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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject: COUNCIL DIRECTIVE on the coordination and cooperation measures to facilitate consular protection for unrepresented citizens of the Union in third countries and repealing Decision 95/553/EC

COUNCIL DIRECTIVE (EU) 2015/...

of ...

**on the coordination and cooperation measures
to facilitate consular protection
for unrepresented citizens of the Union in third countries
and repealing Decision 95/553/EC**

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,

Having regard to the opinion of the European Parliament¹,

Acting in accordance with a special legislative procedure,

¹ Opinion of 25 October 2012 (not yet published in the Official Journal).

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 (TFEU) 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 TFEU thus 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 (the Charter), 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 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 certainty as well as efficient cooperation and solidarity among consular authorities.

- (5) In accordance with point (c) of Article 20(2) TFEU and Article 23 TFEU, 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, in particular from the Convention of 24 April 1963 on Consular Relations (the Vienna Convention), that Member States apply in compliance with Union 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. Difficulties may occur, in particular, in relation to situations involving citizens who are also nationals of the host 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 in respect of unrepresented citizens can be particularly complex, as it requires coordination with authorities not represented locally, 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 also 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 reason to provide, in a given case, the protection the person concerned would otherwise 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, a citizen who seeks consular protection or assistance from the embassy or consulate of another Member State should not be redirected to the embassy, consulate or honorary consul of his or her own Member State of nationality when it is not possible, due to local circumstances or lack of resources, for the citizen safely to reach or be reached by those latter instances 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 should be considered unrepresented if none of the Member States of their nationality is represented in the third country concerned.

- (9) With a view to ensuring the effectiveness of the right enshrined in point (c) of Article 20(2) TFEU and of the right to respect for private and family life as recognised in Article 7 of the Charter , and taking into account national law and practice, an assisting Member State might 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 preclude that during the consultations which should take place before assistance is provided, the assisting Member State and the unrepresented citizen's Member State of nationality, whenever appropriate, agree on the possibility to extend assistance to third-country family members of the unrepresented Union 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 unrepresented citizen's Member State of nationality, and in so far as what is agreed does not fall short of what is required by Union law. However, Member States might not be in a position to deliver certain types of consular protection, such as emergency travel documents, to third-country family members. Where assistance for minors is concerned, the best interests of the child should be a primary consideration, in accordance with Article 24 of the Charter, and as provided for in the United Nations Convention on the Rights of the Child of 20 November 1989.

- (10) Unrepresented citizens should be able to seek consular protection from the embassy or consulate of any Member State. However, that should not prevent Member States from entering into practical arrangements for the purpose of sharing responsibilities for providing consular protection to unrepresented citizens in accordance with this Directive. Such arrangements are beneficial to citizens, since they allow for better preparedness to ensure effective protection. Member States that receive requests for protection should assess whether, in a 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 any arrangement already 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 Union 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 that citizen seeks or receives consular protection to transfer the application or case in order itself to deliver consular protection. Such a transfer should not result in the unrepresented citizen being deprived of consular protection.

- (12) Notwithstanding the varying traditions of Member States 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 each Member State to decide whether this Directive should apply to its honorary consuls. 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 Union citizen's passport or identity card. However, unrepresented citizens in need of consular protection might 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 members 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 consular protection under 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 Commission and the EEAS, 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 EEAS (Consular OnLine).

- (17) In third countries the Union is represented by the Union delegations, which, in close cooperation 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 fully recognises, and further enhances, the contribution already provided by the EEAS and by Union delegations, in particular during crisis situations, in accordance with Decision 2010/427/EU¹, in particular Article 5(10) thereof.
- (18) Regarding local cooperation, competences and respective roles of all relevant actors should be clarified in order to ensure that unrepresented citizens receive the assistance to which they are entitled in accordance with the principle of non-discrimination. 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 those meetings, represented Member States should, wherever necessary, agree on practical arrangements to ensure that unrepresented citizens are effectively protected. Such agreements might not be necessary if, for example, the number of unrepresented citizens is small.

¹ Council Decision 2010/427/EU of 26 July 2010 establishing the organisation and functioning of the European External Action Service (OJ L 201, 3.8.2010, p. 30).

- (20) A clear division of responsibilities between represented and unrepresented Member States and the Union delegation is essential to ensure adequate crisis preparedness and crisis management. Crisis contingency planning should therefore be coordinated and fully take unrepresented citizens into account. To this end, in the framework of local crisis response preparedness, Member States which do not have an embassy or consulate established locally should provide all available and relevant information regarding their citizens in the territory. Such information should be updated as appropriate in the event of a crisis. Competent embassies and consulates, and Union delegations should be informed and, wherever appropriate, involved in crisis preparedness arrangements. Information regarding those arrangements should be made available to unrepresented citizens. In the event of a crisis, the Lead State or the Member State(s) coordinating the assistance should coordinate the support provided for unrepresented citizens and the use of available evacuation capacities on the basis of the agreed planning and local developments, on a non-discriminatory basis.
- (21) Interoperability between consular staff and other crisis-management 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.

