



EUROPEAN PARLIAMENT

2009 - 2014

---

*Committee on Foreign Affairs*

---

**2011/0432(CNS)**

4.9.2012

## **OPINION**

of the Committee on Foreign Affairs

for the Committee on Civil Liberties, Justice and Home Affairs

on the proposal for a Council directive on consular protection for citizens of  
the Union abroad  
(COM(2011)0881 – C7-0017/2012 – 2011/0432(CNS))

Rapporteur: Kristiina Ojuland

PA\_Legam

## SHORT JUSTIFICATION

The Committee on Foreign Affairs believes that it is crucial to clarify the coordination and cooperation measures necessary for the day-to-day consular protection of unrepresented EU citizens which is a fundamental right granted by the EU citizenship as defined 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.

The Committee nevertheless expresses the view that the Commission proposal could have been much more ambitious and that it does not make use of all the possibilities offered by the Lisbon Treaty and especially the role of the EU delegations highlighted in Art. 35 TEU. This Council directive should pave the way for an increased role of the extensive network of EU delegations in the exercise of the consular protection. The Committee believes that in the long term, EU delegations should have a leading coordination role in this respect and, in well-defined circumstances, even be entrusted with consular tasks. This would

- simplify the procedures for EU citizens abroad;
- allow for economies of scale through increased pooling of human and financial resources;
- enhance the visibility of the EU towards third countries;
- strengthen the EU citizenship.

The Council Decision establishing the organisation and functioning of the European External Action Service (EEAS) states under Article 5(10) that EU delegations shall, upon request by Member States, support them in their role of providing protection to EU citizens in third countries *on a funding-neutral basis*. The review of this Council decision that is to take place in 2013 should certainly take a close look at the financial arrangements needed for allowing the EU delegations to play their full role in the mechanisms put in place to ensure consular protection to unrepresented EU citizens.

The Committee on Foreign Affairs therefore proposes that this Council directive serves as a legal basis for the line 19-06-06 (consular protection) of the EU budget, in order to provide the Union with the necessary financial means for fulfilling these tasks through its delegations.

## AMENDMENTS

The Committee on Foreign Affairs calls on the Committee on Civil Liberties, Justice and Home Affairs, as the committee responsible, to incorporate the following amendments in its report:

## Amendment 1

### Proposal for a directive Citation 1 a (new)

*Text proposed by the Commission*

*Amendment*

***Having regard to the Treaty on European Union, and in particular Article 35 thereof,***

## Amendment 2

### Proposal for a directive Recital 7

*Text proposed by the Commission*

*Amendment*

(7) Where unrepresented citizens need protection in third countries efficient cooperation and coordination is required. The assisting Member State present in a third country and the Member State of origin of the citizen may need to cooperate closely. Local consular cooperation may be more complex for unrepresented citizens, as it requires coordination with authorities not represented on the ground. To fill the gap caused by the absence of an embassy or consulate of the citizen's own Member State, a stable framework should be ensured.

(7) Where unrepresented citizens need protection in third countries efficient cooperation and coordination is required. The assisting Member State present in a third country, ***the Union delegation in that third country*** and the Member State of origin of the citizen may need to cooperate closely. Local consular cooperation may be more complex for unrepresented citizens, as it requires coordination with authorities not represented on the ground. To fill the gap caused by the absence of an embassy or consulate of the citizen's own Member State, a stable framework should be ensured.

## Amendment 3

### Proposal for a directive Recital 21

*Text proposed by the Commission*

*Amendment*

(21) In the event of crisis adequate preparation and a clear division of responsibilities are essential. Crisis contingency planning should therefore fully include unrepresented citizens and

(21) In the event of crisis adequate preparation and a clear division of responsibilities are essential. Crisis contingency planning should therefore fully include unrepresented citizens and

national contingency plans should be coordinated. *The concept of the Lead State should be further developed in that context.*

national contingency plans should be coordinated.

#### Amendment 4

##### Proposal for a directive Recital 23

###### *Text proposed by the Commission*

(23) In third countries the Union is represented by the Union delegations, which together with the diplomatic and consular missions of the Member States contribute to the implementation of the right of citizens of the Union regarding consular protection as specified further in Article 35 of the Treaty on European Union. In line with the Vienna Convention on consular relations Member States may provide consular protection on behalf of another Member State unless the third country concerned objects. Member States should undertake the necessary measures in relation to third countries to ensure that consular protection on behalf of other Member States can be provided.

