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Committee on Civil Liberties, Justice and Home Affairs

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DRAFT REPORT

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

Committee on Civil Liberties, Justice and Home Affairs

Rapporteur: Edit Bauer

Symbols for procedures

- * Consultation procedure
- *** Consent procedure
- ***I Ordinary legislative procedure (first reading)
- ***II Ordinary legislative procedure (second reading)
- ***III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

Amendments to a draft act

In amendments by Parliament, amendments to draft acts are highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the draft act which may require correction when the final text is prepared – for instance, obvious errors or omissions in a language version. Suggested corrections of this kind are subject to the agreement of the departments concerned.

The heading for any amendment to an existing act that the draft act seeks to amend includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend. Passages in an existing act that Parliament wishes to amend, but that the draft act has left unchanged, are highlighted in **bold**. Any deletions that Parliament wishes to make in such passages are indicated thus: [...].

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

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))

(Consultation procedure)

The European Parliament,

- having regard to the Commission proposal to the Council (COM(2011)0881),
 - having regard to Article 23 of the Treaty on the Functioning of the European Union, pursuant to which the Council consulted Parliament (C7-0017/2012),
 - having regard to Rule 55 of its Rules of Procedure,
 - having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs and the opinions of the Committee on Foreign Affairs and of the Committee on Legal Affairs (A7-0000/2012),
1. Approves the Commission proposal as amended;
 2. Calls on the Commission to alter its proposal accordingly, pursuant to Article 293(2) Treaty on the Functioning of the European Union;
 3. Calls on the Council to notify Parliament if it intends to depart from the text approved by Parliament;
 4. Asks the Council to consult Parliament again if it intends to amend the Commission proposal substantially;
 5. Instructs its President to forward its position to the Council and the Commission.

Amendment 1

Draft directive
Recital 6 a (new)

Text proposed by the Commission

Amendment

(6a) According to the Article 35 of the Treaty of the European Union the diplomatic and consular missions of the

Member States and the Union delegations in third countries shall cooperate and shall contribute to the implementation of the right of the citizens of the Union to protection in the territory of third countries.

Or. en

Amendment 2

Draft directive Recital 7

Text proposed by the Commission

(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.*

Amendment

(7) Where unrepresented citizens need protection in third countries efficient cooperation and coordination is required. The assisting Member State ***and the Union delegation*** present in a third country and the Member State of origin of the citizen *should closely* cooperate.

Or. en

Amendment 3

Draft directive Recital 7 a (new)

Text proposed by the Commission

(7a) 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. Local consular cooperation should pay due attention to unrepresented citizens, for example by collecting relevant contact details of the nearest regional embassies and consulates of Member States.

Or. en

Amendment 4

Draft directive Recital 7 b (new)

Text proposed by the Commission

Amendment

(7b) In order to facilitate and improve the consular protection, with a special attention to the situation of unrepresented citizens, the Commission should establish practical guidelines.

Or. en

Amendment 5

Draft directive Recital 9

Text proposed by the Commission

Amendment

(9) In accordance with the right to respect for private and family life as recognised in Article 7 of the Charter of Fundamental Rights of the European Union, the assisting Member State should provide protection to third country family members of citizens of the Union under the same conditions as to third country family members of its own nationals. *Any definition as to which persons are family members should draw inspiration from Articles 2 and 3 of the*

(9) In accordance with the right to respect for private and family life as recognised in Article 7 of the Charter of Fundamental Rights of the European Union, the assisting Member State should provide protection to third country family members of citizens of the Union under the same conditions as to third country family members of its own nationals, *taking into account that* Member States may not be in a position to deliver all types of consular protection to

Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States. Member States may not be in a position to deliver all types of consular protection to third country family members, ***notably*** emergency travel documents ***are not being issued***. In accordance with Article 24 of the Charter, the best interests of the child, as provided for in the United Nations Convention on the Rights of the Child of 20 November 1989, should be a primary consideration.

third country family members, ***such as*** emergency travel documents. In accordance with Article 24 of the Charter, the best interests of the child, as provided for in the United Nations Convention on the Rights of the Child of 20 November 1989, should be a primary consideration.

