official Journal		

Technical information	
<b>Procedure reference</b>	2011/0432(CNS)
<b>Procedure type</b>	CNS - Consultation procedure
<b>Procedure subtype</b>	Legislation
<b>Legislative instrument</b>	Directive
<b>Legal basis</b>	Treaty on the Functioning of the European Union TFEU 223-p1
<b>Other legal basis</b>	Rules of Procedure EP 165
<b>Stage reached in procedure</b>	Procedure completed
<b>Committee dossier</b>	LIBE/7/08241

Documentation gateway				
<b>European Parliament</b>				
Document type	Committee	Reference	Date	Summary
Committee draft report		<a href="#">PE492.575</a>	22/06/2012	
Committee opinion	<a href="#">JURI</a>	<a href="#">PE487.728</a>	12/07/2012	
Amendments tabled in committee		<a href="#">PE494.593</a>	26/07/2012	
Committee opinion	<a href="#">AFET</a>	<a href="#">PE487.901</a>	04/09/2012	
Committee report tabled for plenary, 1st reading/single reading		<a href="#">A7-0288/2012</a>	10/10/2012	<a href="#">Summary</a>
Text adopted by Parliament, 1st reading/single reading		<a href="#">T7-0394/2012</a>	25/10/2012	<a href="#">Summary</a>
<b>European Commission</b>				
Document type	Reference	Date	Summary	
Legislative proposal	<a href="#">COM(2011)0881</a> 	14/12/2011	<a href="#">Summary</a>	
	<a href="#">SEC(2011)1555</a>			

Document attached to the procedure		14/12/2011	
Document attached to the procedure	SEC(2011)1556 	14/12/2011	
Commission response to text adopted in plenary	SP(2012)767	15/11/2012	
Follow-up document	COM(2022)0437 	02/09/2022	

#### National parliaments

Document type	Parliament /Chamber	Reference	Date	Summary
Contribution	PT_PARLIAMENT	COM(2011)0881	17/02/2012	
Contribution	IT_SENATE	COM(2011)0881	24/02/2012	

#### Additional information

Source	Document	Date
National parliaments	IPEX	
European Commission	EUR-Lex	

#### Final act

Directive 2015/0637  
OJ L 106 24.04.2015, p. 0001

[Summary](#)

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

2011/0432(CNS) - 10/10/2012 - Committee report tabled for plenary, 1st reading/single reading

The Committee on Civil Liberties, Justice and Home Affairs adopted, following the special legislative procedure (consultation of the European Parliament), the report by Edit Bauer (EPP, SK) on the proposal for a Council Directive on consular protection for citizens of the Union abroad.

The committee recommends that Parliament amend the Commission proposal as follows:

**Role of EU delegations:** Members feel 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. 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:** Members stress 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, **minimum standards** of detention conditions must be monitored action 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 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, Members propose 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:** Members consider 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.**

**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:** 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:** Members feel 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:** the committee 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:** the report 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 Members stipulate 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.**

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

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.**

## 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.

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

PURPOSE: to establish a consular protection system for citizens of the Union abroad.

PROPOSED ACT: Council Directive.

BACKGROUND: the Treaty right to consular protection for unrepresented EU citizens under the same conditions as for nationals, enshrined in Articles 20(2)(c) and **23 of the Treaty on the Functioning of the European Union (TFEU)** and in Article 46 of the EU Fundamental Rights Charter, is one of the specific rights granted by EU Citizenship. It is an expression of EU solidarity and of the **identity of the Union in third countries**, as well as of the practical benefits of being an EU citizen.

Consular protection is an integral part of the Union's policy on citizens' rights. The European Council, in the Stockholm Programme, invited the Commission to "consider appropriate measures establishing coordination and cooperation necessary to facilitate consular protection in accordance with Article 23 TFEU". In its [Resolution](#) of 25 November 2009 the European Parliament advocated to strengthen the coordination and cooperation of consular protection, thereby following up its [Resolution](#) of 11 December 2007 which suggested common concepts and binding guidelines and called for amending Decision 95/553/EC once the Lisbon Treaty is in place.

In the "[EU Citizenship Report 2010 - Dismantling the obstacles to EU citizens' rights](#)" the Commission announced it would increase the effectiveness of the right of EU citizens to be assisted in third countries, including in times of crisis, by the diplomatic and consular authorities of all Member States, by proposing legislative measures in 2011. The Commission reiterated this commitment in its [Communication](#) on consular protection.

Under the previous legal regime Member States were to establish the necessary rules among themselves. The Lisbon Treaty confers on the Commission the right to propose directives establishing the cooperation and coordination measures necessary to facilitate the right to equal consular protection for unrepresented EU citizens as for own nationals. The current EU instrument, [Decision 95/553/EC](#), foresees a review following five years after its entry into force in 2002.

