



Brussels, 3 March 2015
(OR. en)

6065/15

LIMITE

COCON 1
PESC 155
COTRA 1

NOTE

From:	Presidency
To:	Working Party on Consular Affairs
No. prev. doc.:	18821/11 - COM(2011)881 final; 13030/2/14 REV2; MD 002/15
Subject:	Council Directive on the coordination and cooperation measures to facilitate consular protection for unrepresented citizens of the Union in third countries - Revised Presidency compromise

1. Delegations will find attached a further revised compromise proposal from the Presidency. The Presidency has drafted this text following the proceedings at the Working Party on Consular Affairs on 5 February 2015 and the subsequent bilateral consultations with the Member States.
2. In comparison with the previous texts (13030/2/14 REV 2 + MD 002/15), deletions are marked by ~~strike through~~ and newly inserted text is in **bold**.
3. The proposed amendments will be examined by the Working Party on Consular Affairs (COCON) on 6 March 2015.

NB: The implementation period as laid down in Article 15(1) will be addressed at the COCON meeting.

Proposal for a
COUNCIL DIRECTIVE

on the coordination and cooperation measures to facilitate consular protection for unrepresented citizens of the Union in third countries

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 23 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national Parliaments,

Having regard to the opinion of the European Parliament,

Acting in accordance with a special legislative procedure,

Whereas:

- (1) Citizenship of the Union is the fundamental status of nationals of the Member States. The right to enjoy, in the territory of a third country in which the Member State of which they are nationals is not represented, the protection of the diplomatic and consular authorities of another Member State on the same conditions as the nationals of that State is one of the specific rights that point (c) of Article 20(2) of the Treaty on the Functioning of the European Union grants to citizens of the Union.
- (2) The Treaty of Lisbon reinforced the status of citizenship of the Union and strengthened the rights attached to it. Article 23 of the Treaty provides for the adoption of directives establishing the cooperation and coordination measures necessary to facilitate consular protection for unrepresented citizens of the Union.
- (3) The values on which the Union is founded include solidarity, non-discrimination and respect for human rights; in its relations with the wider world the Union should uphold its values and contribute to the protection of its citizens. The fundamental right to consular protection of unrepresented citizens of the Union under the same conditions as nationals, enshrined in Article 46 of the Charter of Fundamental Rights of the European Union, is an expression of European solidarity. It provides an external dimension to the concept of citizenship of the Union and strengthens the identity of the Union in third countries.
- (4) The aim of this Directive, which repeals Decision 95/553/EC of the Representatives of the Governments of the Member States meeting within the Council of 19 December 1995, is to lay down the cooperation and coordination measures necessary to further facilitate consular protection for unrepresented citizens of the Union. Those measures should enhance legal security as well as efficient cooperation and solidarity among consular authorities.
- (5) In accordance with point (c) of Article 20(2) and Article 23 of the Treaty, Member States should provide consular protection to unrepresented citizens on the same conditions as to their own nationals. This Directive does not affect Member States' competence to determine the scope of the protection to be provided to their own nationals.

- (6) This Directive does not affect consular relations between Member States and third countries, in particular their rights and obligations arising from international customs and agreements, notably the Vienna Convention on consular relations, that Member States apply in compliance with EU law. Under Article 8 of the Vienna Convention, Member States may provide consular protection on behalf of another Member State upon appropriate notification and unless the third country concerned objects. In particular difficulties may occur ~~when providing consular protection to~~ **in relation to situations involving** citizens who are also nationals of the host ~~third~~ country. Member States, supported by local consular cooperation, should undertake the necessary measures in relation to third countries to ensure that consular protection can be provided on behalf of other Member States in any given case.
- (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 nationality of the citizen should cooperate closely. Local consular cooperation may be more complex for unrepresented citizens, as it requires coordination with authorities not represented on the ground, including where relevant with the competent embassies or consulates. To fill the gap caused by the absence of an embassy or consulate of the citizen's own Member State, a clear and stable set of rules should be laid down. Existing measures need to be clarified to ensure effective protection.
- (8) Citizens of the Union should be considered to be unrepresented in a third country if their Member State of nationality has no embassy, consulate or honorary consul established there. Citizens should also be considered to be unrepresented if the embassy, consulate or honorary consul established locally is unable for any circumstance to provide, in a given case, the protection the person concerned would be entitled to receive according to national law or practice. Embassies and consulates should inform each other about any exceptional circumstances that may temporarily affect their capacity to provide consular protection. Accessibility and proximity should also be taken into consideration: for example, the citizen who seeks assistance from the embassy or consulate of another Member State cannot be redirected to his or her own Member State's embassy or consulate when he or she is not able, due to local circumstances or lack of resources, to safely reach, and be reached by, his or her embassy, consulate or honorary consul, in a way allowing him or her to receive consular protection. The notion of absence of representation should be interpreted with a view to ensuring the effectiveness of the right of unrepresented citizens to be protected by another Member State's embassy or consulate in a non-discriminatory way, taking into account the circumstances of each particular case. Citizens holding the nationality of more than one Member State of the Union should be considered unrepresented if none of their Member States of nationality is represented in the third country concerned.