Or. en

Amendment 6

Draft directive Recital 10

Text proposed by the Commission

(10) Unrepresented citizens should be able to freely choose the embassy or consulate from which they seek consular protection. Member States should be able to enter arrangements on burden-sharing. However such arrangements should be transparent for the citizen and should not jeopardize effective consular protection. Any such arrangement should be notified to the Commission and published on its dedicated website.

Amendment

(10) Unrepresented citizens should be able to freely choose the embassy or consulate from which they seek consular protection. Member States should be able to enter arrangements on burden-sharing. However such arrangements should be transparent for the citizen and should not jeopardize effective consular protection. Any such arrangement should be notified to the Commission and published on its dedicated website, ***as well as on the relevant websites of the Member States and of the Council.***

Or. en

Amendment 7

Draft directive Recital 14 a (new)

Text proposed by the Commission

Amendment

(14a) When providing consular protection in cases of arrest or detention, 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. Unrepresented citizens could be in a more vulnerable situation given the fact that they do not have a direct representation.

Or. en

Amendment 8

Draft directive Recital 15

Text proposed by the Commission

Amendment

(15) A prerequisite for effective coordination and cooperation between Member States' consular authorities is to establish the different types of assistance which are delivered in specific situations. Those types of assistance should reflect the common practises among Member States, without prejudice to Article 23 of the Treaty on the Functioning of the European Union which imposes an obligation on Member States to provide protection under the same conditions as to their nationals.

(15) A prerequisite for effective coordination and cooperation between Member States' consular authorities is to establish the different types of assistance which are delivered in specific situations. Those types of assistance should reflect the common practises among Member States, without prejudice to Article 23 of the Treaty on the Functioning of the European Union which imposes an obligation on Member States to provide protection under the same conditions as to their nationals. ***It should be ensured that the language barriers are overcome and the unrepresented citizen is provided with interpretation or other necessary assistance.***

Or. en

Amendment 9

Draft directive Recital 18 a (new)

Text proposed by the Commission

Amendment

(18a) The 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.

Or. en

Amendment 10

Draft directive Recital 20

Text proposed by the Commission

Amendment

(20) Regarding coordination ***on the ground and*** in crisis situations, competences and respective roles should be clarified in order to ensure that unrepresented citizens are fully taken care of. ***Local consular cooperation should pay due attention to unrepresented citizens, for example by collecting relevant contact details of the nearest regional embassies and consulates of Member States.***

(20) Regarding coordination in crisis situations, competences and respective roles should be clarified in order to ensure that unrepresented citizens are fully taken care of. ***In cases of crisis, the Union delegations should ensure the necessary coordination among Member States. To be able to fulfil this role, the European External Action Service (EEAS) should be provided with the necessary financial means, including for providing training for Member States' consular staff.***

Or. en

Amendment 11

Draft directive Recital 21

Text proposed by the Commission

(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.***

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 national contingency plans should be coordinated ***by the EEAS.***

Or. en

Amendment 12

Draft directive Recital 22 a (new)

Text proposed by the Commission

Amendment

(22a) EEAS should organise training for consular staff in order to facilitate the assistance to citizens, including the unrepresented citizens as a part of preparation for cases of crisis.

Or. en

Amendment 13

Draft directive Recital 25

Text proposed by the Commission

(25) This Directive should not affect more favourable national provisions in so far as they are compatible with this Directive.

Amendment

(25) This Directive should not affect more favourable national provisions in so far as they are compatible with this Directive.
This directive should not impose

obligation on the Member States to provide unrepresented citizens with those types of assistance which are not provided to their own nationals.

Or. en

Amendment 14

**Draft directive
Recital 28a (new)**

Text proposed by the Commission

Amendment

(28a) Member States should encourage their own nationals to register themselves on the Ministries of Foreign Affairs' website before visiting third countries in order to facilitate their assistance in cases of need, in particular in cases of crisis.

Or. en

Amendment 15

**Draft directive
Recital 29 a (new)**

Text proposed by the Commission

Amendment

(29a) 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.

Or. en

Amendment 16

Draft directive Article 1

Text proposed by the Commission

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.

Amendment

This Directive lays down the cooperation and coordination measures necessary to facilitate the ***protection*** 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, by the diplomatic or consular authorities of another Member State on the same conditions as the nationals of that Member State ***and by the Union delegation***.

Or. en

Amendment 17

Draft 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 ***protected*** by the diplomatic or consular authorities of another Member State under the same conditions as its nationals ***and by the Union delegation***.