¹ Decision No 1313/2013/EU of the European Parliament and of the Council of 17 December 2013 on a Union Civil Protection Mechanism (OJ L 347, 20.12.2013, p. 924).

- (22) It should be possible to request the support of the Union Civil Protection Mechanism if it is needed for the consular protection of unrepresented citizens. That support could be requested, for instance, by the Lead State or the Member State(s) coordinating the assistance.
- (23) The term ‘Lead State’ used in this Directive refers to one or more Member State(s) represented in a given third country, and in charge of coordinating and leading the assistance of unrepresented citizens during crises. The concept of Lead State, as established in the relevant Union guidelines¹, could be further developed in compliance with Union law and, 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 the citizen’s Member State of nationality without delay and provide it with all the relevant information before providing any assistance. The Member State of nationality should, in turn, without delay provide any information relevant to the case. That consultation should allow the Member State of nationality to request the transfer of the application or case in order itself to deliver consular protection. That consultation 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) TFEU. This Directive cannot be relied on by Union citizens in the event of abuse.

¹ European Union guidelines on the implementation of the consular Lead State concept (OJ C 317, 12.12.2008, p. 6).

- (25) Mutual solidarity and cooperation also concern 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 from family, friends or employers. Unrepresented citizens should be granted financial assistance under the same conditions as the nationals of the assisting Member State. The unrepresented 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) This Directive should ensure financial burden sharing and reimbursements. Where consular protection granted to an unrepresented citizen involves the signature of an undertaking to repay, the unrepresented citizen's Member State of nationality should reimburse the assisting Member State for the costs incurred. It should be for the assisting Member State to decide whether to seek reimbursement of the costs incurred. The assisting Member State and the unrepresented citizen's Member State of nationality should be able to agree detailed arrangements for reimbursement within certain deadlines.

- (27) Consular protection granted to an unrepresented citizen in the case of arrest or detention can 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 unrepresented citizen's Member State of nationality should be informed of such possible costs during the consultations which take place before assistance is provided. The assisting Member State should be able to seek reimbursement of such unusually high costs from the unrepresented citizen's Member State of nationality. The Member State of nationality of the citizen should reimburse the assisting Member State for the costs incurred. The assisting Member State and the unrepresented citizen's Member State of nationality should be able to agree on detailed arrangements for reimbursement within certain deadlines. Unrepresented citizens' Member States of nationality cannot, according to the non-discrimination principle, ask their citizens to reimburse such costs which nationals of the assisting Member State would not be required to repay.

- (28) Financial procedures should be simplified for crisis situations. Given the particularities 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 unrepresented citizen's Member State(s) of nationality. Member States of nationality of unrepresented citizens should reimburse the assisting Member State(s) 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 unrepresented citizen's Member State of nationality should be able to agree on detailed arrangements for reimbursement within certain deadlines. In the event of a crisis which has or may have had an adverse impact on a significant number of citizens of the Union, and if requested by the assisting Member State, unrepresented citizens' Member States of nationality should reimburse costs on a pro-rata basis, by dividing the costs incurred by the number of citizens assisted.
- (29) This Directive 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 information to be provided by the Member States on the implementation and practical application of the Directive, including any relevant statistics and cases. The Commission should prepare a report and 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 right to consular protection of Union citizens.

- (30) Directive 95/46/EC of the European Parliament and of the Council¹ governs the processing of personal data carried out by Member States in the context of this Directive.
- (31) This Directive should not affect more favourable national provisions in so far as they are compatible herewith.
- (32) In accordance with the Joint Political Declaration of Member States and the Commission on explanatory documents of 28 September 2011², 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. It respects the fundamental rights and observes the principles recognised in particular by the Charter, in particular 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.

¹ 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 (OJ L 281, 23.11.1995, p. 31).

² OJ C 369, 17.12.2011, p. 14.

- (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.
- (35) Decision 95/553/EC of the Representatives of the Governments of the Member States meeting within the Council¹ should be repealed,

HAS ADOPTED THIS DIRECTIVE:

¹ Decision 95/553/EC of the Representatives of the Governments of the Member States meeting within the Council of 19 December 1995 regarding protection for citizens of the European Union by diplomatic and consular representations (OJ L 314, 28.12.1995, p. 73).

Chapter 1

General provisions and scope

Article 1

Subject matter

1. This Directive lays down the coordination and cooperation measures necessary to facilitate the exercise of the right set out in point (c) of Article 20(2) 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 Member State, also taking into account the role of Union delegations in contributing to the implementation of that 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 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 TFEU. 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 3

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 unrepresented citizen seeks or receives consular protection to redirect the unrepresented citizen's application or case to his/her own Member State of nationality in order for that Member State of nationality 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 unrepresented citizen.

Article 4

Unrepresented citizens in third countries

For the purposes of this Directive, 'unrepresented citizen' shall mean every citizen holding the nationality of a Member State which is not represented in a third country as set out in Article 6.

Article 5

Family members of unrepresented citizens in third countries

Consular protection shall be provided to family members, who are not themselves citizens of the Union, 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 themselves citizens of the Union, in accordance with its national law or practice.