- (9) With a view to ensuring the effectiveness of the right enshrined in Article 20(2)(c) of the Treaty and the right to respect for private and family life as recognised in Article 7 of the Charter of Fundamental Rights of the European Union, and taking into account national legislation and practice, the assisting Member State may have to provide protection to third-country family members of citizens of the Union, depending on the individual circumstances of each case. This Directive does not prevent that during the consultations which should take place before assistance is provided according to Article 8, the assisting Member State and the Member State of nationality may, whenever appropriate, agree on the possibility to extend assistance to third-country family members of the assisted EU citizen beyond what is required by the law of the assisting Member State or what is dictated by its practice, taking into account as much as possible requests from the Member State of nationality, and in so far as what is agreed does not fall short of what is required by EU law as reflected in Article 3(-2) of this Directive. Member States may not be in a position to deliver certain types of consular protection to third-country family members. In particular, emergency travel documents are not 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.
- (10) Unrepresented citizens should be able to seek consular protection from the embassy or consulate of any Member State. However, this 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. Such arrangements are beneficial to citizens, since they allow for better preparedness to ensure effective protection. Any Member State that receives a request for protection is required to assess whether, in that specific case, it is necessary to provide consular protection or whether the case can be transferred to the embassy or consulate which is designated as competent according to the specific arrangement in place. Member States should notify the Commission and the European External Action Service (EEAS) of any such arrangement, which should be publicised by the EU and Member States to ensure transparency for unrepresented citizens.
- (11) This Directive should not prevent the Member State which is not represented in a third country from delivering consular protection to one of its nationals, for example by providing online consular services, where appropriate. The Member State of nationality of an unrepresented citizen should be allowed to request the Member State from which the citizen concerned seeks or receives consular protection to transfer the application or case in order to deliver consular protection itself. The transfer should not result in the citizen concerned being deprived of consular protection.

- (12) Even though Member States have different traditions regarding the competences of honorary consuls, they usually do not offer the same range of services as embassies or consulates. Considering that honorary consuls often fulfil their mission on a voluntary basis, it should be left to Member States to decide whether or not this Directive should apply to honorary consuls. Competent honorary consuls could be required to provide consular protection to unrepresented citizens, depending on the circumstances of each case.
- (13) Requests for protection should be processed if applicants present a valid EU passport or identity card. However, unrepresented citizens in need of consular protection may no longer be in possession of their identity documents. The fundamental status of citizenship of the Union is conferred directly by Union law and identity documents are of merely declaratory value. If applicants are unable to provide valid identity documents, they should therefore be able to prove their identity by any other means. If necessary, the identity of the person concerned could be verified when consulting the authorities of the Member State of which the applicant claims to be a national. With regard to third-country family member(s) accompanying the applicant, the authorities of the Member State of nationality of the applicant should also be able to help the assisting Member State in verifying the identity and existence of a family relationship with the applicant.
- (14) In order to establish which coordination and cooperation measures are necessary, the scope of this Directive should be specified. 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, such as in cases of arrest or detention, serious accident or serious illness and death, as well as with regard to providing relief and repatriation in cases of distress or the issuance of emergency documents. Since the protection needed always depends on the factual situation, consular protection should not be limited to the situations specifically mentioned in this Directive.