###### *Amendment*

(23) In third countries the Union is represented by the Union delegations, which together with the diplomatic and consular missions of the Member States contribute to the implementation of the right of citizens of the Union regarding consular protection as specified further in Article 35 of the Treaty on European Union. In line with the Vienna Convention on consular relations Member States may provide consular protection on behalf of another Member State unless the third country concerned objects. Member States should undertake the necessary measures in relation to third countries to ensure that consular protection on behalf of other Member States can be provided. *The Union delegations should ensure the necessary coordination among Member States and be entrusted with consular tasks wherever and whenever relevant, especially in times of distress. To be able to fulfil this role, the Union should be provided with the necessary financial means.*

#### Amendment 5

##### Proposal for a directive Article 1 – paragraph 1

###### *Text proposed by the Commission*

This Directive lays down the cooperation

###### *Amendment*

This Directive lays down the cooperation

and coordination measures necessary to facilitate the exercise of the right of citizens of the Union, in the territory of a third country in which the Member State of which they are nationals is not represented, to protection by the diplomatic or consular authorities of another Member State on the same conditions as the nationals of that Member State.

and coordination measures necessary to facilitate the exercise of the right of citizens of the Union, in the territory of a third country in which the Member State of which they are nationals is not represented, to protection by the diplomatic or consular authorities of another Member State on the same conditions as the nationals of that Member State, ***or by the Union delegation in that third country.***

## **Amendment 6**

### **Proposal for a directive**

#### **Article 1 a (new)**

*Text proposed by the Commission*

*Amendment*

#### ***Article 1a***

##### ***Union delegations***

***1. The Union delegations shall be primarily responsible for ensuring cooperation and coordination among Member States for the provision of consular protection for unrepresented citizens of the Union, including by sharing infrastructure and available resources.***

***2. The Union delegations may, wherever necessary and relevant, also be entrusted with consular tasks for unrepresented citizens. All references to Member States' embassies or consulates in this Directive shall therefore be construed as references to "Member States' embassies or consulates, or Union delegations wherever agreed".***

***3. The Union delegations shall be provided with the financial means and all other necessary resources, including adequate training and capacity-building, to carry out the tasks set out in paragraphs (1) and (2).***

## Amendment 7

### Proposal for a directive Article 2 – paragraph 1

*Text proposed by the Commission*

1. Every citizen holding the nationality of a Member State of the Union which is not represented by a diplomatic or consular authority in a third country, hereafter ‘unrepresented citizen’, shall be entitled to protection by the diplomatic or consular authorities of **another** Member State under the same conditions as its nationals.

*Amendment*

1. Every citizen holding the nationality of a Member State of the Union which is not represented by a diplomatic or consular authority in a third country, hereafter ‘unrepresented citizen’, shall be entitled to protection by the diplomatic or consular authorities of **any other** Member State under the same conditions as its nationals, **or by the Union delegation.**

## Amendment 8

### Proposal for a directive Article 2 – paragraph 3

*Text proposed by the Commission*

3. 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 **assisting** Member State **who themselves are not nationals.**

*Amendment*

3. 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.**

## Amendment 9

### Proposal for a directive Article 4 – paragraph 1

*Text proposed by the Commission*

1. **Unrepresented** citizens **may choose** the Member **State embassy or consulate from which they seek consular protection.**

*Amendment*

1. **The Union delegations shall inform unrepresented citizens of the possibility of receiving consular protection. The Union delegations, the Member States and the European Commission shall raise awareness among Union citizens about their right to turn to Union delegations in**

*third countries to seek assistance.*

## Amendment 10

### Proposal for a directive Article 4 – paragraph 2

*Text proposed by the Commission*

2. A Member State may represent another Member State on a permanent basis and Member States' embassies or consulates in a third country may conclude arrangements on burden-sharing, provided that effective treatment of applications is ensured. **Member States** shall inform the European Commission of any such arrangement in view of publication on **its** dedicated internet site.

*Amendment*

2. A Member State may represent another Member State on a permanent basis and Member States' embassies or consulates in a third country may conclude arrangements on burden-sharing, provided that effective treatment of applications is ensured. **Union delegations shall coordinate, in third countries, the efforts to set up those arrangements, and shall** inform the European Commission **in good time** of any such arrangement in view of publication on **the** dedicated internet site.