Or. en

Amendment 18

Draft 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. Member States shall inform the European Commission of any such arrangement in view of publication on its dedicated internet site, **and shall also publish such information on the internet sites of their Ministries of Foreign Affairs.**

Or. en

Amendment 19

Draft directive

Chapter 2 and Article 5 a (new)

Text proposed by the Commission

Amendment

CHAPTER 2

Local consular protection cooperation and coordination

Article 5a

General principle

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 and shall cooperate in order to define appropriate measures to be taken. 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.

Or. en

Justification

The Chapter 2 is extended to include article 6. The title of the Chapter is being changed.

This new article 5a is identical as the article 7 of the proposal for a directive which it replaces. Only the words: "and shall cooperate in order to define appropriate measures to be taken" are added

Amendment 20

Draft directive

Article 6 – paragraph 2 – introductory part

Text proposed by the Commission

2. The consular protection referred to in paragraph 1 shall include assistance in the following situations

Amendment

2. The consular protection referred to in paragraph 1 shall include, assistance in the following situations, *pursuant their national legislation and practice*

Or. en

Amendment 21

Draft directive

Article 6 – paragraph 2 – point b

(b) being victim of crime;

(b) being victim of crime *or in danger of being victim of crime;*

Or. en

Amendment 22

Draft directive Chapter 2 and Article 7

Text proposed by the Commission

Amendment

CHAPTER 2

deleted

Coordination and cooperation measures

Article 7

General principle

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 secure internet site.

Or. en

Justification

See the justification to Am 19

Amendment 23

Draft directive Article 8 – paragraph 1

Text proposed by the Commission

Amendment

1. Where an unrepresented citizen is arrested or detained Member States' embassies or consulates, subject to Article

1. Where an unrepresented citizen is arrested or ***otherwise*** detained Member States' embassies or consulates, subject to

6(1), shall in particular:

- (a) assist in informing the citizen's family members or other related persons at the citizen's request;
- (b) visit the citizen and **monitor** minimum standards **of treatment in prison**;
- (c) provide the citizen with information on **the rights of the detained**.

Article 6(1), shall in particular:

- (a) assist in informing the citizen's family members or other related persons at the citizen's request;
- (b) visit the citizen and **ensure that** minimum standards **of detention conditions are granted**;
- (c) provide the citizen with information on **his/her** rights;
- (ca) make sure that the citizen has access to proper legal advice.**

Or. en

Amendment 24

Draft directive Article 8 – paragraph 3

Text proposed by the Commission

3. The embassy or consulate shall report to the citizen's Member State of nationality following any of its visits of the citizen and upon monitoring of minimum standards of **treatment in prison**. It shall immediately inform the citizen's Member State of nationality about any complaints of ill-treatment.

Amendment

3. The embassy or consulate shall report to the citizen's Member State of nationality following any of its visits of the citizen and upon monitoring of minimum standards of **detention conditions**. It shall immediately inform the citizen's Member State of nationality about any complaints of ill-treatment.

Or. en

Amendment 25

Draft directive Article 8 – paragraph 4

Text proposed by the Commission

4. The embassy or consulate shall inform the citizen's Member State of nationality about information provided by it to the citizen about his or her rights. It shall act as

Amendment

4. The embassy or consulate shall inform the citizen's Member State of nationality about information provided by it to the citizen about his or her rights. It shall act as

an intermediary, including as to assistance with drafting petitions for pardons or early releases and where the citizen wishes to apply for a transfer. If necessary it shall act as an intermediary for any legal fees deposited via the diplomatic or consular authorities of the citizen's Member State of nationality.

an intermediary, including as ***to ensure that the citizen has access to proper legal advice and*** to assistance ***including*** with drafting petitions for pardons or early releases and where the citizen wishes to apply for a transfer. If necessary it shall act as an intermediary for any legal fees deposited via the diplomatic or consular authorities of the citizen's Member State of nationality.

Or. en

Amendment 26

Draft directive

Article 9 – paragraph 1

Text proposed by the Commission

Where an unrepresented citizen is the victim of a crime Member States' embassies or consulates, subject to Article 6(1), shall in particular:

- (a) assist in informing the citizen's family members or other related persons, if the citizen so wishes;
- (b) provide the citizen with information and/or assistance regarding ***relevant legal issues and*** health care.