- (15) Where applicable, the citizen's wishes, including as to whether family members or other related persons should be informed and if so whom, should be duly respected. Similarly, in the event of death, due account should be taken of the wishes of the next of kin concerning the arrangements to be made with regard to the remains of the deceased citizen. The Member State of nationality of the unrepresented citizen should be responsible for these contacts.
- (16) Member States' authorities should closely cooperate and coordinate with one another and with the Union, in particular the European External Action Service and the European Commission, in a spirit of mutual respect and solidarity. To ensure swift and efficient cooperation, Member States should provide and continuously update information on relevant contact points in the Member States through the secure website of the European External Action Service (Consular OnLine).
- (17) 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 Union citizens to consular protection as specified further in Article 35 of the Treaty on European Union. This Directive should fully recognise, and further enhance, the contribution already provided by the EEAS and by Union delegations, in particular during crisis situations, in accordance with Decision 2010/427/EU.
- (18) Regarding coordination on the ground, competences and respective roles should be clarified in order to ensure that unrepresented citizens receive the assistance to which they are entitled in accordance with the non-discrimination principle. Local consular cooperation, should pay due attention to unrepresented citizens, for example by collecting and regularly updating information on relevant contact points and sharing it with the local embassies and consulates of Member States and with the Union delegation.
- (19) Local consular cooperation meetings, organised in close cooperation with the Union delegation, should include a regular exchange of information on matters relevant to unrepresented citizens, such as safety of citizens, prison conditions, consular notification and access and crisis cooperation. In these meetings, represented Member States should, wherever necessary, agree on practical arrangements to ensure that unrepresented citizens are effectively protected. For example, such an agreement may not be necessary if the number of unrepresented citizens is small.

- (20) A clear division of responsibilities between represented and unrepresented Member States and, ~~where appropriate~~, the Union delegation is essential to ensure adequate crisis preparedness and crisis management. Crisis contingency planning should therefore be coordinated and fully include unrepresented citizens. To this end, in the framework of the 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 as well as Union delegations should be informed and, wherever appropriate, involved in crisis preparedness arrangements. Information regarding these 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 will coordinate the support provided for unrepresented citizens and the use of available evacuation capacities on the basis of the agreed planning and the evolution on the ground, on a non-discriminatory basis.
- (21) Interoperability between consular and other crisis experts should be enhanced, in particular through their participation in multi-disciplinary crisis teams, such as those under the EEAS crisis response and operational coordination and crisis management structures and under the Union Civil Protection Mechanism¹.
- (22) The support of the Union Civil Protection Mechanism may be requested if needed for the consular protection of unrepresented citizens. This support could be requested, for instance, by the Lead State or the Member State(s) coordinating the assistance.
- (23) For the purposes of this Directive, the Lead State is one or more Member State(s) in a given third country, in charge of coordinating and leading assistance of unrepresented citizens in cases of crisis. The concept of Lead State, as established in the Guidelines on the implementation of the consular Lead State concept², may be further developed in that context, provided this is done in compliance with EU law, in particular with this Directive.
- (24) When a Member State is informed of, or receives a request for consular protection from a person who claims to be an unrepresented citizen, it should, except in cases of extreme urgency, always contact without delay the citizen's Member State of nationality and provide it with all the relevant information before providing any assistance. The Member State of nationality should provide without delay any information relevant to the case concerned. This consultation should allow the Member State of nationality of the unrepresented citizen to request the transfer of the application or case in order to deliver consular protection itself. It should also allow the Member States concerned to exchange relevant information for the purpose, for example, of ensuring that an unrepresented citizen does not abusively take advantage of his or her right to consular protection under point (c) of Article 20(2) of the Treaty. This Directive cannot be relied on by Union citizens in the event of abuse.

¹ As established by Decision No 1313/2013/EU of the European Parliament and of the Council of 17 December 2013 on a Union Civil Protection Mechanism.

² OJ C 307/6, 12.12.2008 (Council document 2008/C307/06).