Article 6

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 7

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 (EEAS) of such arrangements, which shall be publicised by the Union 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 thereby be compromised, in particular if the urgency of the matter requires immediate action by the requested embassy or consulate.

Article 8

Identification

1. Applicants seeking consular protection shall establish that they are citizens of the Union by producing their passports or identity cards.
2. If the citizen of the Union 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 5, 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 citizens referred to in paragraph 1.

Article 9

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) a serious accident or serious illness;
- (d) death;
- (e) relief and repatriation in case of an emergency;
- (f) a need for emergency travel documents as provided for in Decision 96/409/CFSP¹.

¹ Decision 96/409/CFSP of the Representatives of the Governments of the Member States, meeting within the Council of 25 June 1996 on the establishment of an emergency travel document (OJ L 168, 6.7.1996, p. 4).

Chapter 2

Coordination and cooperation measures

Article 10

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 9, 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 regarding the identity of the person concerned, possible costs of consular protection, and regarding any family members to whom consular protection may also need to be provided. Except in cases of extreme urgency, this consultation shall take place before assistance is provided. 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 of Foreign Affairs or competent embassy or consulate with all the relevant information in the case concerned. It shall also be responsible for any necessary contact with family members or other relevant persons or authorities.
4. Member States shall notify the EEAS through its secure internet site of the relevant contact point(s) in the Ministries of Foreign Affairs.

Article 11

The role of Union delegations

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

Article 12
Local cooperation

Local cooperation meetings shall include a regular exchange of information on matters relevant to unrepresented citizens. In those meetings, Member States shall agree, wherever necessary, on practical arrangements as referred to in Article 7 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 13
Crisis preparedness and cooperation

1. Local contingency planning shall take unrepresented citizens into account. 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 therein.
2. In the event of a crisis, the Union and Member States shall closely cooperate to ensure efficient assistance for unrepresented citizens. They shall, where possible, inform each other of available evacuation capacities in a timely manner. 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 EEAS and the Union Civil Protection Mechanism.

Chapter 3

Financial procedures

Article 14

General rules

1. Unrepresented citizens shall undertake to repay to their 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 Annex I. Unrepresented citizens shall be required to undertake to repay only those 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 costs referred to in paragraph 1 from the unrepresented citizen's Member State of nationality, using the standard form set out in Annex II. The unrepresented citizen's Member State of nationality shall reimburse those costs within a reasonable period of time, not exceeding 12 months. The unrepresented citizen's Member State of nationality may ask the unrepresented 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 but essential and justified costs related to travel, accommodation or translation for the diplomatic or consular authorities, the assisting Member State may ask for the reimbursement of such costs from the unrepresented citizen's Member State of nationality, which shall reimburse them within a reasonable period of time, not exceeding 12 months.

Article 15

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 unrepresented 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 14(1). This shall not prevent the unrepresented citizen's Member State of nationality from pursuing repayment from the unrepresented citizen concerned on the basis of national rules.

2. The assisting Member State may ask the unrepresented 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 by way of assistance from the Union Civil Protection Mechanism, any contribution from the unrepresented citizen's Member State of nationality shall be determined after deduction of the Union's contribution.

Chapter 4

Final provisions

Article 16

More favourable treatment

Member States may introduce or retain provisions more favourable than those of this Directive in so far as they are compatible herewith.

Article 17

Transposition

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 1 May 2018.

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 18

Repeal

Decision 95/553/EC is repealed with effect from 1 May 2018.

Article 19

Reporting, 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 and the Council on the implementation and application of this Directive by 1 May 2021 .
2. In the report referred to in paragraph 1, 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.

Article 20
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 21
Addressees

This Directive is addressed to the Member States.

Done at ...,

For the Council
The President

ANNEX I

A. Common format for undertaking to repay costs of consular protection in case of financial assistance

UNDERTAKING TO REPAY COSTS OF CONSULAR PROTECTION
(FINANCIAL ASSISTANCE) - (Article 14(1) of Directive ...⁺)

I, (Mr/Ms) (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 Member State the equivalent of that 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 accompanying me, in (currency)

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

⁺ OJ: please insert the number of this Directive.

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

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

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

B. Common format for undertaking to repay costs of consular protection in case of repatriation

UNDERTAKING TO REPAY COSTS OF CONSULAR PROTECTION
(REPATRIATION) - (Article 14(1) of Directive ...⁺)

I, (Mr/Ms) (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 Member State the equivalent of all costs as paid on my account or advanced to me by the consular officer

of theGovernment 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.

⁺ OJ: please insert the number of this Directive.

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 deletion in the margin.

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

ANNEX II

Form of the request for reimbursement

REQUEST FOR REIMBURSEMENT (Article 14(2) and (3) of Directive ...⁺)

1. Requesting Member State's embassy or consulate
2. Competent embassy or consulate or Ministry of Foreign Affairs of assisted citizen's Member State of nationality
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
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5. Total costs
 6. Bank account for the reimbursement
 7. Attachment: undertaking to repay (if applicable)
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⁺ OJ: please insert the number of this Directive.