Amendment

2. Where an unrepresented citizen is the victim of a crime ***or in danger of being victim of a crime*** Member States' embassies or consulates, subject to Article 6(1), shall in particular:

- (a) assist in informing the citizen's family members or other related persons, if the citizen so wishes;
- (b) provide the citizen with information and/or assistance regarding health care;
- (c) provide the citizen with information on his/her rights and with access to proper legal assistance and counselling.***

Or. en

Amendment 27

Draft directive
Article 11 a (new)

Text proposed by the Commission

Amendment

Article 11a

Local cooperation

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.

Or. en

Justification

This Article is identical with the article 14 of the proposal for a directive just placed in a different order

Amendment 28

Draft directive
Chapter 3 and Article 12

Text proposed by the Commission

Amendment

CHAPTER 3

deleted

Financial procedures

Article 12

General rules

Where an unrepresented citizen requests assistance in the form of financial advance or repatriation, subject to Article 6 (1), the following procedure shall apply:

(a) the unrepresented citizen shall undertake to repay to his or her Member State of nationality the full value of any financial advance or cost incurred, plus a consular fee if applicable, using the standard form set out in Annex 1;

(b) if required by the assisting embassy or consulate, the citizen's Member State of nationality shall without delay provide the necessary information concerning the request, specifying whether any consular fee may be applicable;

(c) the assisting embassy or consulate shall inform the citizen's Member State of nationality about any request for financial advance or repatriation which it processed;

(d) on written request from the assisting embassy or consulate in the format set out in Annex I, the citizen's Member State of nationality shall reimburse the full value of any financial advance or cost incurred.

Or. en

Justification

This Article is replaced by identical article 16a, just placed in a different order. The Chapter 3 is abolished.

Amendment 29

**Draft directive
Article 13**

Text proposed by the Commission

Amendment

Article 13

deleted

Facilitated procedure in crisis situations

1. 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.

The assisting Member State shall submit any requests for reimbursement of the costs of such evacuation or support to the Ministry of Foreign Affairs of the citizen's Member State of nationality. The assisting Member State may seek reimbursement even if the unrepresented citizen has not signed an undertaking to repay pursuant to Article 12 (a).

This paragraph shall not prevent the citizen's Member State of nationality from pursuing repayment on the basis of national rules.

2. In major crises, the costs of evacuation or support shall be reimbursed by the citizen's Member State of nationality on a pro-rata basis, by dividing the overall costs by the number of citizens assisted, if the assisting Member State so requests.

3. Where costs cannot be calculated, the assisting Member State may request reimbursement on the basis of fixed sums corresponding to the type of support provided, as set out in Annex 2.

4. Where the assisting Member State was financially supported in respect of assistance by the EU Civil Protection Mechanism, any contribution from the citizen's Member State of nationality shall be determined after deduction of the Union's contribution.

5. For requests for reimbursement the common formats set out in Annex 2 shall be used.

Or. en

Justification

This Article is replaced by a new article 16b

Amendment 30

Draft directive Chapter 4 – title

Text proposed by the Commission

Amendment

Local and crisis cooperation and coordination

Crisis cooperation and coordination

Or. en

Amendment 31

Draft directive Article 14

Text proposed by the Commission

Amendment

Article 14

deleted

Local cooperation

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.

Or. en

Justification

See the justification of Am 24.

Amendment 32

Draft 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. To ensure comprehensive preparedness local contingency planning shall include unrepresented citizens. **The Union delegation** shall coordinate the contingency plans among Member States represented in a third country, **including the division of** tasks to ensure that unrepresented citizens are fully assisted in case of crisis, **appointment of** representatives for assembly points and **providing information to** unrepresented citizens on crisis preparedness arrangements under the same conditions as nationals.

Or. en

Amendment 33

Draft 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 the **Union delegation and** the Member States 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 shall coordinate the evacuation itself with possible support from** existing intervention teams at Union level including consular experts, in particular from the unrepresented Member States.

Amendment 34

Draft directive Article 16 – title

Text proposed by the Commission

Lead State

Amendment

Crisis coordination

Or. en

Amendment 35

Draft 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 ***providing*** assistance regarding the preparation for and in case of crisis, which includes a specific role for unrepresented citizens.

Or. en

Amendment 36

Draft 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***

Amendment

deleted

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 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.

Or. en

Amendment 37

Draft 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.