- (25) Mutual solidarity and cooperation also encompasses financial matters. 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 by family, friends or employers. Unrepresented citizens should be granted financial assistance under the same conditions as the nationals of the assisting Member State. The assisted citizen should be required to sign an undertaking to repay to his or her Member State of nationality the costs incurred, provided that nationals of the assisting Member State in the same situation would have been required to repay those costs to their own Member State. The unrepresented citizen may then be required by his or her Member State of nationality to repay those costs, including any applicable consular fee.
- (26) Financial burden sharing and reimbursements should be ensured. Where consular protection granted to an unrepresented citizen involves the signature of an undertaking to repay, the Member State of nationality of the citizen should reimburse the assisting Member State for the costs incurred on its written request. It should be for the assisting Member State to decide whether to seek reimbursement of the costs incurred. The assisting Member State and the assisted Member State may mutually agree on the modalities for reimbursement provided the costs incurred are reimbursed within the set deadline.
- (27) The consular protection granted to an unrepresented citizen in the case of arrest or detention may involve unusually high travel costs, accommodation costs or translation costs for the diplomatic or consular authorities of the assisting Member State, depending on the circumstances of each individual case. The Member State of nationality should be informed of such possible costs during the consultations which should take place before assistance is provided. The assisting Member State should be able to seek reimbursement of such unusually high costs from the Member State of nationality. The Member State of nationality of the citizen should reimburse the assisting Member State for the costs incurred on its written request. The assisting Member State and the assisted Member State may mutually agree on the modalities for reimbursement provided the costs incurred are reimbursed within the set deadline. According to the non-discrimination principle, the citizen concerned cannot be asked by his or her Member State of nationality to reimburse costs which the nationals of the assisting Member State would not be required to repay.

- (28) Financial procedures should be simplified for crisis situations. Given the specificities of such situations, such as the need for a quick response regarding a considerable number of citizens, no undertaking to repay should be necessary in order for the assisting Member State to seek and receive reimbursement from the Member State(s) of nationality. The Member State of nationality of the unrepresented citizen should reimburse the assisting Member State for the costs incurred. It should be for the assisting Member State(s) to decide whether to seek reimbursement of the costs incurred and in what form. The assisting Member State and the assisted Member State may mutually agree on the modalities for reimbursement provided the costs incurred are reimbursed within the set deadline. In the event of a crisis which has or may have had an adverse impact on an important number of citizens of the Union, and if requested by the assisting Member State, costs could be reimbursed by the assisted Member States on a pro-rata basis, by dividing the costs incurred by the number of citizens assisted.
- (29) The operation of this Directive on the ground should be reviewed three years after its transposition deadline. In particular, the possible need to review the financial procedures to ensure adequate burden sharing should be assessed in the light of the information to be provided by the Member States on the implementation and practical application of the Directive, including any relevant statistics and cases. In its report, the Commission should consider the need for any additional measures including, where appropriate, by proposing amendment of this Directive with a view to facilitating the exercise of the rights of Union citizens.
- (30) Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data governs the processing of personal data carried out in the context of this Directive by Member States.
- (31) This Directive should not affect more favourable national provisions in so far as they are compatible with this Directive.
- (32) **In accordance with the Joint Political Declaration of Member States and the Commission on explanatory documents of 28 September 2011, Member States have undertaken to accompany, in justified cases, the notification of their transposition measures with one or more documents explaining the relationship between the components of a directive and the corresponding parts of national transposition instruments. With regard to this Directive, the legislator considers the transmission of such documents to be justified.**
- (33) This Directive aims to promote consular protection as recognised in the Charter of Fundamental Rights of the European Union. It respects the fundamental rights and observes the principles recognised in particular by the Charter, notably the principle of non-discrimination, the right to life and integrity of the person, the right to respect for private and family life, the rights of the child, the right of defence and the right to a fair trial. This Directive should be implemented in accordance with those rights and principles.

- (34) In accordance with the prohibition of discrimination contained in the Charter, Member States should implement this Directive without discrimination between the beneficiaries of this Directive on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion or beliefs, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation.

CHAPTER 1

General provisions

Article 1

Subject matter

1. This Directive lays down the coordination and cooperation measures necessary to facilitate the exercise of the right, as set out in point (c) of Article 20(2) of the TFEU, of citizens of the Union to enjoy, in the territory of a third country in which the Member State of which they are nationals is not represented, the protection of the diplomatic and consular authorities of any Member State on the same conditions as the nationals of that State, also taking into account the role of Union delegations in contributing to the implementation of this right.
2. This Directive does not concern consular relations between Member States and third countries.

Article 2

General principle

1. Member States' embassies or consulates shall provide consular protection to unrepresented citizens as defined in Article 3 on the same conditions as to their own nationals.
2. Member States may decide that this Directive shall apply to the consular protection provided by honorary consuls in compliance with Article 23 of the Treaty. Member States shall ensure that unrepresented citizens are duly informed about such decisions and the extent to which honorary consuls are competent to provide protection in a given case.