## Amendment 11

### Proposal for a directive Article 7

*Text proposed by the Commission*

**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. When a consulate or embassy assists an unrepresented citizen, the regionally responsible nearest consulate or embassy or the Ministry of Foreign Affairs of the citizen's Member State of nationality shall be contacted. Member States shall notify the relevant contact persons in the Ministries of Foreign Affairs to the European External Action Service which shall continuously update them in its

*Amendment*

**Union delegations shall lead the cooperation and coordination among the Member States on the one hand and between Member States** and the Union **on the other** to ensure protection of unrepresented citizens under the same conditions as for nationals. When a consulate or embassy assists an unrepresented citizen, the regionally responsible nearest consulate or embassy or the Ministry of Foreign Affairs of the citizen's Member State of nationality shall be contacted. Member States shall notify the relevant contact persons in the Ministries of Foreign Affairs to the European External Action Service which shall continuously update them in its



secure internet site.

secure internet site.

## Amendment 12

### Proposal for a directive

#### Article 13 – paragraph 1 – subparagraph 1

##### *Text proposed by the Commission*

In crisis situations the assisting embassy or consulate shall coordinate any evacuation or other necessary support provided for an unrepresented citizen with the citizen's Member State of nationality.

##### *Amendment*

In crisis situations the assisting embassy or consulate **or Union delegation** shall coordinate any evacuation or other necessary support provided for an unrepresented citizen with the citizen's Member State of nationality.

## Amendment 13

### Proposal for a directive

#### Article 14

##### *Text proposed by the Commission*

Local cooperation meetings shall include a regular exchange of information on unrepresented citizens, on matters such as safety of citizens, prison conditions **or** consular access. ***Unless otherwise agreed by the Ministries of Foreign Affairs centrally, the Chair shall be a representative of a Member State or the Union delegation decided locally.*** The Chair shall collect and regularly update contact details, in particular regarding the contact points of unrepresented Member States, and share them with the local embassies and consulates **and the Union delegation**.

##### *Amendment*

Local cooperation meetings shall **be chaired by a representative of the Union delegation. They shall** include a regular exchange of information on unrepresented citizens, on matters such as safety of citizens, prison **and detention** conditions, consular access **and crisis planning**. The Chair shall collect and regularly update contact details, in particular regarding the contact points of unrepresented Member States, and share them with the local embassies and consulates.

## Amendment 14

### Proposal for a directive Article 15 – paragraph 1

*Text proposed by the Commission*

1. **To ensure comprehensive preparedness local contingency planning shall include unrepresented citizens. Member States represented in a third country shall coordinate the contingency plans among themselves and with the Union delegation. They shall agree on respective tasks to ensure that unrepresented citizens are fully assisted in case of crisis, appoint representatives for assembly points and inform unrepresented citizens on crisis preparedness arrangements under the same conditions as nationals.**

*Amendment*

1. **Union delegations shall coordinate contingency planning among Member States in order to ensure comprehensive preparedness, including the division of tasks to ensure that unrepresented citizens are fully assisted in case of crisis, the appointment of representatives for assembly points and the information to be given to unrepresented citizens on crisis preparedness arrangements under the same conditions as nationals.**

## Amendment 15

### Proposal for a directive Article 15 – paragraph 2

*Text proposed by the Commission*

2. In the event of a crisis Member States and the Union shall closely cooperate to ensure efficient assistance of unrepresented citizens. **Member States and the Union shall inform each other** about available evacuation capacities in a timely manner. **Upon request Member States may be supported** by existing intervention teams at Union level including consular experts, in particular from the unrepresented Member States.

*Amendment*

2. In the event of a crisis Member States and the Union shall closely cooperate to ensure efficient assistance of unrepresented citizens. **The Union delegation shall coordinate the exchange of information** about available evacuation capacities in a timely manner **and provide the necessary assistance for evacuation, with possible support from** existing intervention teams at Union level including consular experts, in particular from the unrepresented Member States.

## Amendment 16

### Proposal for a directive Article 16 – Title

*Text proposed by the Commission*

***Lead State***

*Amendment*

***Coordination in preparation for and in the event of crises***

## Amendment 17

### Proposal for a directive Article 16 – paragraph 1

*Text proposed by the Commission*

***1. For the purpose of this directive the Lead State(s) is (are) one or more Member State(s) in a given third country, in charge of coordinating and leading assistance regarding the preparation for and in case of crisis, which includes a specific role for unrepresented citizens.***

*Amendment*

***1. The Union delegations shall be in charge of coordinating and leading assistance regarding the preparation for and in case of crisis, which includes a specific role for unrepresented citizens.***

