



EUROPEAN COMMISSION  
Impact Assessment Board

Brussels,  
D(2011)

## Opinion

**Title**                    **DG JUST - Impact assessment for Proposal on coordination and cooperation measures regarding consular protection for unrepresented EU citizens**

**(draft version of 2 August 2011)**

### **(A) Context**

The new legal regime introduced by the Lisbon Treaty confers the right to initiate Directives about cooperation and coordination measures relating to consular protection onto the Commission. Article 23 of the Treaty on the Functioning of the European Union now states that: "Every citizen of the Union shall, in the territory of a third country in which the Member State of which he as 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 nationals of that State". Previously, Member States had cooperated on consular support issues for some years. They established common standards for treatment of unrepresented persons through Decision 95/553/EC and various supporting guidelines.

The European Council and the European Parliament have both requested a consular protection proposal, including through the Council Stockholm Programme (OJ 2010/C 115/01) and a Parliamentary resolution of 25 November 2009.

### **(B) Overall assessment**

**The report provides a sufficient evidence base to inform decisions, although certain improvements are needed to ensure that estimates and important collected information are transparently presented. Firstly, the report should provide a better explanation of the estimated costs/benefits and should justify certain assumptions that shape them. Secondly, the report should explain the needs that standard consular services should address and should explain the extent of variation in current services offered by Member States. Thirdly, the report should better describe the problems relating to consular crisis support and variations in current practice as regards assisting third country national family members. The report should also clarify stakeholder views about each element of options 2 and 3, and should better substantiate the predictions made about the benefits that awareness-raising efforts could deliver.**

### **(C) Main recommendations for improvements**

**(1) Better explain the estimates and justify certain assumptions used.** The report should record all major estimated costs/benefits and better explain its estimation methods in the main text. It should particularly explain that most estimates rely on assuming that just over 600 more unrepresented citizens would receive assistance (c10% of those in need but not previously assisted), and that increasing travel or decreasing numbers of consulates could increase the caseload. It should be explained to what extent the estimated costs for assisting Member States relate to their non-reimbursable costs (time to handle a case) and whether any potentially reimbursable costs are included (e.g. cash advance for a robbery victim). The incorporation of valuations for citizen's inconvenience should be mentioned. Some of the assumptions used should be better justified in the Annex, in order to show that the assumed cost and length of a consular case are credible, to explain the choice of a 10% value for growth in cases and to explain the time assumed to be required to establish a monitoring system. The assumptions made regarding crisis cases should be reviewed to ensure they reflect qualitative findings and are coherent across the report's options. Also, the Member States whose consular data could not be used should be identified and brief details should be given about the sources used to complement UN data.

**(2) Explain frequently encountered needs and the variation in Member States' consular services.** The report should clarify which assistance needs are considered to be frequently encountered, such that it is worth developing EU coordination processes to help unrepresented citizens with such needs. Further information should be provided, perhaps in an annex, about the degree of variation in consular services offered by the different Member States to meet these needs in order to provide a clearer sense of how easy it would be to coordinate such services.

**(3) Strengthen the description of problems relating to consular crisis support and assisting third country national family members.** The report should provide more focused information about crises that create an extra need for consular help, as distinct from all disasters. It should indicate the number of such crises and should outline the type of assistance that has previously been supplied to unrepresented EU citizens, by whom and at what cost. To better explain the issues relating to assisting third country nationals who are family members of EU citizens, the report should clarify what assistance Member States are able to offer to the family of their own citizens and should outline variations in practices. The ineligibility of third country nationals for some consular services should be mentioned. Later when discussing the impacts of requiring equivalent treatment of the family of unrepresented citizens, the report should clarify that it would indeed be feasible to implement this despite differing approaches and possible practical complications.

**(4) Clarify stakeholder views on option elements.** The report should present differing stakeholder views for each element of options 2 and 3, given that they may raise different concerns. An effort should be made to more clearly differentiate the views of Member States, mentioning any shared opinions that might partly be linked to the extent of their own consular network and their prospects of being a net provider of higher-cost assistance to unrepresented citizens in a crisis situation.

**(5) Substantiate predictions about the impact of awareness-raising efforts.** The report should better support its predictions about the benefits that an awareness-raising

campaign could generate by incorporating data on the partially comparable campaign on air-passenger rights. It should discuss the alternative communication instruments under consideration.

*Some more technical comments have been transmitted directly to the author DG and are expected to be incorporated in the final version of the impact assessment report.*

**(D) Procedure and presentation**

The executive summary should incorporate all key estimates about costs and benefits. It could usefully include one of the graphs that show unrepresented EU travellers by country of origin.

**(E) IAB scrutiny process**

Reference number	2011/JUST/014
External expertise used	No
Date of IAB meeting	Written procedure