Article 2bis

Consular protection by the Member State of nationality

The Member State of nationality of an unrepresented citizen may request the Member State from whom the citizen seeks or receives consular protection to redirect the citizen's application or case to his/her own Member State in order to provide consular protection in accordance with its national law or practice. The requested Member State shall relinquish the case as soon as the Member State of nationality confirms that it is providing consular protection to the person concerned.

Article 3

Unrepresented citizens in third countries

For the purposes of this Directive, "unrepresented citizens" shall mean every citizen holding the nationality of a Member State of the Union which is not represented in a third country as defined in Article 4.

Article 3bis

Family members of unrepresented citizens in third countries

Consular protection shall be provided to family members, who are not citizens of the Union themselves, accompanying unrepresented citizens in a third country, to the same extent and on the same conditions as it would be provided to the family members of the citizens of the assisting Member State, who are not citizens of the Union themselves, in accordance with its law or practice.

~~Family members accompanying unrepresented citizens in a third country who are not citizens of the Union themselves shall under this Directive be entitled to or eligible for consular protection to the same extent that and on the same conditions as the family members of the nationals of the assisting Member State who are not citizens of the Union themselves are entitled to or eligible for consular protection under the law or practice of the assisting Member State.~~

Article 4

Absence of representation

For the purposes of this Directive, a Member State is not represented in a third country if it has no embassy or consulate established there on a permanent basis or if it has no embassy, consulate or honorary consul there which is effectively in a position to provide consular protection in a given case.

Article 5

Access to consular protection and other arrangements

1. Unrepresented citizens shall be entitled to seek protection from the embassy or consulate of any Member State.
2. Without prejudice to Article 2, a Member State may represent another Member State on a permanent basis and Member States' embassies or consulates may, wherever deemed necessary, conclude practical arrangements on sharing responsibilities for providing consular protection to unrepresented citizens. Member States shall notify the Commission and the European External Action service of such arrangements, which shall be publicised by the EU and Member States to ensure transparency for unrepresented citizens.
3. In cases where a practical arrangement has been concluded as provided for in paragraph 2, an embassy or consulate from which the unrepresented citizen seeks consular protection, and which is not designated as competent according to the specific arrangement in place, shall ensure that the application from the citizen is redirected to the relevant embassy or consulate, unless consular protection would be compromised, in particular if the urgency of the matter requires immediate action by the requested embassy or consulate.

Article 6

Identification

1. The applicant shall establish that he or she is a citizen of the Union by producing a passport or identity card.
2. If the citizen is unable to produce a valid passport or identity card, 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.
3. With respect to the family members referred to in Article 3(2)~~bis~~^{bis}, the identity and existence of the family relationship may be proven by any means, including verification by the assisting Member State with the diplomatic or consular authorities of the Member State of nationality of the citizen referred to in paragraph 1.

Article 7

Types of assistance

The consular protection referred to in Article 2 may include assistance, inter alia, in the following situations:

- (a) arrest or detention;
- (b) being a victim of crime;
- (c) serious accident or serious illness;
- (d) death;
- (e) relief and repatriation in case of emergency;
- (f) need for emergency travel documents³.

³ As provided for in Decision 96/409/CFSP of the Representatives of the Governments of the Member States, meeting within the Council, on the establishment of an emergency travel document. OJ L 168, 16.7.1996, p. 4.

CHAPTER 2

Coordination and cooperation measures

Article 8

General rules

1. Member States' diplomatic and consular authorities shall closely cooperate and coordinate with one another and with the Union to ensure protection of unrepresented citizens in accordance with Article 2.
2. When a Member State receives a request for consular protection from a person who claims to be an unrepresented citizen, or is informed of an individual emergency situation of an unrepresented citizen, such as listed in Article 7, it shall consult without delay the Ministry of Foreign Affairs of the Member State of which the person claims to be a national or, where appropriate, the competent embassy or consulate of that Member State, and provide it with all the relevant information at its disposal, including on the identity of the person concerned and on possible costs as referred to in Article 12 and family members **to whom consular protection** ~~who may be provided entitled to or eligible for consular protection~~. Except in cases of extreme urgency, this consultation shall take place before assistance is provided. The assisting Member State shall also facilitate the exchange of information between the citizen concerned and the authorities of the citizen's Member State of nationality.
3. If requested, the citizen's Member State of nationality shall provide the assisting Member State's Ministry or competent embassy or consulate with all the relevant information in the case concerned. It is also responsible for any necessary contact with family members or other related persons or authorities.
4. Member States shall notify the European External Action Service through its secure internet site of the relevant contact point(s) in the Ministries of Foreign Affairs.