## Amendment 18

### Proposal for a directive Article 16 – paragraph 2

*Text proposed by the Commission*

***2. A Member State is designated as Lead State in a given third country, if it notified its intention through the existing secure communication network; unless another Member State objects within 30 days or the proposed Lead State renounces the task through the secure communication network. If more than one Member State wish to assume jointly the task of Lead State they shall jointly notify their intention through the secure communication network. In the event of crisis one or more Member States may assume this task immediately and shall***

*Amendment*

***deleted***

*undertake notification within 24 hours. Member States may decline the offer, but their nationals and other potential beneficiaries remain, in accordance with Article 6(1), eligible to assistance from the Lead State. If there is no Lead State, Member States represented on the ground shall agree on which Member State will coordinate assistance for unrepresented citizens.*

## **Amendment 19**

### **Proposal for a directive Article 16 – paragraph 3**

*Text proposed by the Commission*

3. To prepare for crises the **Lead State(s)** shall ensure that unrepresented citizens are duly included in embassies and consulates' contingency planning, that contingency plans are compatible and that embassies and consulates **as well as Union delegations** are duly informed about these arrangements.

*Amendment*

3. To prepare for crises the **Union delegation** shall ensure that unrepresented citizens are duly included in embassies and consulates' contingency planning, that contingency plans are compatible and that embassies and consulates are duly informed about these arrangements.

## **Amendment 20**

### **Proposal for a directive Article 16 – paragraph 4**

*Text proposed by the Commission*

4. In the event of crisis the **Lead State(s) or the Member State coordinating assistance** shall be in charge of coordination and leading assistance and assembly operations for unrepresented citizens, and **if necessary ensure** evacuation to a place of safety with the support of the **other** Member States concerned. It shall also provide a point of contact for unrepresented Member States, through which they can receive information about their citizens and coordinate necessary assistance. **The Lead**

*Amendment*

4. In the event of crisis the **Union delegation** shall be in charge of coordination and leading assistance and assembly operations for unrepresented citizens, and **coordinate** evacuation to a place of safety with the support of the Member States concerned. It shall also provide a point of contact for unrepresented Member States, through which they can receive information about their citizens and coordinate necessary assistance. **The Union delegation and the**

***State(s) or, the Member State coordinating assistance for unrepresented citizens*** may seek, if appropriate, support from instruments such as the EU Civil Protection Mechanism and the crisis management structures of the European External Action Service. Member States shall provide the ***Lead State(s) or the Member State coordinating assistance*** with all the relevant information regarding their unrepresented citizens present in a crisis situation.

***Member States concerned*** may seek, if appropriate, support from instruments such as the EU Civil Protection Mechanism and the crisis management structures of the European External Action Service. Member States shall provide the ***Union delegation*** with all the relevant information regarding their unrepresented citizens present in a crisis situation.

## PROCEDURE

<b>Title</b>	Consular protection for citizens of the Union abroad
<b>References</b>	COM(2011)0881 – C7-0017/2012 – 2011/0432(CNS)
<b>Committee responsible</b> Date announced in plenary	LIBE 2.2.2012
<b>Opinion by</b> Date announced in plenary	AFET 2.2.2012
<b>Rapporteur</b> Date appointed	Kristiina Ojuland 11.1.2012
<b>Discussed in committee</b>	10.7.2012
<b>Date adopted</b>	3.9.2012
<b>Result of final vote</b>	+: 32 –: 1 0: 1
<b>Members present for the final vote</b>	Bastiaan Belder, Elmar Brok, Arnaud Danjean, Michael Gahler, Marietta Giannakou, Richard Howitt, Liisa Jaakonsaari, Anneli Jäätteenmäki, Evgeni Kirilov, Maria Eleni Koppa, Wolfgang Kreissl-Dörfler, Eduard Kukan, Alexander Graf Lambsdorff, Vytautas Landsbergis, María Muñiz De Urquiza, Raimon Obiols, Pier Antonio Panzeri, Ioan Mircea Pașcu, Alojz Peterle, Bernd Posselt, Fiorenzo Provera, Tokia Saïfi, Nikolaos Salavrakos, Jacek Saryusz-Wolski, György Schöpflin, Marek Siwiec, Charles Tannock, Sir Graham Watson, Boris Zala
<b>Substitute(s) present for the final vote</b>	Emilio Menéndez del Valle, Norbert Neuser, Joachim Zeller
<b>Substitute(s) under Rule 187(2) present for the final vote</b>	Leonidas Donskis, Danuta Jazłowiecka