Or. en

Amendment 38

Draft 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 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.

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 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 ***Union delegation*** may seek, if appropriate, support from instruments such as the EU Civil Protection Mechanism ***in cooperation with*** 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.

Or. en

Amendment 39

Draft directive

Chapter 4 a (new)

Text proposed by the Commission

Amendment

CHAPTER 4a (new)

Financial procedures

Or. en

Amendment 40

**Draft directive
Article 16 a (new)**

Text proposed by the Commission

Amendment

Article 16a

General rules

Where an unrepresented citizen requests assistance in the form of financial advance or repatriation, subject to Article 6(1), the following procedure shall apply:

(a) the unrepresented citizen shall undertake to repay to his or her Member State of nationality the full value of any financial advance or cost incurred, plus a consular fee if applicable, using the standard form set out in Annex 1;

(b) if required by the assisting embassy or consulate, the citizen's Member State of nationality shall without delay provide the necessary information concerning the request, specifying whether any consular fee may be applicable;

(c) the assisting embassy or consulate shall inform the citizen's Member State of nationality about any request for financial advance or repatriation which it processed;

(d) on written request from the assisting embassy or consulate in the format set out in Annex 1, the citizen's Member State of nationality shall reimburse the full value of any financial advance or cost incurred.

Or. en

Justification

See the justification of Am 25.

Amendment 41

**Draft directive
Article 16 b (new)**

Text proposed by the Commission

Amendment

Article 16b

Facilitated procedure in crisis situations

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

2. EEAS shall have the necessary financial means for coordinating and providing assistance regarding preparation for and in cases of crisis.

Or. en

Justification

This amendment replaces and amends Article 13 of the proposal for a directive

EXPLANATORY STATEMENT

According to Article 23 of the Treaty of the Functioning of the European Union (TFEU) every citizen of the Union shall, in the territory of a third country in which the Member States of which he is a national is not represented, be entitled to protection by the diplomatic or consular authorities of any Member State, on the same conditions as the national of that State. This principle is also embedded in the Article 46 of the Charter of Fundamental Rights.

This directive aims to repeal the Decision 95/353/EC, the current legislative framework in force.

In order to facilitate the access of EU citizens to their rights, including the right to protection in third countries, a new legislative instrument is needed. The Stockholm Programme as well as the European Parliament called for common concepts in consular protection. Having regard to the growing number of crisis-hit areas, a common approach is even more required.

There are two different levels of consular protection, what is also traceable in the report:

- local consular protection in the everyday life,
- consular protection in crises situation.

According to the Lisbon Treaty the solidarity among Member States shall be sustained, therefore in the everyday cases of consular protection, such as in case of lost identity documents, arrest, detention, or death, the unrepresented citizen has the right to request the help of any diplomatic or consular authority of any Member State. There are cases, when though the EU citizen has its embassy or consulate in the third country but it is inaccessible. In these cases the Commission's proposal of defining the accessibility of embassy or consulate in a time sufficient to reach the embassy or consulate and return to their place of departure the same day, is reasonable having in mind the possible incidence of emergency situations in everyday life.

In cases of crisis situation, the report proposes that the Union Delegation is in charge of coordinating and providing assistance regarding the preparation for and in case of crisis. In order not to put unbearably heavy burden on the Lead State, or any Member State present in the area, it should be the Union Delegation who deals with all the coordination of cooperation, including the contingency plans among Member States and evacuation. It should be the Union Delegation, who should make sure that all EU citizens, including the unrepresented citizens are covered by contingency plans. This idea is in line with the Article 35 of the Treaty of the European Union (TEU) which says that "the diplomatic and consular missions of the Member States and the Union delegations in third countries (...) shall cooperate in ensuring that decisions defining Union positions and actions (...) are implemented. They shall contribute to the implementation of the right of citizens of the Union to protection in the territory of third countries as referred to in Article 20(2)(c) of the TFEU and of the measures adopted pursuant to Article 23 of that Treaty."

In everyday local consular protection the report is based on the current financial arrangements. On the other hand, in cases of crisis situations, where the Union Delegation has the role of coordination, it should have the necessary financial means to provide this

coordination. In addition, the Union Delegation may seek, if appropriate, support from instruments such as the EU Civil Protection Mechanism. However, for facilitating future consular protection, Member States should consider establishing of 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.