Article 9

The role of Union delegations

The Union delegations shall closely cooperate and coordinate with Member States' embassies and consulates to contribute to local and crisis cooperation and coordination, notably by providing available logistical support, including office accommodation and organisational facilities, such as temporary accommodation for consular staff and for intervention teams. The Union delegations and the EEAS headquarters shall also facilitate the exchange of information between Member States' embassies and consulates and, if appropriate, with local authorities. The Union delegations shall also make general information available about the assistance that unrepresented citizens could be ~~are~~ entitled to, particularly about agreed practical arrangements if applicable.

Article 10

Local cooperation

Local cooperation meetings shall include a regular exchange of information on matters relevant to unrepresented citizens. In these meetings, Member States shall agree, wherever necessary, on practical arrangements as referred to in Article 5 to ensure that unrepresented citizens are effectively protected in the third country concerned. Unless otherwise agreed by Member States, the Chair shall be a representative of a Member State, in close cooperation with the Union Delegation.

Article 11

Crisis preparedness and cooperation

1. Local contingency planning shall include unrepresented citizens. Member States represented in a third country shall coordinate contingency plans among themselves and with the Union delegation to ensure that unrepresented citizens are fully assisted in the event of a crisis. The competent embassies or consulates shall be adequately informed of crisis preparedness arrangements and, where appropriate, involved.

2. In the event of a crisis, Member States and the Union shall closely cooperate to ensure efficient assistance for unrepresented citizens. They shall inform each other of available evacuation capacities in a timely manner, where possible. Upon their request, Member States may be supported by existing intervention teams at Union level, including consular experts, in particular from unrepresented Member States.
3. The Lead State or the Member State(s) coordinating the assistance shall be in charge of coordinating any support provided for unrepresented citizens, with the support of the other Member States concerned, the Union delegation and the EEAS headquarters. Member States shall provide the Lead State or the Member State(s) coordinating assistance with all relevant information regarding their unrepresented citizens present in a crisis situation.
4. The Lead State or the Member State(s) coordinating assistance for unrepresented citizens may seek, if appropriate, support from instruments such as the crisis management structures of the European External Action Service and the Union Civil Protection Mechanism.

CHAPTER 3

Financial procedures

Article 12

General rules

1. The unrepresented citizen shall undertake to repay to his or her Member State of nationality the cost of consular protection, on the same conditions as the nationals of the assisting Member State, using the standard form set out in the Annex. Unrepresented citizens shall only be required to undertake to repay costs that would have to be borne by nationals of the assisting Member State under the same conditions.

2. The assisting Member State may ask for the reimbursement of such costs from the citizen's Member State of nationality, using the standard form set out in the Annex. The citizen's Member State of nationality shall reimburse these costs within a reasonable period of time, not exceeding 12 months. The citizen's Member State of nationality may ask the citizen concerned to reimburse such costs.
3. When the consular protection provided to an unrepresented citizen in the case of arrest or detention involves unusually high indispensable and justified costs related to travel, accommodation and translation for the diplomatic or consular authorities, the assisting Member State may ask for the reimbursement of such costs from the citizen's Member State of nationality, which shall reimburse them within a reasonable period of time, not exceeding 12 months.

Article 13

Facilitated procedure in crisis situations

1. In crisis situations, the assisting Member State shall submit any requests for reimbursement of the costs of any support provided to an unrepresented citizen to the Ministry of Foreign Affairs of the citizen's Member State of nationality. The assisting Member State may seek such reimbursement even if the unrepresented citizen has not signed an undertaking to repay pursuant to Article 12(1). This shall not prevent the citizen's Member State of nationality from pursuing repayment from the citizen concerned on the basis of national rules.
2. The assisting Member State may ask the citizen's Member State of nationality to reimburse such costs on a pro-rata basis, by dividing the full value of the actual costs incurred by the number of citizens assisted.
3. Where the assisting Member State was financially supported via assistance from the Union Civil Protection Mechanism, any contribution from the citizen's Member State of nationality shall be determined after deduction of the Union's contribution.