Currently, there is scope for further improvement regarding consular protection for unrepresented EU citizens. There is no clear consensus on the content of Article 23 TFEU and about the responsibilities which this right entails. To be effective as a right with concrete meaning, the succinct wording of the Treaty article does not suffice. National consular laws and practices diverge as do views about the underlying concepts of consular protection for unrepresented EU citizens.

In particular in four areas further clarifications appear necessary. This is the purpose of this proposal.

IMPACT ASSESSMENT: three policy options were examined:

- **Option 1:** Retention of the status quo: no additional action at EU level.
- **Option 2:** Directive establishing coordination and cooperation measures to further facilitate consular protection for unrepresented EU citizens, reinforced by targeted awareness-raising measures. This option would cover the four operational objectives and ensure effective implementation due to targeted awareness-raising for citizens and practitioners.
- **Option 3:** Further and tighter cooperation measures. This option would, in addition to option 2, ensure that consular protection is also given on equal terms to long-term residents and recognised refugees; include simple forms of legalisation and of notary services and reinforce reimbursement in crisis situations by setting up a reimbursement mechanism or/and enhanced EU co-funding specifically for unrepresented EU citizens.

Following a comparison of the policy options, in view of their costs and effectiveness in attaining the objectives set, policy **option 2** (EU Directive on cooperation and coordination measures) is identified as the best placed variant and therefore constitutes the preferred option.

LEGAL BASIS: Article 23 of the Treaty on the Functioning of the European Union (TFEU).

CONTENT: the main objective of this proposal is to:

- clarify content and operability of right of unrepresented EU citizens to consular protection under equal conditions;
- simplify cooperation and coordination between consular authorities.

To this effect, the proposal addresses the following issues:

**(1) Personal scope:** the proposal clarifies that an EU citizen is to be considered as unrepresented in particular when an embassy or consulate of his/her own Member State is not "accessible". An embassy or consulate is not "accessible", **if the EU citizen cannot reach it and return to his/her place of departure** (via means of transport commonly used in the third country) at least the same day. An exception is provided for in case the urgency of the matter necessitates even swifter assistance.

The proposal further specifies that also **third country family members of EU citizens are included in consular protection for EU citizens**. Article 23 TFEU provides for non-discriminatory treatment, and in line with Articles 7 and 24 of the Charter of Fundamental Rights of the European Union and the case-law of the European Court of Justice the principal benefits of EU citizens' rights are also extended to their family members to ensure the full effectiveness of those rights. Accordingly, the proposal provides that protection must be given to third country family members of EU citizens to the same extent as Member States provide it to the third country family members of their own nationals.

**(2) Access to consular protection and cooperation/coordination:** the proposal stresses that EU citizens can turn to "any" other Member State's embassy or consulate; though specific arrangements by Member States are possible as long as transparency (through notification and subsequent publication on the Commission's website) and effective treatment of applications are ensured. The proposal further specifies which assistance Member States typically provide in the most frequent events (i.e. arrest or detention, victim of crime, serious accident or serious illness, death, relief and repatriation in

case of distress, need of emergency travel documents), on the basis of common practices of Member States on consular protection<sup>28</sup>, and the applicable procedures for cooperation and coordination between the consular authorities in these events.

To comply with the citizens' right of self-determination, the proposal provides for enquiries regarding the wishes of citizens which should be respected, including as to whether family members or other related persons should be informed (e.g. about the arrest). Similarly, in the event of death, the wishes of the next-of-kin must be duly taken into account as to how to proceed with the corpse of the deceased citizen.

**(3) Local coordination/EU added value:** the proposal specifies that local cooperation meetings on consular protection should include regular exchange of information on unrepresented EU citizens and that the Chair of these meetings should collect the contact details of relevance for assistance to unrepresented EU citizens (e.g. regionally responsible embassy or consulate of unrepresented Member States). It provides that Union delegations can under specific conditions chair - or otherwise support - these meetings.

**(4) Assistance in crisis situations/financial reimbursement:** regarding crises situations the proposal entails the following improvements. It provides that local contingency plans must systematically include unrepresented EU citizens. The proposal underlines the importance of the Lead State(s) for protecting unrepresented EU citizens and defines its role in this respect, i.e. that the Lead State is in charge of coordinating and leading assistance of unrepresented EU citizens.

The proposal specifies that a Lead State can seek additional support from the EU Civil Protection Mechanism and the crisis management structures of the EEAS. The proposal also provides for additional support and full use of synergies by providing for the inclusion of national consular experts, notably from unrepresented Member States, in existing intervention teams at Union level.

Regarding **financial burden-sharing** a facilitated reimbursement procedure, adjusted to crisis situations is introduced. This entails simplifying the procedural exchange involving consular authorities and citizens, adding standard formats for requests and introducing an easier system for tracking the reimbursement costs (on a pro-rata basis, fixed rates - in case costs cannot be calculated). This improved reimbursement procedure complements the support available from the EU Civil Protection Mechanism and the EEAS crisis management structures.

**BUDGETARY IMPLICATIONS:** this proposal has no implications for the EU budget.