



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, xxx
SEC(2007) 1604

AVIS DU COMITE DES EVALUATIONS D'IMPACT

Commission Communication "Effective consular protection in third countries: the contribution of the European Union" and the Commission Recommendation on reproducing the text of Article 20 EC in passports

**(COM(2007) 767)
(C(2007) 5841)
(SEC(2007) 1600)
(SEC(2007) 1601)**



Brussels, 28 September 2007
D/8529

Opinion

Title **Impact Assessment on proposed measures in the area of consular protection (resubmission)**

(draft version of 21 September 2007)

Lead DG **DG JLS**

1) Impact Assessment Board Opinion

(A) Context

Article 20 of the EC Treaty entitles Union citizens located in a third country in which their Member State is not represented to protection by the diplomatic and consular authorities of any other Member State represented. This initiative aims to render this right more effective, and follows-up on a Green Paper on diplomatic and consular protection of Union citizens in third countries which was published by the Commission in November 2006. The mandate for the Inter-Governmental Conference (IGC) agreed at the European Council in June 2007 also states that article 20 will be amended 'so as to provide for adoption of directives establishing cooperation and coordination measures'.

(B) Positive aspects

The summary of responses to the Green Paper (annex 1) provides a good overview of the position of stakeholders by presenting an aggregated summary of their views for each of the actions suggested in the Green Paper.

(C) Main recommendations for improvements

The recommendations below are listed in order of descending importance. Some more technical comments have been transmitted directly to the author DG.

General recommendation: The IA report was improved on several points since the previous IAB opinion, but further improvements would be possible especially with regard to the analysis of necessity, proportionality and value added of EU action.

(1) Necessity, proportionality and value added of EU action should be better demonstrated for every measure. As recommended by the Board in its first opinion, an

analysis was added on the necessity and value added of the measures contained in policy options 2 and 3. These paragraphs already provide a better overview of how the various measures are assessed in these respects, but the IA report should ensure that all measures are assessed on all three points. This analysis would benefit from a separation between actions aimed at clarification and raising awareness of existing legislation, and actions aimed at harmonisation of national practices or expansion of existing rights. A good quality of this analysis is especially relevant considering the fact that some Member States appear to question the subsidiarity and – by arguing that there are few cases where current arrangements failed – the proportionality of this initiative.

(2) Gaps in the available data should be clearly highlighted. Compared to the previous draft examined by the Board, the present draft IA report provides more data on the actual size of the problems. With regard to problems for which no such data could be found, the IA report should clearly state whether it is a potential problem or whether it has already materialised in practice (and in the latter case what information there is to indicate this). In this context the IA report should also clearly highlight if and to what extent difficulties in data provision were caused by the fact that only 11 Member States chose to respond to the questionnaire that was circulated to them for this purpose.

(D) Procedure and presentation

It appears that all necessary procedural elements have been complied with, also with regard to the consultation on the 2006 Green Paper.

The section on monitoring and evaluation should include information on the proposed monitoring arrangements (who will monitor which of the indicators).

2) IAB scrutiny process

Reference number	2007/JLS/015; CLWP 2007 (strategic initiative)
Author DG	JLS-C-3
External expertise used	No
Date of Board Meeting	Written procedure
Date of adoption of Opinion	28 September 2007 The present opinion concerns a resubmitted draft of the IA report. The first opinion was issued on 7 September 2007.