CHAPTER 4

Final provisions

Article 14

More favourable treatment

Member States may introduce or retain more favourable provisions in so far as they are compatible with this Directive.

Article 15

Implementation

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by [...] at the latest.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

Article 16

Repeal

Decision 95/553/EC is repealed with effect from [...].

Article 17

Monitoring, evaluation and review

1. Member States shall provide the Commission with all relevant information regarding the implementation and application of this Directive. On the basis of the information provided, the Commission shall submit a report to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on the implementation and application of this Directive three years after the implementation deadline of the Directive.

2. In this report, the Commission shall evaluate the way in which this Directive has operated and consider the need for additional measures, including, where appropriate, amendments to adapt this Directive with a view to further facilitating the exercise of Union citizens' right to consular protection, as referred to in Article 1 of this Directive.

Article 18

Entry into force

This Directive shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.

Article 19

This Directive is addressed to the Member States.

Done at Brussels,

For the Council

The President

A. Form of the request for reimbursement (Article 12(2) and (3) of Directive XXXX/XXX/EC)

1. Requesting Member State's embassy or consulate

2. Citizen's Member State of nationality

(competent embassy or consulate or Ministry of Foreign Affairs)

3. Identification of the event

(date, place)

4. Data of assisted citizen(s) (to be attached separately)

Full name	Place and date of birth	Name and number of the travel document	Kind of assistance provided	Costs
-----------	-------------------------	--	-----------------------------	-------

5. Total costs

6. Bank account for the reimbursement

7. Attachment: undertaking to repay (if applicable)

B. Common format – undertaking to repay costs of consular protection (financial assistance)

COMMON FORMAT UNDERTAKING TO REPAY COSTS OF CONSULAR PROTECTION (FINANCIAL ASSISTANCE) - (Article 12(1) of Directive XXXX/XXX/EC)

I, (Mr/Mrs/Ms/Miss) (full name in block capitals)

.....

holder of passport No.....issued at.....

hereby acknowledge receipt from the Embassy/Consulate of.....

.....at.....

of the sum of.....

as an advance for the purpose of.....

.....(including any applicable fee)

And/or undertake and promise to repay on demand to the Ministry of Foreign Affairs/Government of [Member State of Nationality].....

in accordance with the national law of that country the equivalent of the said sum or the equivalent of all costs as paid on my account or advanced to me, including costs incurred by the member(s) of my family, in (currency).....

at the rate of exchange prevailing on the day on which the advance was made or the costs were paid.

My address (*) (in block capitals) (country).....

is:.....

.....

.....

DATE.....SIGNATURE.....

(*) if you have no permanent address, please indicate a contact address.

C. Common format undertaking to repay costs of consular protection (repatriation)

COMMON FORMAT UNDERTAKING TO REPAY COSTS OF CONSULAR PROTECTION (REPATRIATION) -
(Article 12(1) of Directive XXXX/XXX/EC)

I, (Mr/Mrs/Ms/Miss) (full name in block capitals)

.....

born at (town).....in (country).....

on (date).....

holder of passport No.....issued at.....

on.....and ID No.....and Social security No and
competent authority (if applicable/where relevant).....

hereby undertake to repay on demand to the Government of.....

.....in accordance with the national law of that country the equivalent of all costs as paid
on my account or advanced to me by the consular officer of
the.....Government at.....

for the purpose of, or in connection with, the repatriation to.....

of myself and the members of my family accompanying me, and to pay all appropriate consular fees
in respect of the repatriation.

These are:

(i) (*)Fares

Subsistence

Miscellaneous costs

LESS the contribution made by me

CONSULAR FEES:

Repatriation fee

Attendance fee

Passport/emergency fees

(...hours at....per hour....)

(ii) (**) All sums on my account for the purpose of, or in connection with, the repatriation of myself and the members of my family accompanying me which cannot be determined at the time this undertaking to repay is signed by me.

My address (***) (in block capitals)

(country).....is:...

.....

.....

.....DATE.....

.....SIGNATURE.....

(* Delete as appropriate: The Consular Officer and the applicant should initial each delegation in the margin.

(**) Delete as appropriate: The Consular Officer and the applicant should initial each delegation in the margin.

(***) If you have no permanent address, please indicate a contact address.
